

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – Attendance at Children's Hearing

Section 78 – Rights of certain persons to attend children's hearing

105. This section lists those persons who have a right to attend a Children's Hearing (including a member of an area support team, as established under Schedule 1 of this Act). No person, other than those listed, may attend a Children's Hearing unless the chairing member considers that the person's attendance is necessary for the proper consideration of the case. In that circumstance the chairing member can permit them to attend or the person is authorised or required to attend by virtue of rules under section 177 of the Act. Notwithstanding this power, the chairing member has a duty to ensure that the number attending a hearing is kept to a minimum.
106. Subsection (2)(a) provides the chairing member with discretion to allow hearing participants who do not have a statutory right to attend but whose presence is necessary for the proper consideration of the case e.g. a social worker, to attend the hearing. Subsection (2)(b) gives the chairing member discretion to allow observers without a statutory right to attend but with a legitimate interest, such as trainee panel members, to attend the hearing. The chairing member's discretion applies where no objection is raised by the child or relevant persons.
107. Subsection (3) provides the child or relevant person with the power to object to the presence of observers under subsection (2)(b). If there is any such objection, the chairing member cannot permit the observer to attend the hearing. This right does not apply to circumstances under subsection (2)(a), for example where the chairing member has allowed a social worker to attend the hearing for the proper consideration of the case.
108. The Children's Hearing may exclude a newspaper or news agency representative under subsection (5) and the chairing member of the hearing may explain to the representative the substance of the discussion that was held in their absence, where the chairing member considers it appropriate to do so.