
STATUTORY INSTRUMENTS

1997 No. 291

Act of Sederunt (Child Care and Maintenance Rules) 1997

CHAPTER 3

CHILDREN (SCOTLAND) ACT 1995

PART II

GENERAL RULES

PROCEDURE IN RESPECT OF CHILDREN

Procedure where child wishes to express a view

- 3.5.**—(1) Where a child has indicated his wish to express his views, the sheriff—
- (a) may order such steps to be taken as he considers appropriate to ascertain the views of that child; and
 - (b) shall not make any order or disposal mentioned in paragraph (b) or (c) of section 16(4) of the Act unless an opportunity has been given for the views of that child to be obtained or heard.
- (2) Subject to any order made by the sheriff under paragraph (1)(a) and to any other method as the sheriff in his discretion may permit, the views of the child may be conveyed—
- (a) by the child orally or in writing;
 - (b) by an advocate or solicitor acting on behalf of the child;
 - (c) by any safeguarder or curator *ad litem* appointed by the court; or
 - (d) by any other person (either orally or in writing), provided that the sheriff is satisfied that that person is a suitable representative and is duly authorised to represent the child.
- (3) Where the views of the child are conveyed orally to the sheriff, the sheriff shall record those views in writing.
- (4) The sheriff may direct that any written views given by a child, or any written record of those views, shall—
- (a) be sealed in an envelope marked “Views of the child – confidential”;
 - (b) be kept in the court process without being recorded in the inventory of process;
 - (c) be available to a sheriff only;
 - (d) not be opened by any person other than a sheriff, and
 - (e) not form a borrowable part of the process.