
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision about the procedure relating to children's hearings and pre-hearing panels under sections 177 and 195 of the Children's Hearings (Scotland) Act 2011 ("the 2011 Act").

Part 2 (rules 3 to 7) makes provision about: the selection of members of a pre-hearing panel and a children's hearing; the selection of a chairing member for pre-hearing panels and children's hearings; the duties of panel members in relation to the security of documents and information; and the particular duties of the chairing member. Rule 7 provides that the procedure at any children's hearing or pre-hearing panel is determined by the chairing member except where that procedure is provided for in the 2011 Act or in the Rules.

Part 3 (rules 8 to 11) makes provision about the duties of various persons attending children's hearings and pre-hearing panels or preparing documents for them. This includes: a duty on report writers to cover any views expressed by the child; a duty on safeguarders in relation to the security of documents and information; and the right of a representative of the child or relevant person to assist the person they are representing.

Part 4 (rules 12 to 18) makes provision in connection with the general duties of the Principal Reporter at children's hearings and pre-hearing panels. These functions include: information and record keeping; removing information from documents where that information is being withheld from a person; and withholding the whereabouts of the child or a relevant person in some circumstances. Rule 18 provides that the reporter need not send documents to very young children.

Part 5 (rules 19 and 20) makes further provision about the attendance at children's hearings and pre-hearing panels of various persons and enables the participation of such persons by telephone, video link or other means, in certain circumstances.

Part 6 (rules 21 to 26) makes general provision about the arranging of children's hearings. This includes: notification of the date, time and place of the children's hearing, by the reporter, to various persons including the child and each relevant person in relation to that child; the provision of other information to the child and each relevant person; and provision enabling the child or any relevant person to give a report or document to the children's hearings for its consideration.

Part 7 (rules 27 to 30) makes specific provision about the arranging of grounds hearings. This includes: additional information that the reporter must give to certain persons including the child and each relevant person prior to the grounds hearings; additional information that must be given to the panel members; additional information where the child has been kept in a place of safety under section 43 of the Criminal Procedure (Scotland) Act 1995 or where a child protection order has been made in relation to the child; and additional information where a grounds hearing is being arranged in relation to a child who is already subject to a compulsory supervision order.

Part 8 (rules 31 to 33) makes specific provision for arranging a children's hearing held under section 119 of the 2011 Act, which is a children's hearing held following the deferral of a previous children's hearing or following proceedings before the sheriff under Part 10 of the 2011 Act. This covers the provision of particular information to various persons when section 119 applies to that children's hearing.

Part 9 (rules 34 to 36) makes specific provision for arranging a children's hearing held under section 137 of the 2011 Act. Section 137 applies where a review of a compulsory supervision order, which is in force in relation to a child, is to be held. This covers the provision of particular information to various persons for children's hearings arranged under section 137.

Part 10 (rules 37 and 38) makes specific provision for arranging children's hearings where new grounds arise in relation to a child to whom a grounds hearing or a review hearing has already been deferred or where an application has already been made to the sheriff to establish the grounds.

Part 11 (rules 39 to 44) makes specific provision for arranging children's hearings: where a child protection order is in force in relation to the child; where the children's hearing is to provide advice to the sheriff about the potential variation or termination of a child protection order; where the children's hearing is to consider making a further interim compulsory supervision order; where the children's hearing is to review a contact direction under section 126 of the 2011 Act; where the children's hearing is to review whether an individual should continue to be deemed to be a relevant person in relation to the child under section 142 of the 2011 Act; and where the children's hearing is required to provide a report under section 49 of the Criminal Procedure (Scotland) Act 1995.

Part 12 (rules 45 to 55) makes provision about pre-hearing panels and the determination of matters which may be referred to pre-hearing panels. This includes: the arranging of pre-hearing panels to determine whether an individual should be deemed to be a relevant person in relation to the child; the arranging of pre-hearing panels for other purposes including excusing a child or relevant person from attending subsequent children's hearings; the provision of information and written representations to pre-hearing panels; the procedure to be followed when the pre-hearing panel is determining whether to deem an individual to be a relevant person; the procedure to be followed when other matters are being determined by the pre-hearing panel; notifying certain persons of the pre-hearing panel's determination; and notification and provision of information where the matters referred to the pre-hearing panel will be determined by the children's hearing instead because it is not practicable to arrange a pre-hearing panel. Rule 55 provides that a children's hearing can deem an individual to be a relevant person even if no referral has been made to a pre-hearing panel for the determination of that matter under section 79 of the 2011 Act.

Part 13 (rules 56 and 57) makes provision where the pre-hearing panel or the children's hearing appoints a safeguarder for the child, including in relation to the preparation of a report by the safeguarder.

Part 14 (rule 58) obliges the chairing member to conduct some functions at the beginning of a children's hearings such as explaining the purpose of the hearing and checking that certain persons have received all the relevant information for that hearing.

Part 15 (rules 59 to 67) makes provision about the procedure at: grounds hearings; hearings following the deferral of a children's hearing; hearings following proceedings before the sheriff; and hearings to review a compulsory supervision order. This includes the procedure in relation to: putting the grounds to the child and each relevant person; the acceptance of the grounds; where the grounds are not accepted and there is an application to the sheriff; where the child or a relevant person is unable to understand the grounds; where the child fails to attend the grounds hearing; where the children's hearing must prepare a report in circumstances relating to a permanence order or adoption; where the children's hearing is reviewing a determination that an individual be deemed to be a relevant person; and where the children's hearing is directing the National Convener of Children's Hearings Scotland concerning the implementation of a compulsory supervision order by a local authority.

Part 16 (rules 68 and 69) makes provision about the procedure which applies where rules 37 and 38 apply. This makes bespoke provision for children's hearings that are both a grounds hearing and a review hearing.

Part 17 (rules 70 to 77) makes provision for bespoke procedure at several different types of children's hearings. These are children's hearings held in relation to: the making of a child protection order; the giving of advice to the sheriff about an application for the variation or termination of a child protection order; considering the need for a further interim compulsory supervision order; the review of a contact direction under section 126 of the 2011 Act; giving advice under section 49 of the Criminal Procedure (Scotland) Act 1995; applications to suspend the decision of a children's hearing

pending an appeal; and making a report under section 95 of the Adoption and Children (Scotland) Act 2007.

Part 18 (rules 78 to 83) makes provision about a range of general procedural issues arising in children's hearings. This includes the procedure where: a warrant to secure the attendance of the child may be granted; advice is sought by the children's hearing from the National Convener; a compulsory supervision order is to be made in certain circumstances; section 126 of the 2011 Act concerning a review of a contact direction applies; the children's hearing is considering whether an education authority is failing to provide education for an excluded pupil; and the children's hearing is considering whether it might be appropriate for a parenting order to be made.

Part 19 (rules 84 to 87) makes provision concerning the procedure at a pre-hearing panel or a children's hearing where a non-disclosure request is made by any person. This includes provision concerning: information that must not be withheld; requests for non-disclosure of information prior to the children's hearing; the procedure to be followed by the children's hearing when considering a non-disclosure request; and requests for non-disclosure of information arising during a children's hearing.

Part 20 (rules 88 to 93) makes provision about the notification of children's hearings' decisions to certain persons. This includes providing the child, each relevant person and any safeguarder with, amongst other things, the children's hearings' decision, the reasons for that decision, and a copy of any order made or warrant granted by, the hearing. Information about certain decisions of children's hearings is also given, in certain circumstances, to the chief social work officer of the implementation local authority and the chief constable. Particular provision is made in relation to decisions of children's hearings held: where a child protection order has been made; concerning a review of a contact direction under section 126 of the 2011 Act; and concerning applications to suspend the decision of a children's hearing pending an appeal.

Part 21 (rules 94 to 96) makes specific provision for children's hearings arranged under the Children's Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013. These regulations are made under sections 151, 153 and 162 of the 2011 Act. The rules provide for the provision of information for children's hearings concerning the review of secure accommodation authorisations, the procedure for such children's hearings and the notification of decisions from these children's hearings.

Part 22 (rules 97 to 100) makes miscellaneous provision concerning: the expenses of those attending children's hearings; the authentication of documents, written communications and the service of documents.