

## **EXECUTIVE NOTE**

### **THE CHILDREN'S HEARINGS ( SCOTLAND) ACT 2011 (NATIONAL CONVENER APPEAL AGAINST DISMISSAL) REGULATIONS 2011**

#### **SSI 2011/143**

The above instrument is made in exercise of the powers conferred by paragraph 8 (10) of Schedule 1 to the Children's Hearings (Scotland) Act 2011. The Regulations will govern the procedure for the making of an appeal by the National Convener to the Scottish Ministers against dismissal by Children's Hearings Scotland. The instrument will be subject to the negative procedure.

#### **Policy objectives**

In establishing a new appointment, the National Convener, to support and oversee the Children's Panel, it is intended that that person, as well as being subject to the same scrutiny and regulation as key officers in existing, similar bodies, can also access fair, transparent and robust procedures in relation to their appointment.

Section 129 of the Local Government etc. (Scotland) Act 1994 provided a similar right of appeal for the Principal Reporter (and prescribed officers) and also conferred power to prescribe the applicable procedure. Using that power the Reporters (Appeals against Dismissal) (Scotland) Regulations 1997 (SI 1997/729) were made. The current regulations make broadly similar provision for the appeal by the National Convener. The objective behind the provision of this right of appeal is to provide insulation for the appointee from unfair removal from post.

The first National Convener is to be appointed by the Scottish Ministers, but they and successors will be accountable to the Board of Children's Hearings Scotland. If they are dismissed, the National Convener may appeal to Ministers against dismissal by Children's Hearings Scotland by giving to Ministers a statement setting out the grounds upon which the appeal is made and any accompanying information they may wish to submit, giving a copy to Children's Hearings Scotland.

If they wish to oppose the National Convener's appeal, Children's Hearings Scotland must respond to Ministers. Ministers may, where they consider it appropriate, constitute a panel to conduct an inquiry for the purposes of the appeal and to report to them. The Schedule to these Regulations makes further provision about the constitution of the panel and the procedure relating to the inquiry by the panel. The inquiry panel procedure is designed to be transparent and proportionate.

All the relevant information required under these Regulations can be sent by way of electronic communication. We have included provision for Ministers, or an inquiry panel constituted by Ministers, to seek further information on receipt of the appeal papers, where that is necessary in a particular case, and on as many occasions as required by the circumstances.

**Commencement Date**

The date for the commencement of these regulations is 18 April 2011.

**Consultation**

There has been no public consultation on this instrument.

**Impact assessments**

There are no equality impact issues.

**Financial effects**

The Minister for Children and Early Years confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or business.

**Scottish Government  
Children and Families Directorate.**

**22 February 2011**