

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – General Considerations

General considerations

Section 27 – Views of the child

29. This section is based on section 16(2) of the 1995 Act and provides that the Children's Hearing or sheriff must, so far as is practicable, give the child the opportunity to express their views, and take those views into account when coming to decisions. When doing this the Children's Hearing or the sheriff must take account of the age and maturity of the child. Subsection (4) provides that a child aged 12 years or more is presumed capable of forming a view, but the capacity of each child should be assessed individually, and the sheriff or hearing should take account of the views of children under 12 when that child is capable of forming and expressing a view. This section does not apply where the sheriff is deciding whether to make a child protection order (CPO) in relation to a child. As an emergency protection measure, it would not be possible to seek the child's views before making a CPO.