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No right for siblings to be child advocate

Judges at Britain's highest court have rejected claims that the Scottish government breached human rights laws in legislation dealing with vulnerable children.

Lawyers argued to the UK Supreme Court in London that the Children's Hearings (Scotland) Act 2011 discriminated against the close relatives of children who are made the subject of compulsory supervision orders (CSOs).

The orders determine where children should live and who they should be allowed to contact. They are made by Children's Hearing panels and people close to the child can be appointed a "relevant person", giving them rights to make representations on behalf of the child. Somebody is considered a relevant person if they have had significant involvement in the upbringing of the child. In most cases that would not include a brother or sister.

Two cases brought to the Supreme Court by a 16-year-old boy who is known as ABC and a 24-year-old man called XY, argued that because they were not allowed to become relevant persons to their younger siblings they were deprived of their right to a family life under article eight of the European Convention on Human Rights.

Their legal teams had failed to convince the Court of Session in Edinburgh, prompting them to go to London. They argued that the Scottish government acted unlawfully in failing to allow siblings to be considered as relevant persons.

Lord Kerr, Lord Wilson, Lord Hodge and Lady Arden rejected the appeals. The judgment is expected to be one of the last issued by Lady Hale.

The judges recognised that family life may exist between siblings but that this would vary from family to family.

They added that the case showed that local authorities in Scotland could improve the processes surrounding CSOs.

"There is now a clear recognition of the interest of both the child and the sibling in maintaining a sibling relationship through contact," Lady Hale and Lord Hodge wrote.

"There needs, in short, to be a bespoke inquiry about the child's relationship with his or her siblings when the children's hearing is addressing the possibility of making a CSO."

Henry Setright, QC, who acted for the safeguarder of the child in the XY appeal, said the ruling was a landmark which had ramifications for similar cases in England and Wales.

"The court's views will be central to a considerable range of private and public law children's cases in England and Wales, and provide critical guidance on what is a matter of current controversy," he said.