

Citizen Participation and Public Petitions Committee

2nd Meeting, 2022 (Session 6), Wednesday 2
February 2022

PE1860: New legislation for Prescription and Limitation Act

Note by the Clerk

Lodged	24 March 2021
Petitioner	Jennifer Morrison-Holdham
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to amend the Prescription and Limitation Act to allow retrospective claims to be made.
Webpage	petitions.parliament.scot/petitions/PE1860

Background

1. This is a continued petition that was last considered by the Committee at its meeting on [17 November 2021](#).
2. At that meeting the Committee agreed to write to the Minister for Community Safety, following her submission of 6 October 2021 which stated that the Scottish Government does not hold data relating to the exercise of section 19A of the Prescription and Limitation (Scotland) Act 1973 and that the Scottish Courts and Tribunals Service (SCTS) cannot interrogate the information it holds as it is held in a court interlocutor.
3. The Committee noted that without such data being made available, it was impossible to ascertain how often this discretion was exercised by the courts; whether requests were granted or refused and under which circumstances. The

Committee agreed to write to ask how the Scottish Government intended to address the data gap identified by this petition.

4. A response from the Minister for Community Safety has now been received.

Minister for Community Safety submission

5. In her latest submission, the Minister for Community Safety states that as this information is held by the Scottish Courts and Tribunals Service (SCTS), she would raise this matter with SCTS so that she can provide the Committee and others with as clear a picture as practicably possible on the courts' exercise of discretion under section 19A.
6. The submission confirms that whilst it is important to understand the circumstances in which a court exercises its discretion under section 19A, what matters is the circumstances in which the courts have exercised the discretion, not necessarily the number of times it has been exercised.
7. The Minister explains that the facts of the cases considered could be very weak. The very nature of the unfettered discretion means that the outcome of each case turns on its own facts and judges have tended to develop a similar approach to considering such applications which provides an understanding to legal (and other) professionals what circumstances and factors are likely to move a court to exercise its discretion.

Action

8. The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

Annexe

The following submission is circulated in connection with consideration of the petition at this meeting -

[PE1860/D: Submission from Minister for Community Safety of 21 December 2021](#)

All written submissions received on the petition can be viewed on the petition on the [petition webpage](#).