
STATUTORY INSTRUMENTS

1996 No. 3261

Children's Hearings (Scotland) Rules 1996

PART II

CONSTITUTION AND ARRANGEMENTS OF CHILDREN'S HEARINGS

Recording and transmission of information at beginning of case

3.—(1) Where the Principal Reporter receives information from any source of a case which may require a children's hearing to be arranged, he shall keep a record of the name and address where available of the person from whom the information was received.

(2) Where the Principal Reporter decides that no further action on the case is required as mentioned in subsection (4) of section 56 of the Act, or refers the case to the local authority under subsection (4)(b) of that section, or arranges a children's hearing under subsection (6) of that section, he shall—

- (a) keep a record of that decision or, as the case may be, that course of action; and
- (b) if the information was received from a local authority or an officer of a police force, give notice of that decision, or as the case may be, that course of action to that local authority or, the chief constable of that police force.

Business meeting preparatory to constitution of children's hearing

4.—(1) Where the Principal Reporter arranges a children's hearing, he may, for the purpose of—

- (a) determining any procedural matter specified in paragraph (2), and
- (b) obtaining any direction or guidance in relation to the performance of his functions in relation to the proceedings,

arrange a meeting (in this rule referred to as a "business meeting") with members of the children's panel from which the children's hearing is to be constituted and with the provisions the same as in section 39(5) of the Act applying to the business meeting.

(2) A business meeting shall determine any of the following procedural matters as may be referred to the meeting by the Principal Reporter—

- (a) whether notice of the children's hearing is to be given by the Principal Reporter under rule 7 to a person as a "relevant person" in terms of paragraph (c) of the definition of that term in section 93(2)(b) of the Act (person who appears to be a person who ordinarily (and other than by reason only of his employment) has charge of, or control over, the child);
- (b) where notice of the children's hearing has been or is to be given by the Principal Reporter to the child under rule 6, whether notice is also to be given that the child is released under section 45(2)(1) of the Act from the obligation to attend the hearing under subsection (1) (b) of that section; and

(1) 1995 c. 36; section 45(2) was amended by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), Schedule 4, paragraph 97.

- (c) where notice has been or is to be given by the Principal Reporter to a relevant person under rule 7, whether notice is also to be given that the hearing are satisfied under section 45(8)(b) of the Act that it would be unreasonable to require his attendance or that his attendance is unnecessary for the proper consideration of the case.
- (3) Where the Principal Reporter arranges a business meeting under paragraph (1), he shall, not later than 4 working days before the date of the meeting—
- (a) give notice in writing to the members of the panel who will attend the meeting of the date, time and place of the meeting;
 - (b) give notice in writing to the child, any relevant person and any safeguarder that the meeting has been arranged and of the date on which it is to be held;
 - (c) give to the members of the panel and to the child, any relevant person and any safeguarder—
 - (i) notice of the matters referred to the business meeting for determination or for direction and guidance;
 - (ii) a copy of any documents or information relevant to these matters; and
 - (iii) a copy of the grounds of referral of the case of the child prepared in terms of section 65 of the Act.
- (4) The Principal Reporter shall, when giving notice under paragraph (3), advise the child, any relevant person and any safeguarder—
- (a) of their entitlement to make their views on the matters to be considered by the business meeting known to the Principal Reporter, and
 - (b) that any such views shall be presented by him to the meeting.
- (5) The Principal Reporter shall record in writing any views given to him other than in writing under paragraph (4), for the purpose of presenting these views to the business meeting for consideration.
- (6) The Principal Reporter shall as soon as reasonably practicable after receiving any views give a copy of these views in writing to the members of the children’s panel who will attend the business meeting and to the other persons who received notice of the meeting under paragraph (3).
- (7) Before making a determination, or giving guidance or directions to the Principal Reporter, the business meeting shall consider any views given to them under paragraph (6).
- (8) Where the business meeting has made a determination, or given guidance or directions to the Principal Reporter as to the exercise of his functions, the Principal Reporter shall as soon as reasonably practicable give notice in writing of the determination or, as the case may be, the guidance or direction, to the child, any relevant person and any safeguarder.

Notification of children’s hearings and provision of documents to chairman and members, relevant persons etc.

5.—(1) Subject to the 1996 Regulations, where the Principal Reporter arranges any children’s hearing, he shall wherever practicable at least seven days before the date of the hearing notify the chairman and members of the time and place of the hearing and, subject as aforesaid, as soon as reasonably practicable but not later than three days before the date of the hearing, he shall give to each of them a copy of any of the following documents as are relevant to the case of a child to be considered at the hearing:—

- (a) a report of a local authority on the child and his social background;
- (b) the statement of the grounds for the referral of the case to the children’s hearing prepared under rule 18;
- (c) any judicial remit or reference or any reference by a local authority;

- (d) any supervision requirement to which the child is subject;
- (e) any report prepared by any safeguarder appointed in the case;
- (f) any views of the child given in writing to the Principal Reporter by virtue of rule 15(4).

(2) If the Principal Reporter has obtained any information (including any views of the child given orally to the Principal Reporter by virtue of rule 15) or any document, other than a document mentioned in paragraph (1) which is material to the consideration of the case of a child at any children's hearing, he shall make that information or copies of that document available to the chairman and members of the children's hearing before the hearing.

(3) Where the Principal Reporter gives a copy of any document to the chairman and members of the children's hearing under paragraph (1), or makes available to them information or any document or copy thereof under paragraph (2), he shall at the same time give a copy of the document or, as the case may be, make available the information or a copy of the document, to—

- (a) each relevant person in relation to the child, whose case is to be considered at the children's hearing; and
- (b) any father of the child whose case is to be considered at the children's hearing who is living with the mother of the child where both the father and the mother are parents of the child as defined in section 15(1) of the Act,

except that where a children's hearing is arranged to continue consideration of the case of the child by virtue of section 69(2) of the Act, this obligation of the Principal Reporter shall apply only in respect of any information or document which has not already been made available to the person concerned.

(4) The chairman and members of children's hearings shall keep securely in their custody any documents made available to them under this rule and, except as otherwise provided in rules 20(4) and 22(4), they shall not cause or permit any information contained in the documents or otherwise disclosed during the hearing to be made known to any person.

(5) Immediately after the conclusion of a children's hearing the chairman and members shall return to the Principal Reporter any documents which have been made available to them under this rule.

(6) Any information or document which the Principal Reporter makes available under this rule to the chairman and members of any children's hearing shall also be made available, if requested, to any member of the Scottish Committee of the Council on Tribunals who is attending that hearing and the Council on Tribunals shall be required to return all papers to the Principal Reporter at the end of the hearing.

(7) Any information or document which the Principal Reporter makes available under this rule to the chairman and members of any children's hearing shall also be made available, if requested, to any member of the Children's Panel Advisory Committee or to any member of a sub-committee of the Advisory Committee who has given notice of his intention to attend that hearing as an observer. Any person provided with papers under this rule shall not cause or permit any information contained in the said documents or otherwise disclosed during the hearing to be made known to any person and shall return to the Principal Reporter at the end of the hearing any document which has been made available to him.

Notification of children's hearings to children

6.—(1) Subject to paragraphs (2) and (3), where the Principal Reporter arranges a children's hearing he shall not less than 7 days before the hearing give notice in writing to the child whose case has been referred to the hearing of his right and obligation to attend the hearing and of the date, time and place of the hearing.

- (2) Where the Principal Reporter arranges a children's hearing—

- (a) to consider under section 45(7), 59(2), 68(10) or by virtue of section 82(5) of the Act the case of a child kept in a place of safety;
- (b) to consider under Chapters 2 or 3 of Part II of the Act the case of a child placed in secure accommodation under regulation 7 of the 1996 Regulations;
- (c) to review an application under section 51(9) of the Act for the suspension of a supervision requirement; or
- (d) to review the case of a child transferred under section 72 of the Act to a place of residence other than that named in the supervision requirement;

he shall as soon as reasonably practicable before the hearing give the notice required under paragraph (1) above in writing; provided that if such notice cannot be given in writing, the Principal Reporter may give notice to the child orally.

(3) Where under section 45(2) of the Act a children's hearing are satisfied either in a case as specified in 45(2) of the Act that the attendance of the child is not necessary or in any case that it would be detrimental to the interests of the child for him to be present at the hearing of his case, the Principal Reporter shall give him notice in writing of his right under section 45(1) of the Act to attend the hearing and of the date, time and place of the hearing.

(4) When giving to a child under this rule notice of a children's hearing to which rule 15 applies, the Principal Reporter shall inform the child—

- (a) of the entitlement by virtue of section 16(2) of the Act and these rules to indicate whether he wishes to express his views;
- (b) that if he does so wish, he will be given an opportunity to express them; and
- (c) that any such views as may be given by the child to the Principal Reporter before the time at which the children's hearing is to be held will be conveyed by the Principal Reporter to the members of the children's hearing, to any relevant person and to any safeguarder, for the purpose of the hearing.

Notification of children's hearings to relevant persons and certain parents with right to attend

7.—(1) Where a relevant person in relation to a child whose case is to be considered at a children's hearing, has a right to and is obliged under section 45(8) of the Act to attend at all stages of the hearing, the Principal Reporter shall give him notice in writing, if his whereabouts are known, of the right to and obligation to attend at all stages of the hearing and of the date, time and place of the hearing.

(2) Where under section 45(8) of the Act a children's hearing are satisfied either that it would be unreasonable to require the attendance of a relevant person at a children's hearing or that the attendance of that person would be unnecessary for the proper consideration of the case, the Principal Reporter shall give him notice in writing, if his whereabouts are known, of his right under section 45(8) of the Act to attend at all stages of the hearing and of the date, time and place of the hearing but that for the above reason or reasons he is not obliged to attend.

(3) Where a person has a right by virtue of rule 12(1) to attend at all stages of the children's hearing, the Principal Reporter shall give such notice in writing of his right, if his whereabouts are known.

(4) Any notice under this rule, except a notification to a relevant person of a children's hearing mentioned under rule 6(2), shall be given not later than seven days before the date of the children's hearing to which it relates.

(5) In the case of such a children's hearing mentioned in rule 6(2), the notice to the relevant person under paragraph (1) shall be given as soon as reasonably practicable in writing before the

hearing, and if such notice cannot be given in writing the Principal Reporter may give notice to a relevant person orally.

Notification of children's hearing to chief social work officer

8. Where the Principal Reporter arranges any children's hearings he shall notify the chief social work officer of the local authority for the area in which the children's hearing is to sit of the date, time and place of the hearing, and of the name, date of birth and address, so far as is known of the child whose case is to be considered.

Withholding of address where disclosure may result in serious harm

9. Where in fulfilling his obligations under rules 5, 7 or 8 the Principal Reporter considers that the disclosure of the whereabouts of the child or any relevant person may place that person at risk of serious harm (whether or not physical harm) he may withhold such information as is necessary to prevent such disclosure and indicate the address of the person as that of the Principal Reporter.

Constitution of children's hearing and functions of chairman of children's hearing

10.—(1) The selection of the chairman and the members of any children's hearing from among the members of the children's panel for a local authority area shall be made either directly by the chairman of the children's panel, or in his absence by the deputy chairman, or by the operation of standing arrangements in that behalf made by the chairman of the children's panel after such consulting the Principal Reporter and such members of the panel as he may think fit. Such standing arrangements may provide for the selection of the chairman and members of any hearing to be made by members of the panel appointed for that purpose by the chairman of the panel.

(2) The chairman of the children's panel shall keep under review any standing arrangements which he has made under paragraph (1) and shall from time to time consult the Principal Reporter and such members of the panel as he thinks fit as to the operation of those arrangements.

(3) Except as otherwise provided by these Rules and any other enactment, the procedure at any children's hearing shall be such as the chairman shall in his discretion determine.

(4) Without prejudice to the generality of paragraph (3) and to the power of a children's hearing under the Act to continue a hearing for the further investigation of a case, the chairman of a children's hearing may at any time during the hearing adjourn the hearing provided that any adjournment under this rule shall be such as to enable the children's hearing to sit again on the same day as the adjournment was made.

(5) As soon as reasonably practicable after a children's hearing make—

- (a) a decision disposing of the case of a child on a referral or at a review of a supervision requirement or a condition imposed under section 70(9) of the Act with respect to residence in secure accommodation;
- (b) a decision to issue a warrant to find a child or for the keeping of a child in a place of safety or to continue a warrant for the keeping of such a child;
- (c) a requirement or warrant, or continuation of a warrant, under section 69 of the Act,

the chairman shall make or cause to be made a report of the decision and a statement in writing of the reasons for the decision, and shall sign the report and statement.