

**Coronavirus (Scotland) Act 2020**  
**Supplementary Data of use of provisions in Schedule 3 of the Act**  
**Report 5**

This is the fifth 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. It is the second report produced using data derived from the new case management system being rolled out across SCRA between August and December 2020 and as a result there are some additional caveats and explanation.

All of the joint SCRA / CHS reports are available on the Children's Hearing Improvement Partnership (CHIP) website<sup>1</sup>.

Report 1 - 7<sup>th</sup> April to 20<sup>th</sup> May 2020

Report 2 - 21<sup>st</sup> May to 15<sup>th</sup> July 2020

Report 3 - 16<sup>th</sup> July to 13<sup>th</sup> September 2020

Report 4 - 14<sup>th</sup> September to 15<sup>th</sup> November 2020

Report 5 – 16<sup>th</sup> November to 17<sup>th</sup> January 2021

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 7th April 2020. By then, Scotland had been subject to movement restrictions and social distancing measures since 23rd 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. This meant a sudden and considerable decrease in the number of hearings taking place.

Face to face hearings re-commenced from the middle of July. There is now a 'suite' of options available for the arrangement of children's hearings, which includes:

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<sup>11</sup> CHIP Website can be accessed here: [Coronavirus – Children's Hearings data | Children's Hearings Improvement Partnership \(chip-partnership.co.uk\)](https://chip-partnership.co.uk)

- Face to face children’s hearings where all participants attend a children’s hearing centre or external premises which can accommodate socially distanced hearings
- hybrid children’s hearings, where some participants physically attend the children’s hearings centre and others attend virtually using technology
- virtual children’s hearings where all participants attend virtually using technology

The use of this suite of options allows the children’s hearing system to respond quickly to any changes to the national and local levels of restrictions. When Scotland was placed back into lockdown restrictions on 4<sup>th</sup> January 2021, the children’s hearing system was able to respond immediately. Hearing schedules were re-balanced in favour of virtual hearings. Face to face hearings were able to continue in line with Scottish Government guidance and these continued in limited situations, for example where required to secure the participation of a child or relevant person. As a result, children’s hearings have been able to continue since the start of the year, including those hearings required to review orders for children where the Coronavirus Act had been used to add 6 months to the end date of Compulsory Supervisions Orders and where a further extension was not possible.

Children’s Hearings have operated significantly below the usual capacity since March 2020 and the planned increase in numbers of hearings has been restricted by the December 2020 restrictions. The further lockdown restrictions which have been in place since the start of 2021 have further significantly impacted the capacity of the children’s hearing system at a time when recovery projections anticipated an increase in hearing activity.

Maintaining a Hearing service with this reduced operating capacity has been possible because of the powers set out in the Coronavirus Act, particularly the addition of 6 months to the end date of any Compulsory Supervision Order if a review of that order has not been possible in advance of the expiry date. The decision to extend a CSO beyond its expiry date has not been made in isolation and whenever possible the views of professionals and families have been taken into account. If a case requires review – because an order requires to be terminated or changed, for example, then those cases are going ahead.

While recovery in the Children’s Hearing System remains a focus for 2021, the impact of the current lockdown must be factored into planning and projections on recovery. The current restrictions, in particular the reduction in face to face hearings and their impact on overall hearing capacity and the impact of home schooling and child care responsibilities on people within SCRA, CHS, the panel member community and local authorities and the resulting resource blocking, are having a material impact on service delivery and the pace of the recovery. The Children’s Hearing System is once again in a period which is dominated by pandemic response. Once this has passed and the restrictions have eased, there will be able to be a re-focus on recovery.

Notwithstanding the current situation, the following progress and milestones should be noted :

- **Recovery planning** – The Children’s Hearing Improvement Partnership (CHIP) group also has a multi-agency recovery plan<sup>2</sup>. All locality areas are developing their planning for 2021/22. This is based on a flexible response to the ongoing pandemic, using the enablers which are already in place to build capacity in the hearing system.
- **Enhanced cleaning regime** : There is an enhanced cleaning regime in place across all SCRA premises and external hearing premises increasing the capacity of premises to safely hold multiple face to face and hybrid hearings. Our Hearing Centre risk assessment was reviewed by HPS in January and since [ ] January, all hearing participants have been required to wear face masks.
- **Property alterations** : Alterations have been undertaken within the estate to provide larger spaces which can safely accommodate physically distanced hearings. Hearing rooms and office space have been re-purposed to provide more spacious hearings accommodation. Perspex screens have been deployed where appropriate. External premises have been sourced where required.
- **Enabling technology** : Cloud Conferencing Units and TVs have been deployed to enable hearing participation to be extended across a number of rooms, increasing the number of hearing participants, and to enable hearing participants to take part virtually. Centres where additional infrastructure has been required, including public WIFI, have been identified and remedial works are underway. Enhanced CCUs and other equipment will be installed as soon as possible.
- **Staffing** :The Recovery Team are all in post and their training is well progressed. They are beginning to undertake the reporter and assistant reporter roles.. There is an ongoing focus on morale and wellbeing as a result of the impacts of the pandemic on all staff and volunteers involved.
- **CSAS** : SCRA and CHS new case management system is now fully live in all areas across both organisations.

As long as the risk of transmission of coronavirus remains a significant risk and physical distancing requirements remain in place we expect to be using the virtual children’s hearing for months to come. How the virtual hearings operate has been challenging, but has improved a lot since their introduction in March. Building on reflections and experiences of children, young people and their families, Panel Members and SCRA and CHS staff the Virtual Hearings Team have worked alongside the platform provider to make improvements. Training and guidance has been refined and learning shared across the organisations. Everyone experiences challenges in working remotely from the poor connectivity, limitations of online platforms and services, service availability, technical interruptions, and individuals’ varying access to equipment. Children’s Panel Members and children’s hearings are no exception. In response to the current lockdown and the increased reliance on virtual hearings, a joint SCRA/CHS rapid response was initiated in mid

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<sup>2</sup> Multi Agency Recovery Plan for Children’s Hearings can be found here: [Multi-agency recovery plan launched | Children’s Hearings Improvement Partnership \(chip-partnership.co.uk\)](https://www.chip-partnership.co.uk/multi-agency-recovery-plan-launched)

January to address the issues identified with virtual hearings. The three work streams are : enhancements to the existing platform; piloting an alternative platform; and piloting audio hearings as a business continuity response.

SCRA and CHS have the recovery of the hearings system as a key priority but, while Scotland is subject to lockdown, responding to the pandemic is the primary focus. In anticipation of the restrictions easing, we will continue to identify effective and sustainable ways of addressing the referrals, hearings and court work which have inevitably accumulated over the last eleven months as a result of the pandemic.

Our people are fundamental to this recovery. CHS is continuing to put in place support for Panel and AST members, including revising practice and operational guidance as our understanding of what works best evolves and landscape of the pandemic changes and increasing the frequency of meetings between staff and volunteers. SCRA has invested considerably in new staff and training to ensure sufficient Reporter capacity. For all staff, there is a continued focus on health and wellbeing which includes ensuring staff are safely set up for home working, supporting staff to balance work with caring for their own children, raising awareness of mental health and supportive direct line management. The ongoing impact of the pandemic on everyone's health and wellbeing cannot be underestimated.

We are continually assessing the capacity of each of our organisations and comparing this against the demands of the hearings system. We will continue to work together at local and national levels to ensure that these match each other as well as they can. There is a clear focus on activity to increase hearing numbers in order to accommodate the needs of children that are still waiting for hearings – whether they are already in the system or newly entering it - as swiftly as possible.

SCRA recognised early on the potentially significant negative impacts of the pandemic on both equalities and human rights, in particular relating to virtual hearings. Alongside developing the virtual hearings approach, a comprehensive [Equalities and Human Rights Impact Assessment \(EHRIA\)](#) was developed which helped clarify key areas of concern and helped formulate active mitigations for the negative rights impacts identified. These active mitigations have mostly been implemented, and some are still being progressed as the children's hearing system continues to further adapt its operating model as outlined above.

### **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 5 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 was 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 was 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 was 18<sup>th</sup> July 2019 to 15<sup>th</sup> September 2019).
- Period 4: 14<sup>th</sup> September to 15<sup>th</sup> November 2020 (previous year equivalent was 16<sup>th</sup> September 2019 to 17<sup>th</sup> November 2019).
- Period 5: 16<sup>th</sup> November 2020 to 17<sup>th</sup> January 2021 (previous year equivalent was 18<sup>th</sup> November 2019 to 19<sup>th</sup> January 2020).

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

Please also note that to enable accurate totals for the five periods to be generated, it has been necessary to re-run some reports on previous periods 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 and is therefore always going to be a feature of this report.

**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.

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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.

In Period 4, 47 hearings had fewer than 3 panel members in attendance, and 38 did not have both male and female members. 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 77.

In Period 5, 18 hearings had fewer than 3 panel members in attendance, and 13 did not have both male and female members. 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 28.

Since the powers came in to force, therefore, 110 hearings have had fewer than 3 panel members in place, and 81 did not have both male and female members. As noted above, there will be instances where both provisions were used at the same 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 167 hearings (6 from the first reporting period, 30 from the second, 26 from the third, 77 from the fourth, and 28 from the fifth).

The National Convener continues to allow the planned use of the emergency legislation where it is known in advance that it would not be possible to rota a 3-member, mixed gender panel to a hearing. Using the emergency legislation is deemed preferable to delaying hearings as a result of panel members not being available to form a 3-member mixed-gender panel. Use of the emergency legislation remains, however, a last resort when all other possibilities have been exhausted

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

The Child Protection Order (CPO) is an emergency intervention requiring the CPO applicant 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>).

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

**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
CV Report 4	122	105
CV Report 5	90	80
<b>Total</b>	<b>437</b>	<b>459</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 had been no recorded applications to recall / vary a CPO (the qualification detailed above continues to apply). As of 13<sup>th</sup> September there had been two recorded applications to recall / vary a CPO (the qualification detailed above continues to apply). As of 15<sup>th</sup> November there had been three recorded applications to recall / vary a CPO (the qualifications detailed above continue to apply). As of 17<sup>th</sup> January 2021 there have been three recorded applications to recall / vary a CPO (the qualifications detailed above continue to apply)<sup>8</sup>.

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. In periods 4 & 5 the numbers are lower than the numbers recorded for the previous year<sup>9</sup>.

With 83 CPO's in Report 1 2020 the Emergency Legislation meant we did not have to hold 83 2<sup>nd</sup> working day children's hearings<sup>10</sup>. In Report 2 we did not have to hold 99 2<sup>nd</sup> working day children's hearings. In Report 3 we did not have to hold 92 2<sup>nd</sup> working day children's hearings. In Report 4 we did not have to hold 105 2<sup>nd</sup> working day children's hearings. In Report 5 we did not have to hold 80 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.

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

<sup>8</sup> SCRA's case management system CSAS was not set up to record the detail of the Coronavirus (Scotland) Act 2020 and as a result we are currently unable to accurately record the numbers of CPO's subject to recall / vary as our workaround to process CPO's does not capture recall / vary.

<sup>9</sup> Some of this undercount may be due to the workaround processing that is being employed in SCRA's CSAS case management system – some CPO referrals may be recorded as standard referrals and information on them will not be captured.

<sup>10</sup> 1 2<sup>nd</sup> working day children's hearing was held.

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**

Total Hearings	2019	2020	As % of previous yr total
CV Report 1	3,921	777	<b>19.8%</b>
CV Report 2	4,734	1,522	<b>32.2%</b>
CV Report 3	4,910	2,441	<b>49.7%</b>
CV Report 4	5,346	3,835	<b>71.7%</b>
CV Report 5	4,765	3,350	<b>70.3%</b>
<b>Total</b>	<b>23,676</b>	<b>11,925</b>	<b>50.4%</b>

Fewer children’s hearings have been held this year than last year. This has continued into Report 5 though volumes are steadily increasing and the new column 2020 as % of previous year demonstrates this across the reporting periods.

**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		CV Report 4		CV Report 5		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020
Continue ICSO	397	153	386	222	415	428	516	443	537	377	<b>1,714</b>	<b>1,246</b>
Deferred Hearing	819	199	1,002	344	1,086	478	1,140	723	1,018	657	<b>4,047</b>	<b>1,744</b>
New Grounds	570	115	616	348	704	347	732	487	607	296	<b>2,622</b>	<b>1,297</b>
Review – due to expire	841	109	949	149	1,060	287	1,072	1,012	859	1,124	<b>3,922</b>	<b>1,557</b>
Review local authority	429	106	619	235	530	436	549	476	472	374	<b>2,127</b>	<b>1,253</b>
Other	1,105	168	1,444	358	1,427	720	1,672	1,077	1,554	688	<b>5,648</b>	<b>2,323</b>
<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>5,346</b>	<b>3,835</b>	<b>4,765</b>	<b>3,350</b>	<b>18,911</b>	<b>8,575</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 continued into CV Report 3. For reporting period 4 all the categories were again lower than last year at the same time. For reporting period 5 all the categories were lower than the same time in the prior year with the exception of Review - due to expire. This is because of the number of orders which had previously been extended under the emergency legislation between May and July which now required a review.

#### 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		CV Report 4		CV Report 5		Totals	
	2019	2020	2019	2020	2019	2020	2020	2020	2019	2020	2019	2020
Review – due to expire	841	109	949	149	1,060	287	1,072	1,012	859	1,124	3,922	1,557

For Report 1, there were 467 CSOs extended beyond their expiry date, for Report 2, this figure was 865, for Report 3, this was 956, for Report 4 this was 1,039 and for Report 5, there were 471 CSOs where orders have been extended beyond their expiry date<sup>11</sup>.

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 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 Reports 4 and 5, that figure was not able to be gathered as a result of SCRA’s transition to a new case management platform which utilises different methodologies to record extended orders and CPOs. In total between 7<sup>th</sup> April 2020 and 13<sup>th</sup> September 2020 3,990 children’s hearings were recorded as ‘Covid19’ hearings, across all categories). The same categories as listed above apply.

<sup>11</sup> Calculated from a count of all CSO’s made within the reporting timescale for a period of 6 months.

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		CV Report 4		CV Report 5		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020
Review – child	5	1	12	8	12	6	8	8	12	9	49	32
Review – local authority	429	106	619	235	530	436	549	476	472	374	2,599	1,627
Review – panel members	275	11	354	66	278	99	482	153	393	104	1,782	433
Review – relevant person	202	7	228	88	233	210	245	237	256	167	1,164	709
<b>Total</b>	<b>892</b>	<b>121</b>	<b>1,199</b>	<b>382</b>	<b>1,042</b>	<b>716</b>	<b>1,264</b>	<b>912</b>	<b>1,110</b>	<b>617</b>	<b>5,507</b>	<b>2,748</b>

Tables 6 (a) and 6 (b) from the previous reports can no longer be generated as a result of SCRA’s transition to a new case management platform. The information for Reports 1 – 3 is included in this report as an endnote.

**Table 6 Emergency transfer requests<sup>12</sup>**

Emergency transfers	Requests	Children
CV Report 1	27	25
CV Report 2	37	36
CV Report 3	40	38
CV Report 4	37	36
CV Report 5	20	20
<b>Total</b>	<b>161</b>	<b>155</b>

These figures are for children where a placement has to be reviewed quickly – including children on existing orders who have been moved to secure accommodation.

The figures are indicative of the numbers involved in these emergency hearings, as the ‘count’ is different across SCRA’s old and new systems. In the old CMS system it was a count of all emergency transfer requests; in the new CSAS system it is a count of secure transfer as the reason for the children’s hearing. Reporting periods 4 & 5 are a combination of data from CMS and CSAS (with an incremental use of data from CSAS as more SCRA staff are rolled out into the new system).

This will mean that as the data is all counted from CSAS (SCRA’s new system) in Reporting Period 6 this figure will be lower, as it will no longer include emergency transfers that were not into secure accommodation. The numbers are included to give a sense of how many children and families in the reporting period have had to come to children’s hearings at short notice, meaning there is truncated time for people to prepare for the hearing.

<sup>12</sup> These numbers are now counting those cases with an emergency transfer to secure accommodation.

Of the review requests there were:

Report 1 - 27 emergency transfer requests made, for 25 children across Scotland

Report 2 - 37 emergency transfer requests made, for 36 children across Scotland

Report 3 - 40 emergency transfer requests made, for 38 children across Scotland

Report 4 - 36 emergency transfers of children to secure accommodation

Report 5 - 20 emergency transfers of children to secure accommodation

From Report 4 onwards (new CSAS data) SCRA are counting hearings with a reason of secure transfer; for Reports 1 – 3 we were counting emergency transfer requests (which are no longer captured in CSAS).

## Compulsory Supervision Orders (CSO's)

**Table 7(a)**

**Total CSO's / ICCSO's<sup>13</sup> made** (including orders where emergency legislation was used)

CSOs & ICCSOs	CV Report 1		CV Report 2		CV Report 3		CV Report 4		CV Report 5		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020
<b>Total CSO</b>	1,747	663	2,169	1,408	2,230	1,801	2,321	2,414	1,977	1,846	<b>10,444</b>	<b>8,132</b>
<b>Total ICCSO</b>	201	61	224	65	221	142	267	251	261	312	<b>1,174</b>	<b>831</b>

**Table 7(b)<sup>14</sup>**

**Total CSO's made authorising secure accommodation**

CSOs	CV Report 1		CV Report 2		CV Report 3		CV Report 4		CV Report 5		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020
<b>Secure</b>	23	23	27	18	24	20	29	17	25	29	<b>128</b>	<b>107</b>

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

In 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 Report 3 in 2019 24 CSO's were made and in 2020 20 CSO's were made which authorised the use of secure accommodation.

In Report 4 there were 29 CSO's in 2019 and 17 CSO's in 2020 which authorised the use of secure accommodation.

In Report 5 there were 25 CSO's in 2019 and 29 CSO's in 2020 which authorised the use of secure accommodation<sup>15</sup>.

<sup>13</sup> CSO – Compulsory Supervision Order; ICCSO – Interim Continuation of a Compulsory Supervision Order

<sup>14</sup> A new table.

<sup>15</sup> There is likely to be some counting of IVCSO's within this count as a result of the way the new CSAS case management system records variations to current Compulsory Supervision Orders.

## 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.

**Table 8**

**Standard Interim orders<sup>16</sup>** (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		CV Report 4		CV Report 5		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020
ICSO	584	326	675	487	715	579	849	636	840	624	3,663	2,652
IVCSO	250	179	339	212	310	247	397	252	368	251	1,664	1,141
Court ICSO / IVCSO (including following appeal)	472	377	620	572	607	563	661	566	804	388	3,164	2,466
<b>Total</b>	<b>1,306</b>	<b>882</b>	<b>1,634</b>	<b>1,271</b>	<b>1,632</b>	<b>1,389</b>	<b>1,907</b>	<b>1,454</b>	<b>2,012</b>	<b>1,263</b>	<b>8,491</b>	<b>6,259</b>
<b>Children</b>	<b>680</b>	<b>661</b>	<b>778</b>	<b>810</b>	<b>785</b>	<b>941</b>	<b>869</b>	<b>953</b>	<b>855</b>	<b>849</b>	<b>2,179</b>	<b>1,860</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	CV Report 4	CV Report 5	Total
ICSO	270	366	452	489	510	2,087
IVCSO	151	147	174	176	200	848
Court ICSO / IVCSO (including following appeal)	223	271	291	243	278	1,306
<b>Total</b>	<b>644</b>	<b>784</b>	<b>917</b>	<b>908</b>	<b>988</b>	<b>3,253</b>

<sup>16</sup> New name for the table.

**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		CV Report 4		CV Report 5		Totals	
	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020
ICSO	9	5	8	8	3	11	4	7	11	11	35	42
IVCSO	13	10	19	18	21	15	31	8	18	1	102	52
Court ICSO / IVCSO (including following appeal)	7	1	1	2	5	2	2	7	3	7	18	19
<b>Total</b>	<b>29</b>	<b>16</b>	<b>28</b>	<b>28</b>	<b>29</b>	<b>28</b>	<b>37</b>	<b>22</b>	<b>32</b>	<b>19</b>	<b>155</b>	<b>113</b>
<b>Total children</b>	<b>20</b>	<b>12</b>	<b>22</b>	<b>21</b>	<b>21</b>	<b>23</b>	<b>27</b>	<b>20</b>	<b>21</b>	<b>15</b>	<b>86</b>	<b>67</b>

Of the 19 interim orders authorising the use of secure accommodation between 16<sup>th</sup> November 2020 and 17<sup>th</sup> January 2021, 14 of them used the extended timescales of the Coronavirus (Scotland) Act 2020<sup>17</sup>.

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

Since 7<sup>th</sup> April 2020 we have had some 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 is used when it is required and remains very 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). This provision has not been used at all during the Report 4 period as it was suspended after Report 3.

Whilst not frequently used this provision was important for those cases where it applied - 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

<sup>17</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.

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 17<sup>th</sup> January – not as 5 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 between 7<sup>th</sup> April 2020 and 17<sup>th</sup> January 2021 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. The average time for an appeal – from children's hearing to the appeal determined, across all appeal types, was 33 days in the period 7<sup>th</sup> April 2020 to 17<sup>th</sup> January 2021. There were a total of 323 appeals of children's hearing decisions in the period 7<sup>th</sup> April 2020 to 17<sup>th</sup> January 2021 which were in relation to hearings which occurred under the Coronavirus (Scotland) Act 2020 and where the provisions of the Act applied.

**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.**

<b>Appeals by type and outcome</b>	<b>Against CSO Decision</b>	<b>Against Hearing RP/Not-RP Determination</b>	<b>Against Interim Order Decision</b>	<b>Against PHP RP/Not-RP Determination</b>	<b>Average (Total)</b>
Abandoned by Appellant	42 (14)		33 (13)		37 (27)
Decision Justified / No change of circumstances	36 (1)				36 (1)
Decision Justified		34 (3)		12 (1)	28 (4)
Decision Justified / Change of Circumstances	31 (5)		12 (3)		24 (8)
Decision Justified / Change of Circumstances [Not Opposed]	14 (1)		13 (2)		13 (3)
Decision Justified / Change of Circumstances Not Considered	50 (38)		17 (55)		31 (93)
Decision Justified / No Change of Circumstances	55 (13)		23 (17)		37 (30)
Decision Not Justified	48 (51)	13 (1)	22 (39)		37 (91)
Decision Not Justified [Not Opposed]	44 (26)	22 (1)	20 (35)		30 (62)
Dismissed as Incompetent	58 (1)	22 (2)	28 (1)		33 (4)
<b>Average (Total)</b>	<b>47 (150)</b>	<b>26 (7)</b>	<b>21 (165)</b>	<b>12 (1)</b>	<b>33 (323)</b>

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

In the period 7<sup>th</sup> April 2020 to 17<sup>th</sup> January 2021 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.

In the current reporting period only one new higher court case has commenced, a judicial review raising issues unrelated to the Coronavirus Act. SCRA were notified of another judicial review (challenging a decision of a Local Authority), but we decided against entering those proceedings.

### **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 took place in Scotland since 23<sup>rd</sup> March 2020 were 'virtual children's hearings' as children, family members, professionals, reporters and the decision makers (panel members) were unable to attend the public spaces in children's hearings centres. Since May 4<sup>th</sup> 2020 every 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.



## APPENDIX

(Previous tables now not produced following move to new case management system)

**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>