



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 17

PROCEEDINGS UNDER PART 10: EVIDENCE

173 Cases involving sexual behaviour: evidence

- (1) This section applies where—
 - (a) an application is made to the sheriff—
 - (i) to determine whether a section 67 ground is established, or
 - (ii) to review a grounds determination, and
 - (b) the ground involves sexual behaviour engaged in by any person.
- (2) In hearing the application the sheriff must not, unless the sheriff makes an order under section 175, admit evidence, or allow questioning of a witness designed to elicit evidence, which shows or tends to show one or more of the circumstances mentioned in subsection (3) in relation to a person mentioned in subsection (4).
- (3) The circumstances are that the person—
 - (a) is not of good character (whether in relation to sexual matters or otherwise),
 - (b) has, at any time, engaged in sexual behaviour not forming part of the subject-matter of the ground,
 - (c) has, at any time (other than shortly before, at the same time as or shortly after the acts which form part of the subject-matter of the ground), engaged in behaviour (not being sexual behaviour) that might found an inference that the person is not credible or the person's evidence is not reliable,
 - (d) has, at any time, been subject to any condition or predisposition that might found the inference that the person is not credible or the person's evidence is not reliable.
- (4) The persons are—
 - (a) the child,
 - (b) a person giving evidence for the purposes of the hearing,
 - (c) any other person evidence of whose statements is given for the purposes of the hearing.

Status: This is the original version (as it was originally enacted).

- (5) In subsection (4)(c), “statements” includes any representations, however made or expressed, of fact or opinion.
- (6) In this section and section 174, references to sexual behaviour engaged in include references to having undergone or been made subject to any experience of a sexual nature.