
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 194

**The Children's Hearings (Scotland) Act 2011 (Rules
of Procedure in Children's Hearings) Rules 2013**

PART 12

**Pre-hearing panels and determination of matters
which may be referred to pre-hearing panels**

[^{F1}Specification of matters that may be determined by pre-hearing panel

44A. Whether a person should be allowed to attend a children's hearing only by electronic means (see rule 20C) is specified for the purpose of these Rules as a matter that may be determined by pre-hearing panels.]

F1 Rule 44A inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(11)**

Arranging pre-hearing panel - determination of relevant person status

45.—(1) Where a pre-hearing panel is to be arranged by virtue of section 79(2)(a) or (b) (referral of certain matters for pre-hearing determination) of the Act (whether or not it is also to determine any matter mentioned in section [^{F2}79(2)(ba) or (bb)^{F3}, (3) or (5A) of the Act]), wherever practicable at least 5 days before the intended date of the pre-hearing panel the Reporter must give notice of the pre-hearing panel to the persons mentioned in paragraph (2).

(2) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any individual requesting a determination that they be deemed a relevant person under section 79(2)(a) of the Act;
- (d) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
- (e) any appointed safeguarder;
- (f) the three members of the pre-hearing panel;
- (g) the National Convener.

(3) The notice must inform—

- (a) the persons mentioned in paragraph (2) of the date, time and place of the pre-hearing panel;
- (b) the persons mentioned in paragraph (2)(a) to (e) that they—
 - (i) have the right to attend the pre-hearing panel;

- (ii) [^{F4}subject to paragraph (3A)(b),] may make representations (orally or in writing) to the pre-hearing panel relating to whether the individual mentioned in paragraph (2) (c) or (d) should be deemed to be a relevant person;
- (iii) may give any report or other document relevant to that matter for the consideration of the pre-hearing panel;
- (iv) have the right to request that the Reporter takes all reasonable steps to enable the child, each relevant person, or the individual in question, as the case may be, to attend the pre-hearing panel by way of telephone, through video link or by using any other method of communication; and
- (c) the individual mentioned in paragraph (2)(c) or (d) that the individual, if deemed a relevant person under section 81(3) (determination of claim that person be deemed a relevant person) of the Act after that determination has been made, may request the pre-hearing panel to determine any matter mentioned in section 79(3) of the Act.

[^{F5}(3ZA) Where the pre-hearing panel will also determine in respect of an individual a matter referred under section 79(2)(ba) or (bb) of the Act, the notice must—

- (a) state that fact and the name of the person,
- (b) inform the individual mentioned in paragraph (2)(c) or (d) that the individual will not be entitled to take part in any discussion on the matter referred under section 79(2)(ba) or (bb) of the Act unless the individual is deemed to be a relevant person,
- (c) inform any individual whose status as a relevant person has been referred under section 79(5A) of the Act that the individual will not be entitled to take part in any discussion on the matter referred under section 79(2)(ba) or (bb) of the Act unless the individual continues to be deemed to be a relevant person,
- (d) inform the persons mentioned in paragraph (2)(a), (b) or (e), subject to sub-paragraph (c), that they may—
 - (i) make representations (orally or in writing) to the pre-hearing panel in relation to the matter referred under section 79(2)(ba) or (bb) of the Act, and
 - (ii) give any report or other document relevant to that matter for the consideration of the pre-hearing panel.]

[^{F6}(3A) Where the pre-hearing panel will also determine a matter referred under section 79(5A) (a) or (b) (power to determine that deeming of person as relevant person to end) of the Act, the notice must—

- (a) state that fact and the name of the individual whose status as a relevant person has been referred under section 79(5A) of the Act;
- (b) inform the individual mentioned in sub-paragraph (a) that, notwithstanding paragraph (3) (b)(ii) above, the individual will not be entitled to take part in any discussion on matters referred under section 79(2)(a) or (b) of the Act unless they continue to be deemed to be a relevant person; and
- (c) inform the persons mentioned in paragraph (2)(a), (b) or (e) that they may—
 - (i) make representations (orally or in writing) to the pre-hearing panel in relation to the matter referred under section 79(5A) of the Act; and
 - (ii) give any report or other document relevant to that matter for the consideration of the pre-hearing panel.]
- (4) Where the pre-hearing panel will also determine any other matter referred under section 79(2) (c) of the Act the notice must state that fact and—

- (a) inform the individual mentioned in paragraph (2)(c) or (d) that the individual will not be entitled to take part in any discussion on that matter unless they are deemed to be a relevant person; ^{F7} ...
- [^{F8}(aa) inform any individual whose status as a relevant person has been referred under section 79(5A) of the Act that the individual will not be entitled to take part in any discussion on the matter referred under section 79(2)(c) unless they continue to be deemed to be a relevant person; and]
- (b) inform the persons mentioned in [^{F9}paragraph] (2)(a), (b) or (e) [^{F10}, subject to subparagraph (aa),] that they may—
 - (i) make representations (orally or in writing) to the pre-hearing panel in relation to any matter to be determined by the panel; and
 - (ii) give any report or other document relevant to those matters for the consideration of the pre-hearing panel.
- [^{F11}(5) Paragraph (6) applies where an individual is both—
 - (a) a person in respect of whom a matter has been referred to the pre-hearing panel under section 79(2)(ba) or (bb) of the Act, and
 - (b) a person mentioned in paragraph (2)(c) or (d).
- (6) The notice—
 - (a) is not to inform the individual referred to in paragraph (5) of the things that it would otherwise be required to by virtue of paragraph (3ZA), and
 - (b) is instead to inform the individual that the individual may—
 - (i) make representations (orally or in writing) to the pre-hearing panel relating to the matter in respect of the individual that has been referred under section 79(2)(ba) or (bb) of the Act, and
 - (ii) give any report or other document relevant to that matter for the consideration of the pre-hearing panel.
- (7) Paragraph (8) applies where an individual is both—
 - (a) a person in respect of whom a matter has been referred to the pre-hearing panel under section 79(2)(ba) or (bb) of the Act, and
 - (b) a person whose status as a relevant person has been referred to the pre-hearing panel under section 79(5A) of the Act.
- (8) The notice—
 - (a) is not to inform the individual referred to in paragraph (7) of the things that it would otherwise be required to by virtue of paragraph (3ZA), and
 - (b) is instead to inform the individual that—
 - (i) the individual may make representations (orally or in writing) to the pre-hearing panel relating to the matter in respect of the individual that has been referred under section 79(2)(ba) or (bb) of the Act,
 - (ii) the individual may give any report or other document relevant to that matter for the consideration of the pre-hearing panel,
 - (iii) if a matter has been referred under section 79(2)(ba) or (bb) of the Act in respect of another person too, the individual will not be entitled to take part in any discussion on that matter unless the individual continues to be deemed to be a relevant person.]

- F2** Words in rule 45(1) substituted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(12)(a)**
- F3** Paragraphs (ba) and (bb) are inserted into section 79(2) of the [Children's Hearings \(Scotland\) Act 2011 \(asp 1\)](#) by section 25 of the [Children \(Scotland\) Act 2020 \(asp 16\)](#).
- F4** Words in rule 45(3)(b)(ii) inserted (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(2)**
- F5** Rule 45(3ZA) inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(12)(b)**
- F6** Rule 45(3A) inserted (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(3)**
- F7** Word in rule 45(4)(a) omitted (26.1.2015) by virtue of [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(4)**
- F8** Rule 45(4)(aa) inserted (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(5)**
- F9** Word in rule 45(4)(b) inserted (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(6)(a)**
- F10** Words in rule 45(4)(b) inserted (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(6)(b)**
- F11** Rule 45(5)-(8) inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(12)(c)**

[^{F12}Arranging pre-hearing panels to determinate opportunity to participate - notice to persons other than person seeking opportunity

45A.—(1) Where a pre-hearing panel is to be arranged by virtue of section 79(2)(ba) or (bb), but not by virtue of section 79(2)(a), (b) or (5A), of the Act (whether or not it is also to determine any matter mentioned in section 79(3) of the Act), wherever practicable at least 5 days before the intended date of the pre-hearing panel the Reporter must give notice of the pre-hearing panel to the persons mentioned in paragraph (2).

- (2) Those persons are—
- (a) the child,
 - (b) each relevant person,
 - (c) any appointed safeguarder,
 - (d) the members of the pre-hearing panel,
 - (e) the National Convener.
- (3) The notice must inform—
- (a) the persons mentioned in paragraph (2) of the date, time and place of the pre-hearing panel,
 - (b) the persons mentioned in paragraph (2)(a) to (d)—
 - (i) that the pre-hearing panel is to determine in respect of an individual a matter referred under section 79(2)(ba) or (bb) of the Act,
 - (ii) of the name of the individual,
 - (c) the persons mentioned in paragraph (2)(a) to (c) that they—
 - (i) have the right to attend the pre-hearing panel,
 - (ii) may make representations (orally or in writing) to the pre-hearing panel relating to the matter referred under section 79(2)(ba) or (bb) of the Act,
 - (iii) may give any report or document relevant to that matter for the consideration of the pre-hearing panel,

- (iv) have the right to request that the Reporter takes all reasonable steps to enable the individual in question to attend the pre-hearing panel by way of telephone, through video link or by using any other method of communication.
- (4) Where the pre-hearing panel will also determine a matter referred under section 79(2)(c) of the Act, the notice must—
 - (a) state that fact,
 - (b) inform the persons mentioned in paragraph (2)(a) to (c) that they may—
 - (i) make representations (orally or in writing) to the pre-hearing panel in relation to any matter to be determined by the panel, and
 - (ii) give any report or other document relevant to those matters for the consideration of the panel.

F12 Rules 45A, 45B inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(13)**

Arranging pre-hearing panels to determine opportunity to participate - notice to person seeking opportunity

45B.—(1) Where a pre-hearing panel is to be arranged to determine in respect of an individual a matter referred under section 79(2)(ba) or (bb) of the Act (whether or not the panel is to be arranged for another purpose too), the Reporter must give the individual notice of the pre-hearing panel.

- (2) The notice must inform the individual that the individual—
 - (a) has the right to attend the pre-hearing panel,
 - (b) may make representations (orally or in writing) to the pre-hearing panel relating to the matter in respect of the individual that has been referred under section 79(2)(ba) or (bb) of the Act,
 - (c) may give any report or document relevant to that matter for the consideration of the pre-hearing panel,
 - (d) has the right to request that the Reporter takes all reasonable steps to enable the individual to attend the pre-hearing panel by way of telephone, through video link or by using any other method of communication.
- (3) Notice of a pre-hearing panel is not to be given to an individual under this rule if the individual is to be given notice of the pre-hearing panel—
 - (a) under rule 45, on account of being a person mentioned in paragraph (2)(b) to (d) of that rule, or
 - (b) under rule 45A or 46A, on account of being a relevant person.]

F12 Rules 45A, 45B inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(13)**

Arranging pre-hearing panels to determine matter in section 79(3) (referral of certain matters for pre-hearing determination) of the Act

46.—(1) Where a pre-hearing panel is to be arranged by virtue only of section 79(2)(c) of the Act wherever practicable at least 5 days before the intended date of the pre-hearing panel the Reporter must give notice of the pre-hearing panel to the persons mentioned in paragraph (2).

- (2) Those persons are—

- (a) the child;
 - (b) each relevant person;
 - (c) any appointed safeguarder;
 - (d) the three members of the pre-hearing panel;
 - (e) the National Convener.
- (3) The notice must inform—
- (a) the persons mentioned in paragraph (2) of the date, time and place of the pre-hearing panel;
 - (b) the persons mentioned in paragraph (2)(a) to (d) of the matters to be determined by the pre-hearing panel; and
 - (c) the persons mentioned in paragraph (2)(a) to (c) that they—
 - (i) have the right to attend the pre-hearing panel;
 - (ii) may make representations (orally or in writing) to the pre-hearing panel;
 - (iii) may give any report or other document for the consideration of the pre-hearing panel;
 - (iv) have the right to request that the Reporter takes all reasonable steps to enable the child and each relevant person to attend the pre-hearing panel by way of telephone, through video link or by using any other method of communication.

[^{F13}Arranging pre-hearing panels to determine whether deeming of relevant person to end

46A.—(1) Where a pre-hearing panel is to be arranged by virtue of section 79(5A), but not by virtue of section 79(2)(a) or (b), of the Act (whether or not it is also to determine any matter mentioned in section [^{F14}79(2)(ba) or (bb) or (3)]), wherever practicable at least 5 days before the intended date of the pre-hearing panel the Reporter must give notice of the pre-hearing panel to the persons mentioned in paragraph (2).

- (2) Those persons are—
- (a) the child;
 - (b) each relevant person;
 - (c) any appointed safeguarder;
 - (d) the three members of the pre-hearing panel;
 - (e) the National Convener.
- (3) The notice must inform—
- (a) the persons mentioned in paragraph (2) of the date, time and place of the pre-hearing panel;
 - (b) the persons mentioned in paragraph (2)(a) to (d) that the pre-hearing panel is to determine whether an individual deemed to be a relevant person by virtue of section 81 of the Act should continue to be deemed to be a relevant person in relation to the child and the name of that individual; and
 - (c) the persons mentioned in paragraph (2)(a) to (c) that they—
 - (i) have the right to attend the pre-hearing panel;
 - (ii) may make representations (orally or in writing) to the pre-hearing panel relating to whether the individual whose status as a relevant person has been referred under section 79(5A) should continue to be deemed to be a relevant person;
 - (iii) may give any report or other document relevant to that matter for the consideration of the pre-hearing panel;

- (iv) have the right to request that the Reporter takes all reasonable steps to enable the child and each relevant person to attend the pre-hearing panel by way of telephone, through video link or by using any other method of communication.
- (4) Where [F15the pre-hearing panel] will also determine any matter referred under section 79(2)
- (c) the notice must state that fact and—
- (a) inform the individual whose status as a relevant person has been referred under section 79(5A) that the individual will not be entitled to take part in any discussion on the matter referred under section 79(2)(c) unless that individual continues to be deemed a relevant person; and
 - (b) inform the persons mentioned in paragraph (2)(a) to (c) that, subject to sub-paragraph (a), they may—
 - (i) make representations (orally or in writing) to the pre-hearing panel in relation to any matter to be determined by the panel; and
 - (ii) give any report or other document relevant to those matters for the consideration of the pre-hearing panel.]
- [F16(5) Where the pre-hearing panel will also determine in respect of a person a matter referred under section 79(2)(ba) or (bb) of the Act, the notice must—
- (a) state that fact and the name of the person,
 - (b) inform the individual whose status as a relevant person has been referred under section 79(5A) of the Act that the individual will not be entitled to take part in any discussion on the matter referred under section 79(2)(ba) or (bb) of the Act unless the individual continues to be deemed a relevant person,
 - (c) inform the persons mentioned in paragraph (2)(a) to (c) that, subject to sub-paragraph (b), they may—
 - (i) make representations (orally or in writing) to the pre-hearing panel in relation to the matter referred under section 79(2)(ba) or (bb) of the Act, and
 - (ii) give any report or other document relevant to that matter for the consideration of the pre-hearing panel.
- (6) Paragraph (7) applies where an individual is both—
- (a) a person in respect of whom a matter has been referred to the pre-hearing panel under section 79(2)(ba) or (bb) of the Act, and
 - (b) a person whose status as a relevant person has been referred to the pre-hearing panel under section 79(5A) of the Act.
- (7) The notice—
- (a) is not to inform the individual referred to in paragraph (6) of the thing that it would otherwise be required to by virtue of paragraph (5)(b), and
 - (b) is instead to inform the individual that—
 - (i) the individual may make representations (orally or in writing) to the pre-hearing panel relating to the matter in respect of the individual that has been referred under section 79(2)(ba) or (bb) of the Act,
 - (ii) the individual may give any report or other document relevant to that matter for the consideration of the pre-hearing panel,
 - (iii) if a matter has been referred to the pre-hearing panel under section 79(2)(ba) or (bb) of the Act in respect of another person too, notwithstanding paragraph (5)(c)(i), the individual will not be entitled to take part in any discussion on that matter unless the individual continues to be deemed a relevant person.]

- F13** Rule 46A inserted (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(7)**
- F14** Words in rule 46A(1) substituted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(14)(a)**
- F15** Words in rule 46A(4) substituted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(14)(b)**
- F16** Rule 46A(5)-(7) inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(14)(c)**

Provision of information to pre-hearing panel

47.—(1) Where any person [^{F17}with a right to make representations] wishes to make written representations or give any report or other document for the consideration of the pre-hearing panel, as soon as possible and wherever practicable no later than 4 days before the intended date of the pre-hearing panel, that person must give those representations, report or other document to the Reporter.

(2) Subject to the provisions of paragraphs (6) and (7), where the Reporter receives any representations, report or other document under paragraph (1), wherever practicable no later than 3 days before the intended date for the pre-hearing panel the Reporter must give a copy of that information to the persons mentioned in rule 45(2)(a) to (f) [^{F18}, 46(2)(a) to (d) or 46A(2)(a) to (d)], as the case may be, (unless that person gave the information in question to the Reporter).

(3) Where any person [^{F19}with a right to make representations] is unable to attend the pre-hearing panel and wishes to make oral representations for the consideration of the pre-hearing panel that person may make those representations to the Reporter.

(4) The Reporter must make a record of any representations given under paragraph (3) and give a copy of that record to those persons mentioned in rule 45(2)(a) to (f) [^{F20}, 46(2)(a) to (d) or 46A(2)(a) to (d)], as the case may be, as soon as possible before the beginning of the pre-hearing panel.

(5) As soon as possible before the beginning of the pre-hearing panel the Reporter must also give the persons mentioned in rule 45(2)(a) to (f) [^{F21}, 46(2)(a) to (d) or 46A(2)(a) to (d)], as the case may be, any other document, or part of a document, that is relevant to the issues to be determined by the pre-hearing panel and is in the possession of the Reporter.

(6) Where the matter referred to a pre-hearing panel concerns the question of whether a particular person should be deemed to be a relevant person [^{F22}or continue to be deemed to be a relevant person], the obligation under paragraph (2) shall only apply to such material as the Reporter considers relevant to the question of whether that person should be deemed to be a relevant person [^{F22}or continue to be deemed to be a relevant person].

[^{F23}(6A) Where a matter in respect of an individual has been referred to the pre-hearing panel under section 79(2)(ba) or (bb) of the Act, and the individual is not a person referred to in paragraph (8)(a), the Reporter must give to the individual any information (including information contained in a document) that—

- (a) the Reporter is required by this rule to give to a relevant person, and
- (b) is relevant to the matter that has been referred in respect of the individual.]

(7) The provisions of Part 19 of these Rules apply to any representations, report or other document received by the Reporter under paragraph (1) as they apply to any document relating to a children's hearing.

[^{F24}(8) In this rule, references to a person with a right to make representations refer—

- (a) to the persons mentioned in paragraph (2) of whichever of rules 45, 45A, 46 or 46A applies to the pre-hearing panel, apart from—

- (i) the members of the pre-hearing panel, and
 - (ii) the National Convener, and
- (b) to any individual in respect of whom a matter has been referred to the pre-hearing panel under section 79(2)(ba) or (bb) of the Act.]

F17	Words in rule 47(1) substituted (26.7.2021) by <i>The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2021 (S.S.I. 2021/68)</i> , rules 1, 2(15)(a)
F18	Words in rule 47(2) substituted (26.1.2015) by <i>The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015 (S.S.I. 2015/21)</i> , rules 1(1), 4(9)
F19	Words in rule 47(3) substituted (26.7.2021) by <i>The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2021 (S.S.I. 2021/68)</i> , rules 1, 2(15)(b)
F20	Words in rule 47(4) substituted (26.1.2015) by <i>The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015 (S.S.I. 2015/21)</i> , rules 1(1), 4(9)
F21	Words in rule 47(5) substituted (26.1.2015) by <i>The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015 (S.S.I. 2015/21)</i> , rules 1(1), 4(9)
F22	Words in rule 47(6) inserted (26.1.2015) by <i>The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015 (S.S.I. 2015/21)</i> , rules 1(1), 4(10)
F23	Rule 47(6A) inserted (26.7.2021) by <i>The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2021 (S.S.I. 2021/68)</i> , rules 1, 2(15)(c)
F24	Rule 47(8) inserted (26.7.2021) by <i>The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2021 (S.S.I. 2021/68)</i> , rules 1, 2(15)(d)

[^{F25}Procedure at pre-hearing panel - general

47A.—(1) At the beginning of a pre-hearing panel, the chairing member must explain the purpose of the pre-hearing panel.

(2) In relation to each matter that is to be determined by a pre-hearing panel, the chairing member must invite each of the following individuals who is in attendance to make representations—

- (a) the child,
- (b) any relevant person.

(3) Where a pre-hearing panel is determining whether to deem an individual who is in attendance to be a relevant person, the chairing member must invite the individual to make representations in relation to that matter.

(4) Where a pre-hearing panel is determining whether an individual should be afforded an opportunity to participate in relation to a children's hearing by virtue of rule 2A, the chairing member must invite the individual who is in attendance to make representations in relation to that matter.

(5) The chairing member of a pre-hearing panel may invite any person who is in attendance to make representations in relation to any matter that is to be determined by the panel if the panel considers it appropriate to do so.

(6) A person invited by the chairing member to make representations to a pre-hearing panel may—

- (a) do so orally or in writing,
- (b) submit any document to the panel that the person wishes.

(7) Each member of a pre-hearing panel must state, in relation to each matter that the panel is to determine—

- (a) the member's determination on the matter, and
- (b) the reasons for it.

Changes to legislation: There are currently no known outstanding effects for the The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013, PART 12. (See end of Document for details)

(8) Once the members of a pre-hearing panel have stated their individual determinations on each matter in accordance with paragraph (7), the chairing member must confirm—

- (a) the panel's determination on each matter, and
- (b) the reasons for each determination.

(9) Where a pre-hearing panel has made a determination about whether an individual should be, or should continue to be, deemed to be a relevant person, the chairing member must inform the following persons of their right to appeal that determination under section 160 of the Act—

- (a) the individual in question,
- (b) the child,
- (c) each relevant person.]

F25 Rule 47A inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(16)**

Procedure at pre-hearing panel determination of whether to deem an individual to be a relevant person

48.—^{F26}(1)

(2) The pre-hearing panel, despite a referral not having been made under section 79(2) (referral of certain matters for pre-hearing determination) of the Act, must consider whether to deem an individual, who is present at the pre-hearing panel, to be a relevant person on the request of—

- (a) the child;
- (b) any relevant person;
- (c) the individual in question.

(3) Where the pre-hearing panel is to consider whether to deem an individual to be a relevant person under paragraph (2) the provisions of the Act (other than section ^{F27}80 (determination of matter referred under section 79)) and these Rules apply as if the matter had been referred under section 79 of the Act.

^{F28}(4)

^{F28}(5)

^{F28}(6)

^{F28}(7)

^{F28}(8)

^{F28}(9)

F26 Rule 48(1) omitted (26.7.2021) by virtue of [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(17)(a)**
F27 Words in rule 48(3) substituted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(17)(b)**
F28 Rule 48(4)-(9) omitted (26.7.2021) by virtue of [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(17)(c)**

[^{F29}Procedure at pre-hearing panel - determination of whether individual to be afforded opportunity to participate

48A.—(1) This rule applies only in relation to a pre-hearing panel that is arranged in connection with a children's hearing that is to be held by virtue of an enactment mentioned in rule 2A(1).

(2) The pre-hearing panel, despite a referral not having been made under section 79(2) of the Act (referral of certain matters for pre-hearing determination), must determine whether an individual, who is present at the pre-hearing panel, meets the criteria in rule 2A(3) to be afforded an opportunity to participate in relation to the children's hearing on the request of—

- (a) the child,
- (b) any relevant person,
- (c) the individual in question.

(3) Where the pre-hearing panel is to make a determination by virtue of paragraph (2), the provisions of the Act (other than section 80 (determination of matter referred under section 79)) and these Rules apply as if the matter had been referred under section 79(2)(ba) of the Act.]

F29 Rule 48A inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(18)**

[^{F30}Procedure at pre-hearing panel determination of matters not relating to relevant person status]

^{F31}**49.**

F30 Rule 49 heading substituted (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(11)**
F31 Rule 49 omitted (26.7.2021) by virtue of [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(19)**

Procedure at pre-hearing panel determination of whether to end deemed relevant person status

^{F32}**49A.**

F32 Rule 49A omitted (26.7.2021) by virtue of [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(20)**

Notice of pre-hearing panel determination

50.—(1) As soon as practicable after the pre-hearing panel the Reporter must give notice of any determination of the pre-hearing panel and the reasons for that determination to the persons mentioned in paragraph (2) as regards—

- (a) whether any individual should or should not be deemed to be a relevant person; ^{F33}...
- [^{F34}(b) whether an individual should continue to be deemed to be a relevant person in relation to the child; and
- (c) any other matter referred to the pre-hearing panel.]

(2) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any appointed safeguarder;
- (d) the chief social work officer of the relevant local authority for the child.

(3) Where a pre-hearing panel determined that an individual is not to be deemed a relevant person, as soon as practicable after the pre-hearing panel the Reporter must give notice of that determination to the individual in question and the reasons for that determination.

[^{F35}(3A) Where the pre-hearing panel determined that an individual is no longer to be deemed a relevant person, as soon as practicable after the pre-hearing panel the Reporter must give notice of that determination to the individual in question and the reasons for that determination.]

(4) When issuing the notice under paragraph (1) [^{F36}, (3) or (3A)] the Reporter must also give notice of any relevant right of appeal of the recipient of the notice under section 160 (appeal to sheriff against relevant person determination) of the Act.

[^{F37}(4A) When a pre-hearing panel has determined whether an individual is to be afforded an opportunity to participate in relation to a children's hearing by virtue of rule 2A, as soon as practicable after the pre-hearing panel, the Reporter must give notice of that determination to the individual and the reasons for that determination.]

(5) Where the pre-hearing panel has determined that a child or relevant person is to be excused from attending all or part of the children's hearing, the Reporter must inform the child and relevant person as the case may be, that—

- (a) the child or relevant person has been excused;
- (b) the child or relevant person has the right to attend the hearing; and
- (c) they have the right to request that the Reporter make arrangements to enable the child, or the relevant person, as the case may be, to attend the children's hearing or part of the children's hearing by way of telephone, video link or any other method of communication.

(6) Where the pre-hearing panel has determined that it is likely that a children's hearing will consider making a compulsory supervision order or an interim compulsory supervision order including a secure accommodation authorisation in relation to the child, the Reporter must, as soon as possible after that determination, notify the Scottish Legal Aid Board of that fact and the name and address of the child.

(7) Where the pre-hearing panel has determined that—

- (a) for the purpose of enabling a child or any relevant person to participate effectively in the proceedings before the children's hearing it may be necessary that the child or relevant person be represented by a solicitor or counsel; and
- (b) it is unlikely that the child or relevant person will arrange to be represented by a solicitor or counsel,

the Reporter must, as soon as possible after that determination, notify the Scottish Legal Aid Board of that determination and the reasons for it and the name and address of the child or relevant person.

F33 Word in rule 50(1)(a) omitted (26.1.2015) by virtue of [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(13)**

F34 Rule 50(1)(b)(c) substituted for rule 50(1)(b) (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(14)**

F35 Rule 50(3A) inserted (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(15)**

- F36** Words in rule 50(4) substituted (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(16)**
- F37** Rule 50(4A) inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(21)**

Provision of information to persons deemed to be relevant persons

51. Where the pre-hearing panel deems a person to be a relevant person under section 81(3) (determination of claim that person be deemed a relevant person) of the Act, as soon as practicable after that determination, the Reporter must give to that person all information given under these Rules which is to be given to each relevant person.

Notification of matter to be determined under section 79 (referral of certain matters for pre-hearing determination) where not practicable to arrange a pre-hearing panel before the date fixed for the children's hearing

52.—(1) Where section 80(3) (determination of matter referred under section 79) of the Act applies, as soon as practicable, the Reporter must give notice to the persons mentioned in paragraph (2) that the matter to be referred to a pre-hearing panel under section 79(2) [^{F38} or 79(5A)] of the Act will be referred to the children's hearing.

(2) Those persons are—

- (a) the child;
- (b) each relevant person;
- (c) any individual requesting a determination that they be deemed a relevant person;
- (d) any individual other than a relevant person who appears to the Reporter to have or recently have had significant involvement in the upbringing of the child;
- (e) any appointed safeguarder;
- (f) the three members of the children's hearing.

(3) The notice under paragraph (1) must inform—

- (a) the persons mentioned in paragraph (2)(a) to (e)—
 - (i) of the date, time and place of the children's hearing;
 - (ii) of the matters to be determined by the children's hearing by virtue of section 80(3) of the Act;
 - (iii) that they have the right to attend that part of the children's hearing;
 - (iv) that they have the right to request that the Reporter takes all reasonable steps to enable the child, relevant person, or the person mentioned in paragraph (2)(c) or (d), as the case may be, to attend the children's hearing by way of telephone, through video link or by using any other method of communication;
 - (v) that they may make representations (orally or in writing) to the children's hearing relating to any matter referred under section 79 of the Act, except where paragraph (4) [^{F39}, (5) or (6)] applies;
 - (vi) that they may give any report or other document relevant to that matter for the consideration of the children's hearing; and
- (b) the individual mentioned in paragraph (2)(c) or (d), that the individual, where deemed to be a relevant person under section 81(3) (determination of claim that person be deemed a relevant person) of the Act, may request the children's hearing to determine any matter mentioned in section 79(3) of the Act.

[^{F40}(4) Where the children's hearing will determine a matter referred under section 79(5A) of the Act the notice must inform the individual whose status as a relevant person has been referred under that section that the individual will not be entitled to take part in any discussion on any matter also referred under section 79(2) unless the individual continues to be deemed to be a relevant person.

(5) Where the children's hearing will determine any matter referred under section 79(2)(c) of the Act the notice must inform the individual mentioned in paragraph (2)(c) or (d) that the individual will not be entitled to take part in any discussion on that matter unless they are deemed to be a relevant person or they continue to be deemed to be a relevant person.]

[^{F41}(6) In the circumstance described by paragraph (7), the notice—

- (a) is not to inform the individual referred to in that paragraph of the thing that it would otherwise be required to by virtue of paragraph (4) or (as the case may be) (5),
- (b) is instead to inform the individual that, unless the individual is deemed or continues to be deemed a relevant person, the individual will not be entitled to take part in any discussion on any matter that has been referred under section 79(2) of the Act other than a matter that has been referred in respect of the individual.

(7) The circumstance referred to in paragraph (6) is that the children's hearing will determine in respect of the same individual—

- (a) a matter that has been referred under section 79(2)(ba) or (bb) of the Act, and
- (b) a matter that has been referred under section 79(2)(a), (b) or (5A) of the Act.]

- F38** Words in rule 52(1) inserted (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(17)**
- F39** Words in rule 52(3)(a)(v) substituted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(22)(a)**
- F40** Rule 52(4)(5) substituted for rule 52(4) (26.1.2015) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2015 \(S.S.I. 2015/21\)](#), rules 1(1), **4(19)**
- F41** Rule 52(6)(7) inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(22)(b)**

[^{F42}Notification of matter to be determined under section 79 person seeking opportunity to participate

52A.—(1) Where—

- (a) section 80(3) of the Act (determination of matter under section 79) applies,
- (b) the matter being referred to the children's hearing (or one of them) is a matter mentioned in section 79(2)(ba) or (bb) of the Act, and
- (c) the individual in respect of whom the matter has been referred is not a person to whom notice must be given under rule 52,

the Reporter must give notice of the hearing to the individual.

(2) The notice must inform the individual—

- (a) of the date, time and place of the hearing,
- (b) that the individual—
 - (i) has the right to attend that part of the children's hearing,
 - (ii) has the right to request that the Reporter takes all reasonable steps to enable the individual to attend the children's hearing by way of telephone, through video link or by using any other method of communication,

- (iii) may make representations (orally or in writing) to the hearing relating to the matter in respect of the individual that has been referred under section 79(2)(ba) or (bb) of the Act,
- (iv) may give any report or other document relevant to that matter for the consideration of the hearing.]

F42 Rule 52A inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(23)**

Provision of information relating to matter referred under section 79 (referral of certain matters for pre-hearing determination) of the Act to the children's hearing

53.—(1) Where any person mentioned in rule 52(2)(a) to (e) wishes to make written representations or give any report or other document for the consideration of the children's hearing, as soon as practicable, and wherever practicable no later than 4 days before the date fixed for the children's hearing that person must give those representations, report or other document to the Reporter.

(2) Where the Reporter receives any representations, reports or other document under paragraph (1), as soon as practicable before the beginning of the children's hearing, the Reporter must give a copy of that information to the persons mentioned in rule 52(2) (unless that person gave the information in question to the Reporter).

(3) Where any person mentioned in rule 52(2)(a) to (e) is unable to attend the children's hearing and wishes to make oral representations for the consideration of the children's hearing that person may make those representations to the Reporter.

(4) The Reporter must make a record of any representations given under paragraph (3) and give a copy of that record to those persons mentioned in rule 52(2) as soon as practicable before the beginning of the children's hearing.

(5) As soon as practicable before the beginning of the children's hearing the Reporter must also give the persons mentioned in rule 52(2) any other document or part of a document that is relevant to the issues under section 79 of the Act to be determined by the children's hearing and is in the possession of the Reporter.

[^{F43}(6) Where the children's hearing will determine in respect of an individual a matter which has been referred under section 79(2)(ba) or (bb) of the Act, and the individual is not a person mentioned in rule 52(2), the Reporter must give to the individual any information (including information contained in a document) that—

- (a) the Reporter is required by this rule to give to a relevant person, and
- (b) is either—
 - (i) relevant to the matter under section 79(2)(ba) or (bb) of the Act that has been referred in respect of the individual, or
 - (ii) is otherwise about—
 - (aa) the individual,
 - (bb) contact between the child and the individual, or
 - (cc) how contact or the possibility of contact between the child and the individual may be affected by a decision of the children's hearing.

(7) But paragraph (6) does not require the Reporter to give an individual the statement of grounds prepared by the Reporter under section 89 of the Act (Principal Reporter's duty to prepare statement of grounds).]

F43 Rule 53(6)(7) inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, 2(24)

Children's hearing determining a matter referred under section 79 (referral of certain matters for pre-hearing determination) of the Act

54. Where by virtue of section 80(3) (determination of matter referred under section 79) of the Act the children's hearing is to determine a matter referred under section 79 of the Act—

- (a) rules [F44 47A (other than paragraph (1)) to 48A] apply; and
- (b) references in those rules to the pre-hearing panel are to be read as references to the children's hearing.

F44 Words in rule 54(a) substituted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, 2(25)

Children's hearings' power to determine whether a person should be deemed to be a relevant person where no referral made under section 79 (referral of certain matters for pre-hearing determination) of the Act

55.—(1) A children's hearing held in relation to a child by virtue of section 69(2) (determination under section 66: referral to children's hearing) or Part 9 to 11 (children's hearing: proceedings before sheriff; subsequent children's hearings) or 13 (review of compulsory supervision order) of the Act, despite a referral not having been made under section 79 of the Act, must consider whether to deem an individual who is present at the hearing to be a relevant person on the request of—

- (a) the child;
- (b) any relevant person;
- (c) the individual in question.

(2) Where the children's hearing is to consider whether to deem an individual to be a relevant person under paragraph (1) the provisions of the Act (other than section 80 (determination of matter referred under section 79) and these Rules apply as if the matter had been referred under section 79 of the Act.

[F45 Children's hearings' power to determine whether person to be afforded opportunity to participate where no referral made under section 79 of the Act

55A.—(1) A children's hearing held in relation to a child by virtue of an enactment mentioned in paragraph (1) of rule 2A must determine whether an individual who is present at the hearing meets the criteria in paragraph (3) of that rule to be afforded an opportunity to participate in relation to the hearing on the request of—

- (a) the child,
- (b) any relevant person,
- (c) the individual in question.

(2) Where the children's hearing is to make a determination under paragraph (1), the provisions of the Act (other than section 80) and these Rules apply as if the matter had been referred under section 79(2)(ba) of the Act.]

Changes to legislation: There are currently no known outstanding effects for the *The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013, PART 12. (See end of Document for details)*

F45 Rule 55A inserted (26.7.2021) by [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Amendment Rules 2021 \(S.S.I. 2021/68\)](#), rules 1, **2(26)**

Changes to legislation:

There are currently no known outstanding effects for the The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013, PART 12.