
STATUTORY INSTRUMENTS

1996 No. 3261

Children's Hearings (Scotland) Rules 1996

PART IV

**CHILDREN'S HEARINGS ON REFERRAL AND AT
REVIEW OF SUPERVISION REQUIREMENTS, ETC**

Application of Part IV

16. This Part shall, subject to the provisions thereof, apply to (a) any children's hearing arranged under Part II of the Act or under the 1996 Regulations either for the purposes of considering and determining on referral the case of any child or for the review of a supervision requirement or a condition imposed by section 70(9) of the Act with respect to residence in secure accommodation; and (b) any children's hearing to which a case is stood referred under section 49(4) of the 1995 Act.

Statement of grounds of referral

17.—(1) The statement of the grounds for the referral of a case to a children's hearing shall be signed by the Principal Reporter and shall specify which one or more of the conditions mentioned in section 52(2) of the Act is or are considered by the Principal Reporter to be satisfied with respect to the child, and the statement shall state the facts on the basis of which it is sought to show that any condition is satisfied.

(2) In the case of a condition mentioned in section 52(2)(i) of the Act, the statement of the facts constituting the offence shall have the same degree of specification as is required by section 138(4) of the 1995 Act in a charge in a complaint and the statement shall also specify the nature of the offence in question.

Notification of statement of grounds for referral

18.—(1) Subject to paragraphs (2) and (3), where the Principal Reporter arranges a children's hearing under section 65(1) of the Act, he shall—

- (a) prepare a statement of the grounds for the referral of the case to the children's hearing; and
- (b) not less than seven days before the date of the hearing give a copy of the statement to the child and to each relevant person whose whereabouts are known.

(2) Notwithstanding paragraph (1), where before the children's hearing the child is kept in a safe place under the Act, or so kept by virtue of the 1996 Regulations, the provisions of paragraphs (1) (a) and (b) shall apply except that in paragraph (1) (b) the words "as soon as reasonably practicable" shall be substituted for the words "not less than seven days".

(3) Notwithstanding paragraph (1), where the Principal Reporter arranges a children's hearing under section 65(2) of the Act, the provisions of paragraphs (1)(a) and (b) shall apply except that in paragraph (1)(b) the words "not less than three days" shall be substituted for the words "not less than seven days".

(4) Notwithstanding that a children's hearing proceeds in accordance with section 65 of the Act to more than one hearing, nothing in this rule shall require a copy of the statement to be given to any person more than once.

Notification of application to sheriff for finding as to grounds if they consider it appropriate to do so for referral

19. Where a children's hearing have given a direction to the Principal Reporter under section 65 of the Act to apply to the sheriff for a finding as to whether or not any grounds for the referral of any case to them are satisfied, the Principal Reporter shall give notice of this in writing to the child and to any relevant person.

Conduct of children's hearing considering case on referral or at review of supervision requirement

20.—(1) This rule applies to a children's hearing considering under section 65 of the Act a case on referral or at a review under section 73(8) of the Act of a supervision requirement.

(2) Unless a children's hearing consider the case of a child in the absence of the child, any relevant person and any representative, the chairman shall, before the children's hearing proceeds to consider the case, explain the purpose of the hearing to such persons as are present.

(3) In proceeding with the case the children's hearing shall—

- (a) consider a report of a local authority on the child and his social background, and any judicial remit or other relevant document and any relevant information available to them;
- (b) consider any report submitted by the manager of any residential establishment in which the child is required to reside;
- (c) discuss the case with the child, any relevant person, any safeguarder and representative if attending the hearing;
- (d) take steps under rule 15 to obtain the views of the child, and endeavour to obtain the views of any relevant person and of any safeguarder, if attending the hearing, on what arrangements would be in the best interests of the child.

(4) The chairman shall inform the child and any relevant person of the substance of any reports, documents and information mentioned in paragraph (3)(a) and (b) if it appears to him that this is material to the manner in which the case of the child should be disposed of and that its disclosure would not be detrimental to the interests of the child.

(5) After the children's hearing have considered the case of the child and made a decision disposing of the case, but before the conclusion of the hearing at which the decision is made, the chairman shall inform the child, any relevant person, any safeguarder, and any representative, if attending the hearing, of—

- (a) the decision of the hearing;
- (b) the reasons for the decision;
- (c) the right of the child and of the relevant person under section 51(1) of the Act to appeal to the sheriff against the decision and, where the appeal is against a decision relating to a supervision requirement, to apply to the children's hearing for suspension of the requirement appealed against.

(6) The children's hearing shall not dispose of the case by making a supervision requirement under section 70(1) of the Act requiring the child to reside at any place or places specified in the requirement (which for the purposes of this rule is a place or places where he is to be under the charge or control of a person who is not a relevant person) unless—

- (a) they have received and considered a report from the local authority for the purposes of paragraph (3)(a), together with recommendations from that authority on—
 - (i) the needs of a child;
 - (ii) the suitability to meet those needs of the place or places in which the child is to reside by virtue of the supervision requirement, and of the person or persons who is or are to have charge of or control over the child, and
- (b) the local authority have confirmed to the hearing that in compiling the report they have carried out the procedures and gathered the information described in regulation 15 of the Fostering of Children (Scotland) Regulations 1996(1).

Notification of decisions, etc on referral or at review of supervision requirement

21.—(1) Subject to sections 70(6) and 73(11) of the Act, as soon as reasonably practicable after a children’s hearing have made a decision disposing of the case of a child under this Part of the Rules, the Principal Reporter shall send to the child, any relevant person, any safeguarder and the local authority—

- (a) notice of the decision and a copy of any supervision requirement or, as the case may be, any continuation of a supervision requirement;
- (b) a copy of the statement of reasons for the decision; and
- (c) except in the case of a review which continues a supervision requirement, being a review in relation to which an order under section 51(7) of the Act is in force, notice of the right of the child or, as the case may be, a relevant person under section 51 of the Act to appeal to the sheriff against the decision,

and such notice shall be given in writing.

(2) Where a children’s hearing have made a decision disposing of the case of a child, the Principal Reporter shall as soon as reasonably practicable give notice of the decision—

- (a) to any person with whom the child is residing; and
- (b) where the information leading to the investigation of the case of the child was given by an officer of a police force, to the chief constable of the police area.

(3) Where the decision was—

- (a) to make a supervision requirement in relation to a child who has attained the age of 16 years; or
- (b) to terminate a supervision requirement relating to such a child,

the Principal Reporter shall as soon as reasonably practicable give notice of the decision to the chief constable of the police area and if the child resides outwith the police area, to the chief constable of the police area in which the child resides.