



Introduction

July 2021

1. From 26 July 2021, important changes are made to how children, relevant persons and others can attend children's hearings. These changes are in addition to those made with the introduction of virtual and hybrid hearings during the coronavirus pandemic. This briefing note outlines key options in relation to attendance and also provides information on the powers to exclude someone from a children's hearing, some of which were also introduced from 26 July.
2. Reporters would like to support children, relevant persons and others to attend hearings in the way that best promotes effective participation whenever possible.
3. As the child's social worker you are likely to be well-placed to help the child and relevant persons consider the options, to inform the reporter of individuals' preferred options, and to provide your own assessment of what would work best. Such matters may arise in the regular liaison that takes place between the you and the reporter when the reporter is arranging a hearing, but it would be helpful if you would proactively raise with families and the reporter where appropriate at an early opportunity.
4. In practice attendance by 'electronic means' is likely to be by video (such as has been used for virtual hearings) but may be by telephone.

Attendance by electronic means

5. Anyone with a right to attend a hearing can now request to attend by electronic means. If the reporter receives such a request, SCRA must take reasonable steps to enable attendance by electronic means if the reporter is satisfied either:
 - The person has good reason for not attending physically, or
 - The person would be better able to participate effectively if they attend by electronic means.

Allowing attendance only by electronic means – prohibiting physical attendance

6. A pre-hearing panel (PHP) can now decide that someone can *only* attend a children's hearing by electronic means. If a PHP decides this, the person will be prohibited from attending in person.
7. A PHP can make this decision in relation to relevant persons and their representatives, persons with the new participation rights and their representatives, and journalists. It cannot make this decision in relation to a person seeking to be deemed to be a relevant person.

8. The test to be applied by the PHP in making the decision is that the person's physical presence is likely to:
 - prevent the hearing obtaining the views of the child or a relevant person, or
 - cause significant distress to the child or a relevant person.
9. It is for the reporter to decide whether to arrange a PHP for this purpose. If you think such a decision would be appropriate, you should contact the reporter at the earliest opportunity.

Exclusion from a children's hearing

10. A children's hearing continues to have the power to exclude a relevant person or their representative (or a journalist) to enable a child to participate. The criteria to be applied by the children's hearing in making this decision are that the person's presence:
 - is preventing the hearing from obtaining the views of the child, or
 - is causing, or likely to cause, significant distress to the child.
11. There is a new power for the chair of a hearing or PHP to exclude someone to enable a relevant person to participate. This power enables the chair to exclude a relevant person or their representative (or a journalist). The criteria to be applied by the chair are that the person's presence:
 - is preventing, or likely to prevent, the hearing or PHP obtaining views of a relevant person, or
 - is causing, or likely to cause, significant distress to a relevant person attending the hearing.
12. A decision to exclude cannot be made on the basis that the child or relevant person would prefer the person not to be present. The statutory criteria must be applied.
13. The statutory provisions for exclusion do not prevent a relevant person or their representative voluntarily agreeing not to attend part of the hearing.
14. The power to exclude a person cannot be exercised before the hearing begins. The person retains the right to attend the hearing until the decision is made to exclude them. The person must be allowed to enter the hearing room unless they have voluntarily agreed not to do so.
15. There is a new statutory power for the chair of a hearing or PHP to exclude anyone whose conduct is:
 - violent or abusive, or
 - otherwise so disruptive that, unless excluded, the chair would consider it necessary to end or adjourn the hearing or PHP.Although previously it was thought competent for the chair to exclude an abusive or disruptive person, the new provision provides clear statutory authority for the chair to do so.

If you have any questions about attendance at a children's hearing or about the new powers available from 26 July, please contact a reporter in your local area.

