



# Age of Criminal Responsibility (Scotland) Act 2019

2019 asp 7

## PART 4

### POLICE INVESTIGATORY AND OTHER POWERS

#### CHAPTER 3

##### QUESTIONING OF CERTAIN CHILDREN

###### *Planning and conduct of investigative interviews*

#### **51 Right to have child interview rights practitioner present**

- (1) This section applies where an investigative interview of a child is authorised—
  - (a) by virtue of section 40(2), or
  - (b) by a child interview order made in respect of the child.
- (2) The child has the right, in connection with and during the investigative interview, to receive advice, support and assistance from a child interview rights practitioner.
- (3) The child has the right to a private consultation with the child interview rights practitioner before, or at any time during, the interview.
- (4) The child interview rights practitioner must not be denied access to the child at any time during the interview.
- (5) A child interview rights practitioner must—
  - (a) so far as reasonably practicable, ascertain the views of the child in relation to—
    - (i) the extent to which the child wishes to receive advice, support and assistance from the practitioner, and
    - (ii) the ways in which advice, support and assistance is to be provided, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) have regard to any views ascertained.
- (6) In having regard to the views of the child under subsection (5), the child interview rights practitioner is to take account of the child's age and maturity.
- (7) In subsection (2), "advice, support and assistance" includes the child interview rights practitioner—
- (a) helping the child to understand—
    - (i) the purpose of the interview,
    - (ii) the child's rights in relation to the interview (including the child's right to refuse to answer questions), and
    - (iii) what may happen as a result of the interview,
  - (b) making recommendations to the child about the exercise of the child's rights in relation to the interview,
  - (c) being present with the child in the room in which the interview is being conducted,
  - (d) communicating on the child's behalf with the person conducting the interview or otherwise supporting the child in communicating with that person,
  - (e) questioning whether the interview is being conducted—
    - (i) in accordance with any child interview order authorising the interview or otherwise fairly,
    - (ii) in a way that treats the need to safeguard and promote the wellbeing of the child as a primary consideration.
- (8) A child interview rights practitioner is a person who is authorised, by virtue of being included in the register established and maintained under section 56(1), to provide advice, support and assistance to children in relation to their involvement in investigative interviews authorised by virtue of section 40(2) or by a child interview order.