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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2013 No.**

**The Children's Hearings (Scotland) Act 2011 (Rules  
of Procedure in Children's Hearings) Rules 2013**

**PART 4**

**General Duties of the Reporter**

**Record keeping by the Reporter of investigation and determination**

**12.**—(1) This rule applies where section 66(1) (investigation and determination by Principal Reporter) of the Act applies.

(2) The Reporter must keep a record of—

- (a) the name and address (if available) of any person providing the notice, information, statement or evidence;
- (b) the details of any investigation carried out by the Reporter under section 66 of the Act;
- (c) the determination made by the Reporter under section 66(2) of the Act; and
- (d) the details of any action taken by the Reporter under sections 68(2), 68(5) (determination under section 66: no referral to children's hearing) or 72(2) (child in place of safety: Principal Reporter's powers) of the Act.

(3) Where the Reporter is required to arrange a children's hearing under section 69(2) (determination under section 66: referral to children's hearing) of the Act the Reporter must notify—

- (a) where the information was provided under section 60 (local authority's duty to provide information to Principal Reporter) of the Act, the local authority which provided the information;
- (b) where the information was provided under section 61 (constable's duty to provide information to Principal Reporter) of the Act or section 43(5) (arrangements where children arrested) of the Criminal Procedure (Scotland) Act 1995(1), the chief constable of the Police Service of Scotland.

**Record keeping duties of the Reporter in relation to children's hearings**

**13.**—(1) The Reporter must keep a record of the proceedings at each children's hearing and pre-hearing panel held by virtue of the Act or any other enactment.

(2) The record to be kept by the Reporter must include the information mentioned in paragraph (3) and such other information about the proceedings as the Reporter considers appropriate.

(3) That information is—

- (a) the particulars of the place and date of the children's hearing or pre-hearing panel;

- (b) the full name and address, date of birth and sex of the child in relation to whom the children's hearing or pre-hearing panel is held;
- (c) the full name and address of each relevant person;
- (d) which of the persons mentioned in sub-paragraphs (b) and (c) attended the children's hearing or pre-hearing panel;
- (e) the full name and address of any representative attending the children's hearing or pre-hearing panel;
- (f) the full name and address of any safeguarder attending the children's hearing or pre-hearing panel;
- (g) the details of any other person attending the children's hearing or pre-hearing panel;
- (h) the details of any decision or determination made by the children's hearing or pre-hearing panel or any other course of action taken by the children's hearing or pre-hearing panel;
- (i) where the children's hearing to which the record relates is a grounds hearing—
  - (i) the details of any section 67 ground which is accepted, or not accepted, or is not understood and by whom;
  - (ii) the detail of any direction given by the grounds hearing under section 93(2)(a) (grounds not accepted: application to sheriff or discharge) or 94(2)(a) (child or relevant person unable to understand grounds) of the Act to the Reporter to make an application to the sheriff.

### **The statement of grounds**

14. Where the statement of grounds prepared by the Reporter under section 89 (Principal Reporter's duty to prepare statement of grounds) of the Act includes a ground mentioned in section 67(2)(j) (the child has committed an offence) the facts relating to that ground must have the same degree of specification as is required by section 138(4) (complaints) of, and Schedule 3 (indictments and complaints) to, the Criminal Procedure (Scotland) Act 1995 in a charge in a complaint, and the statement of grounds must also specify the nature of the offence in question.

### **Duties of Reporters where information to be withheld from a person**

15.—(1) Where information is to be withheld from a person under the Act or these Rules the Reporter must ensure that the relevant information is removed from the report or other document or information to be given under the Act, or these Rules, to the person from whom that information is to be withheld.

(2) Where information is withheld under the Act or these Rules the Reporter must inform the persons to whom the report or other document or information has been given under the Act, or these Rules, of the identity of the person from whom the information is being withheld, and what information is being withheld from that person.

### **Withholding of specified documents and information by the Reporter**

16.—(1) This rule applies where a children's hearing or pre-hearing panel is to be held or has been held in relation to a child by virtue of the Act or these Rules and the Reporter is arranging the hearing, notifying persons of the hearing or issuing information or documents for the hearing or is taking any action required as a consequence of the hearing.

(2) Where the Reporter is carrying out the functions referred to in paragraph (1) and considers that disclosing the whereabouts of the child to whom the children's hearing or pre-hearing panel relates, or of any relevant person, would be likely to cause significant harm to the child or any relevant person the Reporter may withhold that information.

(3) Where the address of the child or relevant person is withheld under paragraph (2) the Reporter will give the address of the child or relevant person as that of the Reporter.

**Duties of the Reporter where a child is detained under a warrant to secure the attendance of the child**

17.—(1) This rule applies where the children's hearing has granted a warrant to secure the attendance of the child at a children's hearing under section 123 (general power to grant warrant to secure attendance) of the Act and the child is being kept in a place of safety under that warrant.

(2) The Reporter must, wherever practicable, arrange the children's hearing to take place on the first working day after the child was first detained in pursuance of the warrant.

**Notification and provision of information to a young child**

18.—(1) This rule applies where, under the Act or these Rules, the Reporter must—

- (a) notify a child of the date, time and place of a children's hearing or pre-hearing panel to be held in relation to that child; or
- (b) provide a child with any information, confirmation, report or other document in relation to a children's hearing or pre-hearing panel.

(2) The Reporter need not so notify the child or provide the information, confirmation, report or other document where, taking account of the child's age and maturity, the child would not be capable of understanding the notification, information, confirmation, report or other document.