

## SCHEDULE 1

*(introduced by section 3)*

### CHILDREN'S HEARINGS SCOTLAND

#### *Status*

- 1 (1) CHS—
  - (a) is not a servant or agent of the Crown, and
  - (b) does not enjoy any status, immunity or privilege of the Crown.
- (2) CHS's property is not property of, or property held on behalf of, the Crown.

#### *Membership*

- 2 (1) The members of CHS are to be appointed by the Scottish Ministers.
- (2) There are to be no fewer than five and no more than eight members.
- (3) The Scottish Ministers may by order amend sub-paragraph (2) so as to substitute for the numbers of members for the time being specified there different numbers of members.
- (4) A member holds and vacates office on terms and conditions determined by the Scottish Ministers.
- (5) The Scottish Ministers may appoint a person to be a member only if satisfied that the person has knowledge and experience relevant to the functions of CHS and the National Convener.
- (6) The Scottish Ministers may appoint a person to be a member only if satisfied that the person, after appointment, will have no financial or other interest that is likely to prejudicially affect the performance of the person's functions as a member of CHS.
- (7) The Scottish Ministers may reappoint as a member a person who has ceased to be a member.

#### *Persons disqualified from membership*

- 3 A person is disqualified from appointment, and from holding office, as a member if the person is or becomes—
  - (a) a member of the House of Commons,
  - (b) a member of the Scottish Parliament, or
  - (c) a member of the European Parliament.

#### *Resignation of members*

- 4 A member of CHS may resign office by giving notice in writing to the Scottish Ministers.

#### *Removal of members*

- 5 (1) The Scottish Ministers may revoke the appointment of a member of CHS if—
  - (a) the member becomes insolvent,

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- (b) the member is incapacitated by physical or mental illness,
  - (c) the member has been absent from meetings of CHS for a period longer than 3 months without the permission of CHS,
  - (d) the member is otherwise unfit to be a member or unable for any reason to discharge the functions of a member.
- (2) For the purposes of sub-paragraph (1)(a) a member becomes insolvent when—
- (a) a voluntary arrangement proposed by the member is approved,
  - (b) the member is adjudged bankrupt,
  - (c) the member's estate is sequestrated,
  - (d) the member's application for a debt payment programme is approved under section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002 ([asp 17](#)), or
  - (e) the member grants a trust deed for creditors.

*Remuneration, allowances etc.*

- 6 (1) CHS must pay to its members—
- (a) such remuneration as the Scottish Ministers may determine, and
  - (b) such allowances in respect of expenses properly incurred by members in the performance of their functions as may be so determined.
- (2) CHS must—
- (a) pay to or in respect of any person who is or has been a member of CHS such pension, allowances or gratuities as the Scottish Ministers may determine, or
  - (b) make such payments as the Scottish Ministers may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.
- (3) Sub-paragraph (4) applies where—
- (a) a person ceases to be a member otherwise than on the expiry of the person's term of office, and
  - (b) it appears to the Scottish Ministers that there are circumstances which make it right for the person to receive compensation.
- (4) CHS must make a payment to the person of such amount as the Scottish Ministers may determine.

*Chairing meetings*

- 7 (1) The Scottish Ministers must appoint one of the members of CHS to chair meetings of CHS (the "chairing member").
- (2) The chairing member holds and vacates that office on terms and conditions determined by the Scottish Ministers.
- (3) If a person is appointed as the chairing member for a period that extends beyond the period of the person's appointment as a member, the person's appointment as a member is taken to have been extended so that it ends on the same day as the period of appointment as chairing member ends.
- (4) The chairing member may resign that office by giving notice in writing to the Scottish Ministers.

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- (5) If the chairing member is for any reason unable to chair a meeting of members, a majority of the members present at the meeting may elect one of those members to chair the meeting.

#### *The National Convener*

- 8 (1) CHS is, with the approval of the Scottish Ministers, to appoint a person as the National Convener (other than the first National Convener).
- (2) CHS may, with the approval of the Scottish Ministers, reappoint a person as the National Convener.
- (3) CHS must take reasonable steps to involve persons who are under 21 years of age in the process for selection of a person for appointment or reappointment under this paragraph.
- (4) The period for which a person is appointed or reappointed under this paragraph is 5 years.
- (5) A person appointed or reappointed under this paragraph holds and vacates office on terms and conditions determined by CHS and approved by the Scottish Ministers.
- (6) The Scottish Ministers may by regulations prescribe qualifications that must be held by the National Convener.
- (7) A person is disqualified from appointment, and from holding office, as the National Convener if the person is or becomes—
- (a) a member of the House of Commons,
  - (b) a member of the Scottish Parliament, or
  - (c) a member of the European Parliament.
- (8) The National Convener may appeal to the Scottish Ministers against dismissal by CHS.
- (9) CHS is the respondent in an appeal under sub-paragraph (8).
- (10) The Scottish Ministers may by regulations make provision about—
- (a) the procedure to be followed in appeals under sub-paragraph (8),
  - (b) the effect of making such an appeal,
  - (c) the powers of the Scottish Ministers for disposing of such appeals (including powers to make directions about liability for expenses),
  - (d) the effect of the exercise of those powers.

#### *Supplementary powers of National Convener*

- 9 The National Convener may do anything that the National Convener considers appropriate for the purposes of or in connection with the functions conferred on the National Convener by virtue of this Act or any other enactment.

#### *Delegation of National Convener's functions*

- 10 (1) The functions of the National Convener conferred by virtue of this Act or any other enactment (other than the functions mentioned in sub-paragraph (2)) may be carried out on the National Convener's behalf by a person who is—

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- (a) authorised (whether specially or generally) by the National Convener for the purpose, or
  - (b) a person of a class of person authorised (whether specially or generally) by the National Convener for the purpose.
- (2) The functions are—
- (a) the function conferred by paragraph 24,
  - (b) functions conferred by paragraph 1(2) to (6) of schedule 2.
- (3) The National Convener may not under sub-paragraph (1) authorise the Principal Reporter, SCRA or a local authority to carry out a function on behalf of the National Convener.
- (4) The National Convener may not under sub-paragraph (1) authorise a person employed by SCRA or a local authority to carry out the function conferred on the National Convener by section 8.
- (5) If under sub-paragraph (1) the National Convener delegates the function conferred on the National Convener by section 8, the National Convener may not delegate any other function to the same person under that sub-paragraph.
- (6) Nothing in sub-paragraph (1) prevents the National Convener from carrying out any function delegated under that sub-paragraph.
- (7) The Scottish Ministers may by regulations prescribe the qualifications to be held by a person to whom a function, or a function of a class, specified in the regulations is delegated.
- (8) A person to whom a function is delegated under sub-paragraph (1) must comply with a direction given to the person by the National Convener about the carrying out of the function.
- (9) CHS may pay to a person to whom a function is delegated under sub-paragraph (1) such expenses and allowances as the Scottish Ministers may determine.

### *Staff*

- 11 (1) CHS may employ any staff necessary to ensure the carrying out of CHS's functions.
- (2) Staff are employed on terms and conditions determined by CHS and approved by the Scottish Ministers.
- (3) CHS may—
- (a) pay a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible person,
  - (b) make payments towards the provision of a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible person,
  - (c) provide and maintain schemes (whether contributory or not) for the payment of a pension, allowance or gratuity, including by way of compensation for loss of employment, to or in respect of an eligible person.
- (4) CHS may, with the approval of the Scottish Ministers, determine—
- (a) who, of the persons who are or have ceased to be employees of CHS, are to be eligible persons, and

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- (b) the amount that may be paid or provided for.
- (5) Sub-paragraphs (6) and (7) apply where—
- (a) a person employed by CHS becomes a member of CHS, and
  - (b) the person was (because the person was an employee of CHS) a participant in a pension scheme established and administered by CHS for the benefit of its employees.
- (6) CHS may determine that the person's service as a member of CHS is to be treated for the purposes of the scheme as service as an employee of CHS whether or not any benefits are to be payable to or in respect of the person under paragraph 6.
- (7) Any discretion which the scheme confers on CHS as to the benefits payable to or in respect of the person is to be exercised only with the approval of the Scottish Ministers.

*Area support teams: establishment and membership*

- 12
- (1) The National Convener must establish and maintain a committee (to be known as an area support team) for each area that the National Convener designates for the purposes of this paragraph.
  - (2) An area designated under sub-paragraph (1) is to consist of one or more local authority areas.
  - (3) Before establishing an area support team, the National Convener must obtain the consent of each constituent authority.
  - (4) The National Convener must appoint as members of an area support team—
    - (a) one person nominated by each constituent authority (if the authority chooses to make a nomination),
    - (b) such other persons nominated by constituent authorities as the National Convener considers appropriate,
    - (c) a member of the Children's Panel who lives or works in the area of the area support team, and
    - (d) sufficient other persons so that the number of members nominated by a local authority is no more than one third of the total number of members.
  - (5) An area support team may not include the Principal Reporter or a member or employee of SCRA.
  - (6) An area support team may establish sub-committees consisting of persons who are members of the area support team.
  - (7) In this paragraph and paragraphs 13 and 14 "constituent authority", in relation to an area support team (or a proposed area support team), means a local authority whose area falls within the area of the area support team.

*Transfer of members from CPACs*

- 13
- (1) This paragraph applies where the National Convener establishes an area support team under paragraph 12(1).
  - (2) The National Convener must notify each relevant CPAC member of the National Convener's intention to transfer the member to the area support team.

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- (3) A notice under sub-paragraph (2) must state that the relevant CPAC member will become a member of the area support team unless the member notifies the National Convener within 28 days of receiving the notice that the person does not wish to become a member of the area support team.
- (4) A relevant CPAC member is a person who—
- (a) at the time of the establishment of the area support team, is a member of a Children's Panel Advisory Committee whose area falls wholly within the area of the area support team, and
  - (b) was nominated as such by the Scottish Ministers (or, as the case may be, by the Secretary of State) under paragraph 3 or 4(a) of Schedule 1 to the 1995 Act.
- (5) The National Convener must appoint each relevant CPAC member as a member of the area support team unless the member notifies the National Convener in accordance with sub-paragraph (3).
- (6) On appointment as a member of the area support team under sub-paragraph (5), a relevant CPAC member ceases to be a member of the Children's Panel Advisory Committee.
- (7) In this paragraph—
- “area”, in relation to a Children's Panel Advisory Committee, means the area of the local authority (or authorities) which formed the Children's Panel Advisory Committee,
- “Children's Panel Advisory Committee” includes a joint advisory committee within the meaning of paragraph 8 of Schedule 1 to the 1995 Act.

*Area support teams: functions*

- 14 (1) An area support team is to carry out for its area the functions conferred on the National Convener by section 6.
- (2) The National Convener may delegate to an area support team to carry out for its area—
- (a) a function conferred on the National Convener by paragraph 1(1) of schedule 2,
  - (b) other functions of the National Convener specified for the purpose by the National Convener.
- (3) The National Convener may not specify for the purpose of sub-paragraph (2)(b) the functions conferred on the National Convener by section 8.
- (4) Before delegating a function under sub-paragraph (2) to be carried out by an area support team the National Convener must consult each constituent authority.
- (5) A function to be carried out by an area support team by virtue of sub-paragraph (1) or (2) may not be delegated by the area support team to a person who is not a member of the area support team.
- (6) Nothing in sub-paragraph (1) or (2) prevents the National Convener from carrying out any function mentioned in those sub-paragraphs.

- (7) An area support team must comply with a direction given to it by the National Convener about—
  - (a) the carrying out of the functions mentioned in sub-paragraph (1),
  - (b) the carrying out of a function delegated to it under sub-paragraph (2).
- (8) Before giving a direction to an area support team as mentioned in sub-paragraph (7) the National Convener must consult each constituent authority.

#### *Committees*

- 15 (1) CHS may establish committees.
- (2) The members of committees may include persons who are not members of CHS.
- (3) A committee must not consist entirely of persons who are not members of CHS.
- (4) CHS must pay to a person who is not a member of CHS and who is appointed to a committee such remuneration and allowances as CHS may, with the approval of the Scottish Ministers, determine.
- (5) A committee must comply with any directions given to it by CHS.
- (6) In this paragraph, only sub-paragraph (4) applies in relation to area support teams.

#### *CHS's supplementary powers*

- 16 (1) CHS may do anything that it considers appropriate for the purposes of or in connection with its functions.
- (2) CHS may in particular—
  - (a) acquire and dispose of land and other property,
  - (b) enter into contracts,
  - (c) carry out research relating to the functions conferred on it by virtue of this Act or any other enactment,
  - (d) publish, or assist in the publication of, materials relating to those functions,
  - (e) promote, or assist in the promotion of, publicity relating to those functions.

#### *Procedure*

- 17 (1) CHS may determine—
  - (a) its own procedure (including quorum), and
  - (b) the procedure (including quorum) of any of its committees.
- (2) An area support team may determine—
  - (a) its own procedure (including quorum), and
  - (b) the procedure (including quorum) of any of its sub-committees.

#### *Delegation of CHS's functions*

- 18 (1) Any function of CHS (whether conferred by virtue of this Act or any other enactment) may be carried out on its behalf by—
  - (a) a member of CHS,
  - (b) a committee of CHS, or

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- (c) a person employed by CHS.
- (2) Nothing in sub-paragraph (1) prevents CHS from carrying out any function delegated under that sub-paragraph.

#### *Financial interests*

- 19
- (1) The Scottish Ministers must from time to time satisfy themselves that the members of CHS have no financial or other interest that is likely to prejudicially affect the performance of their functions as members of CHS.
  - (2) A member must comply with a requirement of the Scottish Ministers to give them any information that the Scottish Ministers consider necessary to enable them to comply with sub-paragraph (1).

#### *Grants*

- 20
- (1) The Scottish Ministers may make grants to CHS of amounts that they determine.
  - (2) A grant is made subject to any conditions specified by the Scottish Ministers (including conditions about repayment).

#### *Accounts*

- 21
- (1) CHS must—
    - (a) keep proper accounts and accounting records,
    - (b) prepare for each financial year a statement of accounts, and
    - (c) send a copy of each statement of accounts to the Scottish Ministers by such time as they may direct.
  - (2) Each statement of accounts must comply with any directions given by the Scottish Ministers as to—
    - (a) the information to be contained in it,
    - (b) the manner in which the information is to be presented,
    - (c) the methods and principles according to which the statement is to be prepared.
  - (3) The Scottish Ministers must send a copy of each statement of accounts to the Auditor General for Scotland for auditing.
  - (4) In this paragraph, “financial year” means—
    - (a) the period beginning on the date on which CHS is established and ending—
      - (i) on 31 March next occurring, or
      - (ii) if that period is of less than 6 months’ duration, on 31 March next occurring after that, and
    - (b) each subsequent period of a year ending on 31 March.

#### *Provision of accounts and other information to Scottish Ministers*

- 22
- (1) The Scottish Ministers may direct CHS to give them accounts or other information specified in the direction relating to CHS’s property and activities or proposed activities.



- (2) CHS must—
- (a) give the Scottish Ministers accounts or any other information that it is directed to give under sub-paragraph (1),
  - (b) give the Scottish Ministers facilities for the verification of the information given,
  - (c) permit any person authorised by the Scottish Ministers to inspect and make copies of accounts and any other documents of CHS for the purposes of verifying the information given, and
  - (d) give the person an explanation, reasonably required by the person, of anything that the person is entitled to inspect.

*CHS's annual report*

- 23 (1) CHS must, as soon as is reasonably practicable after the end of each financial year, prepare and submit to the Scottish Ministers a report on the carrying out of its functions during the year.
- (2) The report must include a copy of so much of the report made to CHS by the National Convener as relates to the year.
- (3) CHS may include in the report any other information that it considers appropriate.
- (4) The Scottish Ministers must lay before the Scottish Parliament each report submitted to them.
- (5) In this paragraph, “financial year” means—
- (a) the period beginning on the date on which CHS is established and ending—
    - (i) on 31 March next occurring, or
    - (ii) if that period is of less than 6 months' duration, on 31 March next occurring after that, and
  - (b) each subsequent period of a year ending on 31 March.

*National Convener's annual report*

- 24 (1) The National Convener must, as soon as is reasonably practicable after the end of each financial year, prepare and submit to CHS a report on the carrying out during the year of the functions conferred on the National Convener by virtue of this Act or any other enactment.
- (2) The National Convener may include in the report any other information that the National Convener considers appropriate.
- (3) In this paragraph, “financial year” means—
- (a) the period beginning with the appointment of the first National Convener and ending—
    - (i) on 31 March next occurring, or
    - (ii) if that period is of less than 6 months' duration, on 31 March next occurring after that, and
  - (b) each subsequent period of a year ending on 31 March.

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*Validity of proceedings and actions*

- 25 The validity of proceedings or actions of CHS (including proceedings or actions of any of its committees) is not affected by—
- (a) any vacancy in the membership of CHS or any of its committees,
  - (b) any defect in the appointment of a member of CHS or any of its committees,  
or
  - (c) the disqualification of a person as a member of CHS after appointment.