
STATUTORY INSTRUMENTS

1996 No. 3261

Children's Hearings (Scotland) Rules 1996

PART III

GENERAL PROVISIONS AS TO CHILDREN'S HEARINGS

Representation for the purposes of assisting children and relevant persons at children's hearing

11.—(1) Any child whose case comes before a children's hearing and any relevant person who attends that children's hearing may each be accompanied by one person for the purpose of assisting the child, or as the case may be, the relevant person at the hearing.

(2) Any representative attending any children's hearing may assist the person whom he represents in the discussion of the case of the child with the children's hearing.

(3) In these Rules any reference to a representative is a reference to a person who under this rule assists a child or a relevant person or both, and includes, unless the context otherwise requires, a reference both to any representative of a child and any representative of a relevant person.

General attendance at hearings of certain parents of the child (not relevant persons) and specific limited right of duly authorised officials etc.

12.—(1) A father of the child as described in rule 5(3)(b) shall be entitled to attend at all stages of the children's hearing while the hearing are considering the case of the child but shall be subject to the same provisions as those contained in section 46 of the Act as if those provisions apply to him.

(2) A constable, prison officer or other person duly authorised who has in his lawful custody a person who has to attend a children's hearing shall be entitled to be present at the hearing for the purposes of escorting that person.

Persons who may attend children's hearings at chairman's discretion

13. Without prejudice to the right of a child and of a relevant person under rule 11 above to be accompanied at a children's hearing by a representative, and subject to subsections (1) to (3) of section 43 of the Act (provisions as to privacy of children's hearings), the persons whose presence at the children's hearing may be permitted by the chairman under the said subsection (1) shall be—

- (a) the chairman and members of the Children's Panel Advisory Committee for the local authority area of the children's hearing and the clerk to the Children's Panel Advisory Committee of the local authority;
- (b) any members or possible members of children's panels whose attendance is required at children's hearings for the purpose of their training as members of children's hearings, and their instructors;
- (c) any student engaged in formal education or training in social work or any person engaged in research relating to children who may be in need of compulsory measures of supervision; and

- (d) any other person whose presence at the hearing may in the opinion of the chairman be justified by special circumstances.

Safeguarders

14.—(1) Where a children’s hearing appoint a safeguarder under section 41(1) of the Act, the chairman shall state in writing the reasons for their decision to make that appointment.

(2) The Principal Reporter shall give the safeguarder a copy of such statement and also give notice of the date, time and place of the hearing at the same time and in the same manner as giving notice to a relevant person under rule 7.

(3) Any safeguarder appointed by a children’s hearing shall be entitled to be present throughout the duration of any hearing of the case until the disposal of that case.

(4) Where a safeguarder is appointed by a children’s hearing, he shall—

- (a) prepare a report in writing on the case of the child; and
- (b) prepare any further report in writing on the case as the hearing may require,

and give the report or, as the case may be, the further report to the Principal Reporter.

(5) Any information or document which the Principal Reporter makes available in compliance with rule 5 (under exception of rule (5)(1)(e)) or otherwise to the chairman and members of any children’s hearing shall also be made available to any safeguarder regardless of the date of his appointment in the proceedings.

(6) A safeguarder—

- (a) shall keep securely in his custody any documents made available to him under paragraph (4);
- (b) shall not cause or permit any information contained in the documents or otherwise disclosed during the hearing to be made know to any person, other than may be necessary for the performance of his own duties; and
- (c) shall return to the Principal Reporter any document which has been made available to him under paragraph (4) above when he has completed the performance of all duties associated with his appointment.

Views of the Child

15.—(1) The children’s hearing, taking account of the age and maturity of the child whose case has been referred to the hearing for a purpose mentioned in paragraph (2) shall so far as practicable give the child an opportunity to indicate whether he wishes to express his views.

(2) This rule shall apply where the children’s hearing—

- (a) are considering whether to make, or are reviewing a supervision requirement;
- (b) are considering whether to grant a warrant under subsections (4) or (5) of section 45, subsection (5) of section 63, subsection (1) of section 66, or subsection (4) or (7) of section 69, of the Act or to provide under subsection (5) of the said section 66 for the continuation of a warrant;
- (c) are considering whether to continue a child protection order under section 59(4) of the Act;
- (d) are engaged in providing advice under section 60(10) of the Act; or
- (e) are considering whether to make a requirement under section 69(3) of the Act;
- (f) are drawing up a report under section 73(13) of the Act; and
- (g) are considering whether to issue a warrant under the 1996 Regulations.

- (3) Where he has indicated his wish to express his views—
- (a) the children’s hearing and the chairman of the hearing may exercise any of their powers under the Act or these Rules as they or, as the case may be, he considers appropriate in order to ascertain the views of the child; and
 - (b) the children’s hearing shall not make any decision or take any action mentioned in paragraph (2) unless an opportunity has been given for the views of the child to be obtained or heard and in terms of section 16(2)(c) of the Act they have had regard to such views as he may have expressed.
- (4) Without prejudice to the generality of the powers mentioned in paragraph (3)(a), the views of the child may be conveyed to the children’s hearing—
- (a) by the child, or by his representative, individually or together in person;
 - (b) by the child in writing, on audio or video tape or through an interpreter; or
 - (c) by any safeguarder appointed by the hearing.
- (5) For the purposes of this rule, a child of twelve years of age or more shall be presumed to be of sufficient age and maturity to form a view.