



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 12

CHILDREN'S HEARINGS

Supervision requirements

136 Supervision requirements: duties of local authorities

(1) In section 70 of the Children (Scotland) Act 1995 (c. 36) (supervision requirements)—

(a) after subsection (3) there shall be inserted—

“(3A) A children’s hearing may, for the purpose of enabling a child to comply with a supervision requirement, impose such duties on the relevant local authority as may be specified in the supervision requirement.

(3B) The duties imposed under subsection (3A) above may include that of securing or facilitating the provision for the child of services of a kind other than that provided by the relevant local authority.”; and

(b) after subsection (7) there shall be inserted—

“(7A) Where, on a review under subsection (7) above, it appears to the children’s hearing that the relevant local authority are in breach of a duty imposed on them under section 71 of this Act, the hearing may direct the Principal Reporter to give the authority notice of an intended application under section 71A(2) of this Act.

(7B) The Principal Reporter shall, at the same time as giving the notice of an intended application under section 71A(2) of this Act, send a copy of the notice to—

(a) the child to whom the duty referred to in subsection (7A) above relates;

(b) any person who, in relation to the child, is a relevant person;

Status: This is the original version (as it was originally enacted).

- (c) any person appointed under section 41 of this Act to safeguard the interests of the child in any proceedings which are taking place when the notice is given.

(7C) Notice of an intended application under section 71A(2) of this Act is a written notice—

- (a) setting out the respects in which the relevant local authority are in breach of the duty imposed on them under section 71 of this Act; and
- (b) stating that if the authority do not comply with that duty within the period of 21 days beginning with the day on which they received the notice, the Principal Reporter may make an application under section 71A(2) of this Act.

(7D) Where a children's hearing have made a direction under subsection (7A) above, they shall determine that a further review under subsection (7) above take place on or as soon as is reasonably practicable after the expiry of the period of 28 days beginning with the day on which notice was given in pursuance of that direction.

(7E) Where on a further review under subsection (7) above which takes place by virtue of subsection (7D) above, it appears to the children's hearing that the relevant local authority continues to be in breach of the duty referred to in subsection (7A) above, the hearing may authorise the Principal Reporter to make an application under section 71A(2) of this Act.”.

(2) In section 71 of that Act (duties of local authority with respect to supervision requirements), after subsection (1) there shall be inserted—

“(1A) Where a supervision requirement imposes, under section 70(3A) of this Act, duties on the relevant local authority, the authority shall perform those duties.”.

(3) After that section, there shall be inserted—

“71A Enforcement of local authorities' duties under section 71

- (1) The sheriff principal may, on an application under subsection (2) below, make an order requiring a relevant local authority in breach of a duty imposed on them under section 71 of this Act to perform that duty.
- (2) The Principal Reporter, having been so authorised by a children's hearing under section 70(7E) of this Act, may apply for an order under subsection (1) above.
- (3) No such application shall be competent unless—
 - (a) the Principal Reporter has, on a direction of the children's hearing made under section 70(7A) of this Act, given the relevant local authority the notice referred to in that provision; and
 - (b) the authority have failed to comply, within the period stipulated in the notice, with the duty there referred to.
- (4) In deciding whether to apply under subsection (2) above, the Principal Reporter shall not take into account any factor relating to the adequacy of the

means available to the relevant local authority to enable it to comply with the duty.

- (5) An application under subsection (2) above shall be made by summary application.
- (6) The sheriff principal having jurisdiction under this section is the sheriff principal of the sheriffdom in which is situated the principal office of the relevant local authority in breach of the duty referred to in subsection (1) above.
- (7) An order under subsection (1) above shall be final.”.