

## **Coronavirus (Scotland) Act 2020 – Supplementary Data of use of provisions in Schedule 3 of the Act – Report 3**

This is the third report produced by the Scottish Children’s Reporter Administration (SCRA) and Children’s Hearings Scotland (CHS) on the use of children’s provisions within Schedule 3 of the Coronavirus (Scotland) Act 2020.

The first report, covering the period 7<sup>th</sup> April to 20<sup>th</sup> May, was published on the Children’s Hearings Improvement Partnership (CHIP) website on the 11<sup>th</sup> June 2020.<sup>1</sup> The second report, covering the period 21<sup>st</sup> May to 15<sup>th</sup> July was published on the CHIP website on 12<sup>th</sup> August 2020.<sup>2</sup> This report covers the period 16<sup>th</sup> July to 13<sup>th</sup> September 2020.

Information on where data has been gathered from has been included in the report along with any caveats about the data provided. Within this report there will be double counting; a hearing can be arranged for more than one purpose or multiple review requests can be received from different sources. The totals in each table always provide a unique count whether that applies to hearings or children.

### **Children’s Hearings: Context and Development during Coronavirus**

The Coronavirus (Scotland) Act 2020 came into force on 7<sup>th</sup> April 2020. By then, Scotland had been subject to movement restrictions and social distancing measures since 23<sup>rd</sup> March 2020.

For the children’s hearings system, this meant that the way hearings operated to make critical legal decisions for children and families had to alter over a few short days. Hearings already scheduled for this period could not just be cancelled as there were Compulsory Supervision Orders, Interim Orders and other decisions which had to be made, reviewed, varied or renewed urgently. There had to be a strict prioritisation approach to allow the core business of children’s hearings to continue. This was initially focussed only on those Hearings required for the urgent and immediate protection of children, or where required to protect an expiring order. All non-essential Hearings were rescheduled to take place at the earliest date possible.

Over time the operating capacity of the hearings system has been developed and augmented from that very low starting point for recovery. SCRA offices are starting to hold more face to face children’s hearings along with virtual children’s hearings and some hybrid hearings where some participants will physically attend the children’s hearings centre and others will attend virtually, using technology.

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<sup>1</sup> <https://www.chip-partnership.co.uk/2020/06/11/coronavirus-scotland-act-supplementary-information/> (Accessed 27<sup>th</sup> July 2020).

<sup>2</sup> <https://www.chip-partnership.co.uk/2020/08/12/report-2-coronavirus-scotland-act-2020-supplementary-data-of-use-of-provisions-in-schedule-3-of-the-act/> (Accessed 23<sup>rd</sup> September 2020)

As of mid-September Hearing centres are only reopening with all the necessary safety measures and strict social distancing in place.

Initially the Children's Hearing System focussed on providing continued protections – and this impacted in a number of ways. SCRA recognised the potentially significant negative impacts on both equalities and human rights early on. Alongside developing the virtual hearings approach they also developed a comprehensive [Equalities and Human Rights Impact Assessment \(EHRIA\)](#) which helped clarify key areas of concern and helped formulate mitigations for the negative rights impacts identified.

Children's Hearings have been operating at a level significantly below the usual capacity since March 2020. This reduction has been enabled in part by the use of the powers in the Coronavirus Act to effectively extend some CSOs by up to 6 months, allowing limited hearing capacity to be refocused on the most urgent hearings. The CSO's which have been extended will require to be scheduled for review from October 2020 when they begin to expire.

The current operating conditions continue to put considerable pressure on agencies' ability to increase capacity. Virtual hearings remain the main method of delivering hearings and these are operating at around 200 per week, but capacity to deliver virtual hearings is unlikely to be able to be increased in the very short term as a result of training and delivery of CSAS (the new case management system), staff taking outstanding leave and the additional restrictions announced by the UK and Scottish Governments on 22 September 2020.

Face to face hearings resumed in mid-July. As of the 24<sup>th</sup> August 2020 hearing centres across Scotland were re-opening with all the necessary safety measures and strict social distancing in place. Face to face hearings will improve participation for children, young people and families and offer them a choice in how they participate in Children's Hearings but current physical distancing expectations place significant restrictions on the number of participants who can attend a face to face hearing. The requirement for enhanced cleaning restricts the number of hearings that can take place each day and SCRA has invested in Electrostatic Misting machines which will add an additional level of biosecurity to premises and which will allow increased footfall across the property estate.

Extensive work has been done to prepare hearings centres for face to face hearings with physical distancing and appropriate cleaning regimes and work is underway to deploy enabling technology to allow and support blended models of hearings. SCRA are working with the Scottish Futures Trust to identify suitable alternative premises in the public sector to accommodate face to face hearings. Given these limitations, resumption of face to face hearings will not initially increase the capacity to hold hearings to any appreciable extent.

SCRA have developed a recovery plan where the use of the emergency legislation will gradually be reduced to the point where it will cease to be used as early as possible during 2021.

The provision in the Coronavirus Act allows an expiry review of a CSO to take place up to 6 months after the original expiry date. The use of this 6 months period will be reduced incrementally as we increase our capacity. Initially, from October, orders that have effectively been extended by the emergency provision will be being reviewed at approximately 18 months, but this will actively reduce to 12 months by as soon as is practicable. There will be further recovery work required throughout 2021 to ensure a return to a steady state. This plan is now the subject of localised capacity planning between SCRA and CHS.

The SCRA resources required to achieve this have been focused on three key areas:

### **1. Workforce**

Additional staffing from October 2020 to October 2021 which will be achieved by a combination of bringing forward existing plans to expand Assistant Reporter capacity and through the creation of a 'recovery' team consisting of Reporters and Assistant Reporters, who will provide a flexible and responsive resource to be deployed to locality teams at the point of need.

### **2. Physical estate**

Alterations to our existing estate to accommodate physical distancing and working with Scottish Futures Trust to source external premises.

### **3. Digital hearing environment**

Deployment of enabling tech to facilitate blended (or hybrid) and fully virtual hearings. Increasing capacity for virtual hearings.

In addition, CSAS has been identified as a key enabler for recovery in the medium to long term.

CHS continue to focus on the capacity, wellbeing, and engagement of the volunteer community, how learning from the current hearing arrangements can be captured and used now for improvements and in the future.

CHS is also focused on how best to integrate the participation and inclusion of people's lived experience of children's hearings throughout this work.

## **Use of the Provisions of Schedule 3 of the Coronavirus (Scotland) Act 2020**

What follows in this report is information on the use of the provisions of Schedule 3 of the Coronavirus (Scotland) Act.

Where possible, the data below is separated in to 2 reporting periods. The equivalent period from the prior year is given where available:

- Period 1: 7<sup>th</sup> April to 20<sup>th</sup> May 2020 (previous year equivalent = 9<sup>th</sup> April to 22<sup>nd</sup> May 2019);
- Period 2: 21<sup>st</sup> May 2020 to 15<sup>th</sup> July 2020 (previous year equivalent = 23<sup>rd</sup> May 2019 to 17<sup>th</sup> July 2019).

- Period 3: 16<sup>th</sup> July 2020 to 13<sup>th</sup> September 2020 (previous year equivalent = 18<sup>th</sup> July 2019 to 15<sup>th</sup> September 2019).

It should be noted that SCRA's Case Management System (CMS), which provides the majority of the data included here, does not automatically record the detail of the 2020 emergency legislation. Obtaining this data has not been straightforward and has been managed in a number of different ways.

Please also note that to enable accurate totals for the three periods to be generated, it has been necessary to re-run some reports on Period 1 & Period 2 again. This has resulted in small changes in some of the numbers from the previous report as the reports are based on live operational data which is subject to change over time as final returns are submitted. Live operational data is regularly adjusted by staff when issues with data integrity become apparent and as children's cases progress. This is especially prevalent in data where the time between the reporting period and the production of the report is very short.

### **Relaxation of requirement for children's panel to consist of three members and relaxation of requirement to have a gender mix on each children's hearing (Schedule 3 1 (2) & (3))**

In Period 1, 5 hearings had fewer than 3 panel members in attendance, and 1 did not have both male and female members.<sup>3</sup>

In Period 2, 22 hearings had fewer than 3 panel members in attendance, and 18 did not have both male and female members. No hearings proceeded with only 1 panel member in attendance. The total number of hearings making use of the relaxation provisions during the reporting period was 30. This differs from the total making use of the two provisions (22 and 18, above) because both provisions can be used simultaneously (where, for example, a panel consists of 2 panel members of the same gender).<sup>4</sup>

In Period 3, 18 hearings had fewer than 3 panel members in attendance, and 11 did not have both male and female members<sup>5</sup>. No hearings proceeded with only one panel member in attendance. The total number of hearings making use of the relaxation provisions during the reporting period was 26.

Since the powers came in to force, therefore, 45 hearings have had fewer than 3 panel members in place, and 30 did not have both male and female members. As noted above, there will be instances where both provisions were used at the same

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<sup>3</sup> This data is from CHS. It comes from reports from Area Support Teams from 7 April – 6 May and from 7 May onwards, data is drawn from survey of Panel Members feedback on hearings in which they participated and from AST reports. 317 responses were received, of which 276 were completed in full and 41 completed in part. It should be noted that the survey responses do not reflect reports on 100% of hearings. However, the National Convener also required Area Support Teams to report when the powers have been used.

<sup>4</sup> For the second reporting period, CHS introduced a survey collecting information on the composition of panels at hearings.

<sup>5</sup> The data for the third reporting period is a combination of responses to the survey on the composition of panels at hearings, and Area Support Team notifications to the National Convener of when the powers have been used.

hearing. It is not possible to provide the exact total number of individual hearings making use of the relaxation powers since they came in to force as the recording of this was not introduced until the second reporting period. The maximum total, however, would be 62 hearings (6 from the first reporting period, 30 from the second, and 26 from the third).

### **Child Protection Orders (Schedule 3 2 (3) & (4))**

The Child Protection Order (CPO) is an emergency intervention requiring the applicant for the CPO to evidence why a child is at immediate risk of significant harm to a Sheriff Court, in order for the order to be granted. In extraordinary circumstances the CPO ensures that the evidence for statutory intervention is scrutinised by a Sheriff at the earliest opportunity.

If a CPO is granted as a result of the Court’s assessment of the evidence presented then a Children’s Hearing requires to be convened. Under the Children’s Hearings (Scotland) Act 2011 this children’s hearing would sit on the 2<sup>nd</sup> working day following the CPO being enforced. Under the 2020 Act this 2<sup>nd</sup> working day children’s hearing is not required - instead a children’s hearing to consider grounds for referral will sit on or before the 8<sup>th</sup> working day.

This may seem like a long time before a decision maker is considering the circumstances of a case. However, until the 8<sup>th</sup> working day a child or relevant person can make an application for the CPO to be recalled or varied to the Sheriff Court at any point – which ensures that if a decision requires re-consideration then this will happen quickly (this recourse is available until the 2<sup>nd</sup> working day children’s hearing under the 2011 Act, and for 2 days following the 2<sup>nd</sup> working day children’s hearing if the order is continued or varied by that hearing<sup>6</sup>).

**Table 1**  
**Child Protection Orders (Schedule 3, 2 (3) & (4))**

Total CPOs	2019	2020
CV Report 1	54	83
CV Report 2	78	99
CV Report 3	93	92
<b>Total</b>	<b>225</b>	<b>274</b>

As of 21<sup>st</sup> May 2020 there had been no recorded applications to recall / vary a CPO – but this figure is dependent on SCTS intimating such applications to the Reporter as a party – and this intimation may not have occurred<sup>7</sup>. As of 15<sup>th</sup> July there have been no recorded applications to recall / vary a CPO (the qualification detailed above continues to apply). As of 13<sup>th</sup> September there have been two recorded applications to recall / vary a CPO (the qualification detailed above continues to apply).

<sup>6</sup> Children’s Hearings (Scotland) Act 2011, section 48.

<sup>7</sup> Anecdotally we are aware of at least two applications to recall / vary a CPO.

In periods 1 & 2, there was an increase in the no. of child protection orders issued across Scotland in comparison to the same period last year (although this will be subject to local variation). In period 3, the numbers are similar for this year and last year.

With 83 CPO's in CV Report 1 2020 the Emergency Legislation has meant we did not have to hold 83 2<sup>nd</sup> working day children's hearings<sup>8</sup>. In CV Report 2 we did not have to hold 99 2<sup>nd</sup> working day children's hearings. In CV Report 3 we did not have to hold 92 2<sup>nd</sup> working day children's hearings.

### **Continuation of an order for additional 6 months past expiry date Coronavirus (Scotland) Act Schedule 3 3 (2) (a)**

The Children's Hearing can make one substantive statutory order, the Compulsory Supervision Order (CSO), which would normally last for a maximum of 12 months. The hearing can also make interim orders which last for a shorter time period; an interim order may offer temporary protections for a child until there is enough information available for Panel Members to make a substantive decision.

Any CSO can be reviewed whilst it remains in force – a local authority can ask for a review at any time; a child and relevant person can ask for a review 3 months after an order is made and an order will be reviewed before it expires after 12 months (if there has been no other review). The Coronavirus Act 2020 has made no changes to any of the rights to require a review of the CSO other than the 12 month 'expiry' review.

CSO's are regularly reviewed when anyone thinks there needs to be a change or when anyone is not in agreement with the child's plan or the measures which may be attached to the order. If a CSO is not reviewed it is largely because the provisions of the order in force are working and providing protection, guidance, treatment and control for the child and there is no need for any change to the order.

**Table 2  
Children's Hearings**

<b>Total Hearings</b>	<b>2019</b>	<b>2020</b>
<b>CV Report 1</b>	3,921	777
<b>CV Report 2</b>	4,734	1,522
<b>CV Report 3</b>	4,910	2,441
<b>Total</b>	<b>13,565</b>	<b>4,740</b>

Fewer children's hearings have been held this year than last year. This has continued into CV Report 3 though volumes are steadily increasing.

<sup>8</sup> 1 2<sup>nd</sup> working day children's hearing was held.

**Table 3**

**Reasons for Children’s Hearings (1)** (a hearing may have more than one reason; the totals count each hearing once)

Hearing Reason	CV Report 1		CV Report 2		CV Report 3		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020
Continue ICSO	397	153	386	222	415	428	1,198	803
Deferred Hearing	819	199	1,002	344	1,086	478	2,907	1,021
New Grounds	570	115	616	348	704	347	1,890	810
Review – due to expire	841	109	949	149	1,060	287	2,850	545
Review local authority	429	106	619	235	530	436	1,578	777
Other	1,105	168	1,444	358	1,427	720	3,976	1,246
<b>Total</b>	<b>3,921</b>	<b>777</b>	<b>4,734</b>	<b>1,522</b>	<b>4,910</b>	<b>2,441</b>	<b>13,565</b>	<b>4,740</b>

For reporting periods 1 & 2, all of these categories were lower than last year at the same time. With the exception of continuation of ICSO Hearings, this has continued into CV Report 3.

**Table 4**

**Reasons for Children’s Hearings (2)** (a hearing may have more than one reason; the totals count each hearing once)

In relation specifically to the expiry review affected by Schedule 3 3(2)(a) of the Coronavirus (Scotland) Act 2020:

Hearing Reason	CV Report 1		CV Report 2		CV Report 3		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020
Review – due to expire	841	109	949	149	1,060	287	<b>2,850</b>	<b>545</b>

Within CV Report 3, there have been 926 CSO’s where orders have been extended beyond their expiry date<sup>9</sup>. For CV Report 1, this figure was 467, and for CV Report 2, this figure was 862 leading to 2,255 CSO order extensions in total.

Children’s Hearings have continued to sit where compulsory supervision orders in force are about to expire and where there is a need for the hearing to take place (to alter the terms of the order, for example) or where a family decides they would want to have the hearing take place as a virtual hearing. Cases which were delayed by having additional time added to their existing CSO from April 7<sup>th</sup> 2020 are now being scheduled. Some cases will also have been scheduled as a need to make a change will have occurred.

By 20<sup>th</sup> May 2020 SCRA’s data management system had recorded 863 children’s hearings as ‘Covid19’ hearings – these are hearings where elements of the

<sup>9</sup> Calculated from a count of all CSO’s made within the reporting timescale for a period of 6 months.

emergency legislation have been applied (to extend an order due to expire by 6 months; to add time onto an interim compulsory supervision order (ICSO) up to 44 days or to take a CPO straight to the 8<sup>th</sup> working day children’s hearing). In CV Report 2, 1,421 children’s hearings were recorded as ‘Covid19’ hearings (in addition to the 863 reported for reporting period 1. In Report 3, that figure was 1,706. In total since 7<sup>th</sup> April 2020 3,990 children’s hearings were recorded as ‘Covid19’ hearings, across all categories). The same categories as listed above apply.

In CV Reports 1, 2 and 3 time periods, far fewer review children’s hearings have been held however the number of review Hearings are increasing:

**Table 5  
Review Children’s Hearings**

Hearing reason	CV Report 1		CV Report 2		CV Report 3		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020
Review – child	5	1	12	8	12	6	29	15
Review – local authority	429	106	619	235	530	436	1,578	777
Review – panel members	275	11	354	66	278	98	907	175
Review – relevant person	202	7	228	88	233	210	663	305
<b>Total</b>	<b>892</b>	<b>121</b>	<b>1,199</b>	<b>382</b>	<b>1,042</b>	<b>715</b>	<b>3,133</b>	<b>1,218</b>

**Table 6 (a) Review requests for Children’s Hearings – request count**

Review Request	CV Report 1		CV Report 2		CV Report 3		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020
child	7	3	6	7	14	15	27	25
local authority	474	260	644	422	553	440	1,671	1,122
other	28	25	75	72	30	99	133	196
relevant person	213	85	241	254	265	249	719	588
<b>Total</b>	<b>722</b>	<b>373</b>	<b>966</b>	<b>755</b>	<b>862</b>	<b>803</b>	<b>2,550</b>	<b>1,931</b>

**Table 6 (b) Review requests for Children’s Hearings – child count**

Review Request	CV Report 1		CV Report 2		CV Report 3		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020
child	7	3	6	6	12	14	25	23
local authority	441	242	608	398	525	410	1,486	981
other	28	24	65	67	30	97	120	187
relevant person	202	80	229	232	243	240	653	532
<b>Total</b>	<b>668</b>	<b>346</b>	<b>874</b>	<b>680</b>	<b>791</b>	<b>737</b>	<b>2,158</b>	<b>1,627</b>

**Table 6 (c) Emergency transfer requests**

Emergency transfers	Requests	Children
CV Report 1	27	25
CV Report 2	37	36
CV Report 3	40	38
<b>Total</b>	<b>104</b>	<b>96</b>

Of the review requests there were 27 emergency transfer requests made, for 25 children across Scotland between 7<sup>th</sup> April 2020 and 20<sup>th</sup> May 2020; of the review requests there were 37 emergency transfer requests made, for 36 children across Scotland between 21<sup>st</sup> May 2020 and 15<sup>th</sup> July 2020; of the review requests there were 40 emergency transfer requests for 38 children across Scotland between 16<sup>th</sup> July 2020 and 13<sup>th</sup> September 2020

### Compulsory Supervision Orders (CSO's)

**Table 7**

**Total CSO's / ICCSO's<sup>10</sup> made** (including orders where emergency legislation was used)

CSOs & ICCSOs	CV Report 1		CV Report 2		CV Report 3		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020
<b>Total CSO</b>	1,747	663	2,169	1,401	2,230	1,737	<b>6,146</b>	<b>3,801</b>
<b>Total ICCSO</b>	201	61	224	65	221	141	<b>646</b>	<b>267</b>

In CV Report 1 in both 2019 and 2020, 23 CSO's were made in the same period which authorised the use of secure accommodation. In CV Report 2 in 2019 27 CSO's were made and in 2020 18 CSO's were made which authorised the use of secure accommodation. In CV Report 3 in 2019 24 CSO's were made and in 2020 18 CSO's were made which authorised the use of secure accommodation.

### Interim Compulsory Supervision Orders (Schedule 3,4 (2))

As the children's hearing system has prioritised the urgent and immediate protection of children and young people during the Covid19 response, a key order that allows this protection is the interim compulsory supervision order (ICSO).

Under the Children's Hearing's (Scotland) Act 2011 an ICSO can only last for 22 days, if issued by the children's hearing or by a Sheriff at Court. Under the 2020 Act an ICSO from a children's hearing can last up to 44 days (but does not have to last for that long) and an ICSO issued at court can last for a period determined by the court.

<sup>10</sup> CSO – Compulsory Supervision Order; ICCSO – Interim Continuation of a Compulsory Supervision Order

**Table 8**

**Interim orders** (some children will have had more than one interim order issued in the period)

Interim Order Type	CV Report 1		CV Report 2		CV Report 3		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020
ICSO	584	326	675	487	715	558	1,974	1,371
IVCSO	250	179	339	212	310	240	899	631
Court ICSO / IVCSO (including following appeal)	472	377	620	572	607	563	1,699	1,512
<b>Total</b>	<b>1,306</b>	<b>882</b>	<b>1,634</b>	<b>1,271</b>	<b>1,632</b>	<b>1,361</b>	<b>4,572</b>	<b>3,514</b>
<b>Children</b>	<b>680</b>	<b>661</b>	<b>778</b>	<b>810</b>	<b>785</b>	<b>929</b>	<b>1,420</b>	<b>1,283</b>

**Table 9**

**Interim orders where the 2020 Act emergency legislation was applied** (some children will have had more than one interim order issued in the period & this count includes orders which authorised secure accommodation)

Interim Order Type	CV Report 1	CV Report 2	CV Report 3	Total
ICSO	270	367	421	1,058
IVCSO	151	147	170	468
Court ICSO / IVCSO (including following appeal)	223	271	267	761
<b>Total</b>	<b>644</b>	<b>785</b>	<b>858</b>	<b>2,287</b>

**Table 10**

**Interim orders which authorised secure accommodation** (some children will have had more than one interim order issued in the period and includes order issued under 2020 Act emergency legislation)

Interim Order Type	CV Report 1		CV Report 2		CV Report 3		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020
ICSO	9	5	8	8	3	11	20	24
IVCSO	13	10	19	18	21	13	53	41
Court ICSO / IVCSO (including following appeal)	7	1	1	2	5	2	13	5
<b>Total</b>	<b>29</b>	<b>16</b>	<b>28</b>	<b>28</b>	<b>29</b>	<b>26</b>	<b>86</b>	<b>70</b>
<b>Total children</b>	<b>20</b>	<b>12</b>	<b>22</b>	<b>21</b>	<b>21</b>	<b>20</b>	<b>50</b>	<b>41</b>

Of the 26 interim orders authorising the use of secure accommodation between 16<sup>th</sup> July 2020 and 13<sup>th</sup> September 2020, 11 of them used the extended timescales of the Coronavirus (Scotland) Act 2020<sup>11</sup>.

### **Coronavirus (Scotland) Act Schedule 3 5 (2)**

Since 7<sup>th</sup> April 2020 we have had <5 Interim Compulsory Supervision Orders authorising a place of safety under Children's Hearings (Scotland) Act section 109(7), following a grounds determination by a Sheriff. This figure isn't generated in SCRA's Case Management System and has been gathered through an email survey of SCRA's Locality Reporter Managers. As the response was less than 100% this is indicative only. Whilst not often used, this provision remains important for those cases where it would apply.

### **Coronavirus (Scotland) Act Schedule 3 6 (2)**

Since 7<sup>th</sup> April 2020 we have had <5 young people who have been kept in secure accommodation for longer than 72 hours and for a maximum of 96 hours before a children's hearing (this is an indicative figure only as this information required to be gathered from Locality Reporter Managers and there was not a 100% information return). Whilst not frequently used this provision was important for those cases where it does apply - although SCRA does try and manage cases where a young person is subject to secure accommodation within the quickest possible timescales.

## **Appeals**

### **Coronavirus (Scotland) Act Schedule 3 7 (2) & (3)**

The Coronavirus (Scotland) Act 2020 adjusts the timescales available for those with the right to appeal a decision of a children's hearing ( those mentioned in the specific relevant provisions of the Children's Hearings (Scotland) Act 2011 and including children, relevant people and safeguarders) to appeal the decisions made, by giving appellants more time to lodge an appeal. The Coronavirus (Scotland) Act 2020 also adjusts the timescales for Courts to deal with appeals.

SCRA's appeal data has been run for 2020 only – there is no comparative data available for previous years. We have also run the data for the period 7<sup>th</sup> April to 13<sup>th</sup> September – not as 3 separate reporting cycles. SCRA's data does not report on the specific provision of the Coronavirus Act either, in order to do so we would need to record the date appeals were lodged with the Sheriff Court and we do not routinely capture this information. Instead we are able to report on two things:

1) the average days between the date of the children's hearing and the date of a decision being made in respect of an appeal at the Sheriff Court, by the decision of the Court and

2) the counts of appeals determined in the period when the Coronavirus (Scotland) Act 2020 has been in force (so excluding appeals which occurred

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<sup>11</sup> Information on the use of the emergency powers and secure accommodation authorisation will be more accurate when gathered retrospectively – at the moment some of the orders granted between 16<sup>th</sup> July and 13<sup>th</sup> September are still in force so it is difficult to draw conclusions. This figure as reported may alter in the next reporting cycle.

between 7<sup>th</sup> April 2020 and 13<sup>th</sup> September 2020 but which related to children's hearing decisions from before 7<sup>th</sup> April 2020 and so the Coronavirus (Scotland) Act provisions do not apply.

We hope the data gives an indication of the numbers of appeals; the decisions being made at appeal and the time this process is taking for children and families.

**Table 11**  
**Section 154 Appeal periods - average time in days from children's hearing to appeal determination, by appeal type and decision with counts in brackets.**

Appeals by type and outcome	Against CSO Decision	Against Hearing RP/Not-RP Determination	Against Interim Order Decision	Against PHP RP/Not-RP Determination	Average (Total)
Abandoned by Appellant	56 (8)		30 (9)		42 (17)
Decision Justified / No change of circumstances	36 (1)				36 (1)
Decision Justified		34 (3)		12 (1)	28 (4)
Decision Justified / Change of Circumstances	21 (3)				21 (3)
Decision Justified / Change of Circumstances [Not Opposed]	14 (1)		13 (2)		13 (3)
Decision Justified / Change of Circumstances Not Considered	50 (8)		16 (41)		22 (49)
Decision Justified / No Change of Circumstances	17 (1)		24 (14)		23 (15)
Decision Not Justified	42 (8)	13 (1)	16 (21)		23 (30)
Decision Not Justified [Not Opposed]	44 (18)	22 (1)	14 (30)		25 (49)
Dismissed as Incompetent		22 (2)			22 (2)
<b>Average (Total)</b>	<b>44 (48)</b>	<b>26 (7)</b>	<b>18 (117)</b>	<b>12 (1)</b>	<b>25 (173)</b>

The average time for an appeal – from children's hearing to the appeal determined, across all appeal types, was 25 days in the period 7<sup>th</sup> April 2020 to 13<sup>th</sup> September 2020.

There were a total of 173 appeals of children's hearing decisions in the period 7<sup>th</sup> April 2020 to September 13<sup>th</sup> 2020 which were in relation to hearings which occurred under the Coronavirus (Scotland) Act 2020 and where the provisions of the Act applied.

#### **Coronavirus (Scotland) Act Schedule 3 7 (4)**

In the period 7<sup>th</sup> April 2020 to 13<sup>th</sup> September 2020 SCRA systems have recorded no appeals under section 161(6) of the Children's Hearings (Scotland) Act 2011 - an

Appeal in relation to a decision affecting contact or a permanence order (Schedule 3 7 (4))

### **Appeals to Higher Courts**

**Section 163(8) Appeal to Sheriff Principal / Court of Session (Schedule 3 7 (6))**

**Section 164(4) Appeal to Sheriff Principal / Court of Session (Schedule 3 7 (7))**

**Section 165(4) Appeal to Sheriff Principal / Court of Session (Schedule 3 7 (8))**

This information is not recorded in SCRA's management information systems.

One appeal to the Sheriff Appeal Court commenced during lockdown and is ongoing.

A judicial review by Highland Council commenced and has been concluded. SCRA were notified of a new judicial review on 15<sup>th</sup> July 2020 in relation to the implementation of contact.

### **Coronavirus (Scotland) Act Schedule 3 8 2(b)**

#### **Rule 19 applying 'if a person is unable to attend because of a reason relating to coronavirus'**

Up until 13<sup>th</sup> July 2020, all the children's hearings which have taken place in Scotland since 23<sup>rd</sup> March 2020 have been 'virtual children's hearings' as children, family members, professionals, reporters and the decision makers (panel members) have been unable to attend the public spaces in children's hearings centres. Since May 4<sup>th</sup> 2020 effort has been made to try and facilitate the virtual participation of all of those with a right to attend the children's hearing under the Children's Hearings (Scotland) Act 2011. Children's hearings have continued to sit for a variety of reasons.

The practical effects of the Coronavirus (Scotland) Act provisions in Schedule 3 8 2(b) mean that the obligation to attend the children's hearing has been removed from children and relevant persons. Their right to participate in the children's hearing and to have their views taken into account by the decision maker remains unchanged. We do not have the information to report on why children and relevant persons have not attended the virtual children's hearing. There may be a number of reasons for this, including that a child or relevant person has decided not to participate.

### **Authentication of documents**

#### **Coronavirus (Scotland) Act Schedule 3 9)**

Since 7<sup>th</sup> April 2020 all documents sent to Panel Members and other participants in virtual children's hearings have been provided digitally via a secure website platform, rather than in paper copy. Documents have been authenticated digitally by either the Children's Reporter or the Chairing panel member in the children's hearing.