

## **POLICY NOTE**

### **THE CHILDREN'S HEARINGS (SCOTLAND) ACT 2011 (APPEALS AGAINST DISMISSAL BY SCRA) REGULATIONS 2012**

**SSI 2012/337**

The above instrument is made in exercise of the powers conferred by section 195 (2), paragraphs 8 (6) to 8(8) and paragraph 12 of Schedule 3 to the Children's Hearings (Scotland) Act 2011 (the 2011 Act), as introduced by section 15 of that Act. The instrument will govern the initiation and process of appeals to the Scottish Ministers against dismissal by specified employees of the Scottish Children's Reporter Administration (SCRA). The instrument specifies the employees who can make such an appeal, the procedure for the making of an appeal, the effect of making an appeal, the powers of Ministers to deal with an appeal and the effect of exercising those powers. The instrument will be subject to the negative procedure.

#### **Policy objectives**

It is intended that that the officer known as the Principal Reporter of the Scottish Children's Reporter Administration (SCRA), and other senior officers of that body being the Assistant Principal Reporter and Senior Operational Managers, can access fair, transparent and robust procedures in relation to their employment.

As senior officers of the SCRA, their duties involve them in making quasi-prosecutorial decisions on professionally difficult and politically sensitive cases and issues. They need to be supported to make decisions focused solely on the best interests of individual children in the children's hearings system. This instrument will ensure that the specified SCRA employees are subject to appropriate procedures, and benefit from appropriate rights and protections, in line with similar officers in other public bodies.

Under paragraph 8(6) of schedule 3 to the 2011 Act the Principal Reporter may appeal to the Scottish Ministers against dismissal by SCRA. In implementing paragraph 12 of Schedule 3 to the 2011 Act, it is considered that the further descriptions or classes of persons known as the Assistant Principal Reporter ( of whom there is 1) and Senior Operational Managers (of whom there are 2) should also be able to appeal to the Scottish Ministers against dismissal by SCRA.

These officers are all responsible for the operational and practice framework governing the professional and casework aspects of the Children's Reporter service. The instrument sets in place a timed and rigorous process of notification, consideration and appeal. It reflects, for the SCRA, the policy intention and the processes set out in the Children's Hearings (Scotland) Act 2011 ( National Convener Appeal against Dismissal) Regulations 2011.

The Principal Reporter is accountable to the Chair of the board of SCRA. Persons employed by SCRA who are of the description or class known as Assistant Principal Reporter or Senior Operational Manager ('senior staff' hereinafter) are accountable to the SCRA Chief Executive and have a right of appeal to the SCRA Board. This instrument operates independently of any internal SCRA process which need not have been exhausted before an appeal to Ministers could be taken.

The individual wishing to submit an appeal does so by giving to Ministers a statement setting out the grounds upon which the appeal is made and any accompanying information, copying that information to SCRA..

If SCRA wish to oppose the appeal , they must respond to Ministers, setting out the reasons for opposing it; the reasons for dismissing the appellant, and any other representations.

All the relevant information required under these Regulations can be sent by way of electronic communication. Scottish Ministers, or an inquiry panel constituted by Scottish Ministers, can seek further information as required .

Scottish 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 makes further provision about the constitution of the panel and its procedure. In addition, the Schedule regulates the qualification requirements of the panel chair, the report and the prescribed timescales. The appellant may make arrangements for legal representation.

Alternatively , Ministers may wish to decide an appeal directly where an inquiry panel would be unnecessary.

The instrument provides that the Scottish Ministers may ; (i) allow, or (ii); dismiss the appeal.

Where the appeal is allowed, Ministers may direct that the appellant be reinstated ; and direct payment to the appellant of such sum as seems appropriate to the Scottish Ministers . In any other case, Ministers can direct that the dismissal should not take effect.

### **Commencement Date**

The date for the commencement of the regulations is 24 June 2013 .

### **Consultation**

There has been full public consultation on this instrument between November 2011 and January 2012 . No substantive comments or suggestions were received in response to the formal consultation. SCRA and relevant trade unions were also contacted during the preparation of the instrument and both are content.

### **Impact assessments**

There are no equality impact issues.

### **Financial effects**

The Minister for Children and Young People 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.  
6th December 2012**