
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 194

**The Children's Hearings (Scotland) Act 2011 (Rules
of Procedure in Children's Hearings) Rules 2013**

PART 19

**Procedure at a pre-hearing panel or a children's
hearing where a non-disclosure request is made**

Non-disclosure requests

84.—(1) In this Part a “non-disclosure request” is a request made by any person that any document or part of a document or information contained in a document relating to a pre-hearing panel or to a children's hearing should be withheld from a specified person falling within the categories specified in section 177(2)(i)(ii) to (iv) of the Act on the grounds that disclosure of that document or part of the document or any information contained in it would be likely to cause significant harm to the child to whom the hearing relates.

(2) The following documents may not be the subject of a non-disclosure request—

- (a) the statement of grounds;
- (b) a copy of any relevant remit by a court under section 49 of the Criminal Procedure (Scotland) Act 1995(1);
- (c) a copy of any relevant requirement by a sheriff under section 12(1A) or statement under section 12(1B) of the Antisocial Behaviour etc. (Scotland) Act 2004;
- (d) any order or warrant to which the child is subject under the Act or these Rules.

(3) A non-disclosure request must—

- (a) specify the document or part of the document or information for which non-disclosure is requested and give reasons in each instance for non-disclosure; and
- (b) specify the persons to whom the document or part of the document or information is not to be disclosed and give reasons in each instance for non-disclosure.

(4) In this Part reference to “children's hearing” includes pre-hearing panel, where the non-disclosure request relates to documents or information to be considered at a pre-hearing panel.

Determination of a non-disclosure request

85.—(1) The Reporter must refer any non-disclosure request received from any person to a children's hearing for determination.

(2) The Reporter may submit a non-disclosure request to a children's hearing for determination at the Reporter's own initiative.

Procedure following receipt of a non-disclosure request made prior to a children’s hearing

86.—(1) A children’s hearing must, except in the case of a grounds hearing, consider any non-disclosure request made prior to that hearing at the beginning of the children’s hearing.

(2) Where a non-disclosure request has been made prior to a grounds hearing, the non-disclosure request may be determined by the grounds hearing before making a decision on whether to make a compulsory supervision order.

(3) Where the children’s hearing requires to consider a request in accordance with paragraph (1) or paragraph (2) it may exclude from the children’s hearing the person to whom the documents are requested not to be disclosed where it considers that the presence of that person would prevent proper consideration of the non-disclosure request.

(4) The children’s hearing must consider and determine the non-disclosure request.

(5) The person excluded under paragraph (3) must be invited to return to the children’s hearing and advised of the children’s hearing’s determination under paragraph (4).

(6) Where the non-disclosure request is rejected under paragraph (4) the children’s hearing must ensure that the document or part of the document or information is given to the excluded person at such time, and in such manner, as it considers appropriate having regard to the best interests of the child to whom the hearing relates.

Procedure following receipt of a non-disclosure request made during a children’s hearing

87.—(1) A non-disclosure request may be made during a children’s hearing by the child, any relevant person, any appointed safeguarder, the Reporter or the author of any document that is the subject of the non-disclosure request.

(2) Where such a request is made the children’s hearing may exclude from the children’s hearing the person to whom the documents are requested not to be disclosed where it considers that the presence of that person would prevent proper consideration of the non-disclosure request.

(3) The children’s hearing must consider and determine the non-disclosure request.

(4) The person excluded under paragraph (2) must be invited to return to the children’s hearing and advised of the children’s hearing’s determination under paragraph (3).

(5) Where the non-disclosure request is rejected under paragraph (3) the children’s hearing must ensure that the document or part of the document or information is given to the excluded person at such time, and in such manner, as it considers appropriate having regard to the best interests of the child to whom the hearing relates.