

## **POLICY NOTE**

### **THE CHILDREN'S HEARINGS (PROVISION OF INFORMATION BY PRINCIPAL REPORTER) (SPECIFIED PERSONS) (SCOTLAND) REGULATIONS 2020**

#### **SSI 2020/449**

1. The above instrument was made by the Scottish Ministers in exercise of the powers conferred by section 179A(4)(d) of the Children's Hearings (Scotland) Act 2011<sup>(1)</sup>, section 83(1) of the Age of Criminal Responsibility (Scotland) Act 2019<sup>(2)</sup> and all other powers enabling them to do so. The instrument is subject to negative procedure.

#### **Purpose**

2. Section 27 of the Age of Criminal Responsibility (Scotland) Act 2019 inserts new sections 179A-179C into the Children's Hearings (Scotland) Act 2011. These new sections enable the Principal Reporter to provide certain information to victims of offences by children aged 12 and over, or harmful behaviour by children under 12, about the action taken by the Reporter in relation to the offence or behaviour. Information can also be requested by a person with parental responsibilities for the victim. Provision is made in section 179A(4)(d) of the 2011 Act for the Scottish Ministers to specify by regulations other persons who may receive information.

3. Sections 179A to 179C of the 2011 Act replace section 53 of the Criminal Justice (Scotland) Act 2003 which served a similar purpose.

#### **Policy Objectives**

4. Sections 179A to 179C of the 2011 Act ensure that basic information on the action taken by the Reporter in relation to an offence or harmful behaviour by a child can be provided. The Principal Reporter can only disclose this information where it would not be detrimental to the interests of any child and where it would not otherwise be inappropriate to do so.

5. These regulations prescribe the additional persons who may request information from the Reporter: the Criminal Injuries Compensation Authority, Victim Support Scotland and insurers. This mirrors equivalent provision made under previous legislation, which is revoked as the power under which it was made has now been repealed.

6. These additional persons have been prescribed for narrow reasons, to ensure that there is no diminution of rights, either by comparison to the previous legislation or because of the age of the child who has caused harm.

7. The Regulations allow for the disclosure of information where this is necessary to enable Victim Support Scotland to provide support services; to enable the Criminal Injuries Compensation Authority to verify information pertaining to a claim for compensation; and to enable insurers to verify information pertaining to an insurance claim. The purpose of naming insurers and the Criminal Injuries Compensation Authority is to ensure that an inability to

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(1) 2011 asp 1. Section 179A was added by section 27(1) of the Age of Criminal Responsibility (Scotland) Act 2019 (asp 7).

(2) 2019 asp 7.

request the information does not become a barrier to processing an insurance claim or a compensation claim and therefore create financial disadvantage for the claimant. In the case of Victim Support Scotland the purpose is to ensure that should they be acting on behalf of a victim they have the ability to request the information if for any reason it is not possible for the victim or another qualifying person to do this directly.

## **Consultation**

8. A Victims Information Delivery Group was convened in 2018 to support delivery and implementation of Part 3 of the Act. The Membership of the working group was drawn from across a range services within victim support, justice, and public protection in Scotland

9. All of the views expressed during these discussions were considered and used to inform the content of the Regulations. More intensive engagement with the prescribed organisations/sector has also taken place during the development of the detail of the Regulations.

10. We have also consulted with and had approval from the Information Commissioners Office (ICO) as the Regulation relate to personal data.

## **Impact Assessments**

11. An Equality Impact Assessment, a Privacy Impact Assessment, and a Children's Rights and Wellbeing Impact Assessment were completed in relation to the Bill for the Act. The procedure for review related to these regulations were assessed and no impact issues were identified. The links below show the relevant documentation:

EQIA - <https://www.gov.scot/publications/age-criminal-responsibility-scotland-bill-equalityimpact-assessment/>

PIA - <https://www.gov.scot/publications/age-criminal-responsibility-scotland-bill-privacyimpact-assessment/>

CRWIA - <https://www.gov.scot/publications/age-criminal-responsibility-scotland-billchildrens-rights-wellbeing-impact-assessment/>

## **Financial Effects**

12. The Minister for Children and Young People confirms that no BRIA is necessary as this instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government  
Justice Directorate

*December 2020*