

# CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 18 – Miscellaneous

##### Disclosure of information

###### *Section 178 – Children's hearing: disclosure of information*

259. This section provides that a Children's Hearing can withhold information about the child from a particular person if disclosing the information to that person would be likely to cause significant harm to the child. An example of such a situation would be where a relevant person was excluded from part of a hearing, and during that time, the child spoke of matters that if then shared with the relevant person might endanger the child. Section 178 applies despite any other statutory requirements to give the person an explanation of what took place at the hearing or to provide the person with information or the reasons for a decision made by the hearing.

###### *Section 179 – Sharing of information: prosecution*

260. This section applies to specific circumstances where there are both criminal proceedings in the criminal courts and care and protection proceedings in the Children's Hearings system, and the Crown Office and Procurator Fiscal Service request specific information, such as expert reports or transcripts of care and protection proceedings, from the Principal Reporter.
261. Subsection (1)(a) provides that the care and protection proceedings can include past situations, for example where the sheriff found the grounds for referral not to be established and the child is not subject to any order. Subsection (1)(b) and (c) cover both summary and solemn criminal proceedings. Subsection (1)(d) provides that this provision applies when the child is connected to the criminal proceedings in any way or is connected to the accused or any other person involved in the criminal proceedings. Subsection (2) places a duty on the reporter to provide any information to the Crown Office and Procurator Fiscal Service which the reporter holds which relates to the prosecution and which the Crown Office requests for the purpose of preventing or detecting crime or apprehending or prosecuting offenders.

###### *Section 180 – Sharing of information: panel members*

262. This section places the local authority under a duty to comply with a request from the National Convener to provide him or her with information about the implementation of compulsory supervision orders by that authority. The National Convener may then disclose that information to all members of the Children's Panel. This information might include: policy statements of the council, details of types of residential establishments that the council owns/has use of; statistics on types of compulsory supervision orders, and general information on how the council goes about implementing compulsory supervision orders.