



Children's Hearings (Scotland) Act 2011

2011 asp 1

PART 17

PROCEEDINGS UNDER PART 10: EVIDENCE

175 Sections 173 and 174: application to sheriff for order as to evidence

- (1) On the application of a person mentioned in subsection (2), the sheriff may, if satisfied as to the matters mentioned in subsection (3) make an order—
- (a) admitting evidence of the kind mentioned in section 173(2),
 - (b) allowing questioning of the kind mentioned in that section,
 - (c) enabling evidence of the kind mentioned in section 174(2) to be taken.
- (2) Those persons are—
- (a) the child,
 - (b) a relevant person in relation to the child,
 - (c) the Principal Reporter,
 - (d) a safeguarder appointed under section or whose appointment is confirmed under that section.
- (3) Those matters are—
- (a) the evidence or questioning will relate only to—
 - (i) a specific occurrence or specific occurrences of sexual behaviour or other behaviour demonstrating the character of the person,
 - (ii) specific facts demonstrating the character of the person,
 - (iii) a specific occurrence or specific occurrences of sexual behaviour or other behaviour demonstrating a condition or predisposition to which the person is or has been subject, or
 - (iv) specific facts demonstrating a condition or predisposition to which the person is or has been subject,
 - (b) the occurrence, occurrences or facts are relevant to establishing the ground, and
 - (c) the probative value of the evidence is significant and is likely to outweigh any risk of prejudice to the proper administration of justice arising from its being admitted or elicited.

Status: This is the original version (as it was originally enacted).

- (4) References in this section to an occurrence or occurrences of sexual behaviour include references to undergoing or being made subject to any experience of a sexual nature.
- (5) In this section “proper administration of justice” includes—
 - (a) appropriate protection of the person’s dignity and privacy, and
 - (b) ensuring the facts and circumstances of which the sheriff is made aware are relevant to an issue to be put before the sheriff and commensurate with the importance of that issue to the sheriff’s decision on the question whether the ground is established.