

Case summary

Issue(s)

Should a declaration of incompatibility be made in respect of section 81(3) of the Children's Hearings (Scotland) Act 2011? Alternatively, does section 81(3) need to be read down so as to enable a sibling to become a deemed relevant person?

Facts

ABC is the older sibling of DEF, who is the subject of a Compulsory Supervision Order. At two Children's Hearings in 2017, contact directions affecting ABC's relationship with DEF were continued. ABC was not a relevant person for these hearings and had not been notified prior to the first of these hearings taking place. ABC argues that the decision-making process for these hearings did not provide him with the requisite Article 8 protection and that the interference with his family life with DEF was therefore unlawful. The Lord Ordinary did not accept that the decisions were unlawful, but considered it necessary to read down section 81(3) of the 2011 Act. The Inner House dismissed ABC's appeal but allowed a cross-appeal to the effect that section 81(3) did not require to be read down. ABC now seeks permission to appeal to the Supreme Court.