

Citizen Participation and Public Petitions Committee
Wednesday 29 May 2024
10th Meeting, 2024 (Session 6)

PE1984: Introduce the C100 form for child arrangement orders in Scotland

Introduction

Petitioner Amy Stevenson

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to reduce the financial barriers that prevent parents from having contact with their children by introducing a Scottish equivalent to the C100 form, with a fixed fee, for making applications for child residence or child contact orders.

Webpage <https://petitions.parliament.scot/petitions/PE1984>

1. [The Committee last considered this petition at its meeting on 4 October 2023.](#) At that meeting, the Committee agreed to write to the Scottish Government.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received a new written submission from the Minister for Victims and Community Safety, which is set out in **Annexe C**.
4. [The Committee received 9 written submissions prior to its last consideration of the petition.](#)
5. [Further background information about this petition can be found in the SPICe briefing](#) for this petition.
6. [The Minister for Community Safety provided the Scottish Government's initial position on this petition on 9 December 2022.](#)
7. Every petition collects signatures while it remains under consideration. At the time of writing, 156 signatures have been received on this petition.
8. Members may wish to note that the Scottish Government published its [fifth report on the Scottish Ministers' duties under section 24\(1\) \(pilot scheme for mandatory alternative dispute resolution meetings\) of the Children \(Scotland\) Act 2020](#) on 30 November 2023.

Action

9. The Committee is invited to consider what action it wishes to take.

Clerks to the Committee

CPPP/S6/24/10/6

May 2024

Annexe A: Summary of petition

PE1984: Introduce the C100 form for child arrangement orders in Scotland

Petitioner

Amy Stevenson

Date Lodged

28 November 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to reduce the financial barriers that prevent parents from having contact with their children by introducing a Scottish equivalent to the C100 form, with a fixed fee, for making applications for child residence or child contact orders.

Previous action

I have had a face-to-face meeting with Claire Baker MSP. I have also had a meeting with Cllr David Graham.

My previous petition about providing legal aid for parents PE1917 also had support from Relationship Scotland and Shared Parenting Scotland, who all support the fact that financial barriers are having an impact on a child being able to see both of their parents after they break up.

Background information

The C100 form, available in England and Wales, asks for a family court to make a judgement, under Section 8 of the Children's Act 1989, on the parenting arrangements. Having a similar provision in Scotland would support quick resolutions on the contact arrangements for a child and would reduce financial barriers coming in between a child seeing both parents.

I previously submitted a petition to get the Legal Aid Bill changed to include parental responsibilities, but I am aware this would have an impact on the budgets. Having a C100 form in Scotland would still mean that people pay for the service but it wouldn't financially cripple people to the point where they give up and don't get to see or have a relationship with their child/children. It would also cut out the middle-man, saving time and money and supporting the children's needs.

There are too many children growing up without having the love from both parents and we should try to make the process of child contact a little more bearable for the alienated parent.

Annexe B: Extract from Official Report of last consideration of PE1984 on 4 October 2023

The Convener: PE1984, on the introduction of the C100 form for child arrangement orders in Scotland, was lodged by Amy Stevenson. It calls on the Scottish Parliament to urge the Scottish Government to reduce the financial barriers that prevent parents from having contact with their children by introducing a Scottish equivalent to the C100 form, with a fixed fee for making applications for child residence or child contact orders.

We previously considered the petition on 22 February, when we agreed to write to the Scottish Government, the Scottish Law Commission, the Law Society of Scotland, the Family Law Association, Relationships Scotland, the Scottish Legal Aid Board, the Scottish Courts and Tribunals Service and the family law committee of the Scottish Civil Justice Council.

The Scottish Government response sets out its view that

“it is better if separating parents can agree about what is best for their child.”

The response includes information on existing resources and services intended to assist separating parents to resolve disputes and make arrangements outside of court.

The Scottish Courts and Tribunals Service response highlights the “potential impacts” of the introduction of a form-based approach on the court service. A number of responses that we received also noted that the introduction of a C100-type form might encourage people to go straight to court without first considering alternative options. While fixed fees might reduce some costs, the form could result in increased costs if the individual required legal representation throughout the process.

The Scottish Legal Aid Board suggested that a change in the way cases are initiated would require

“a wider overhaul of the court rules”.

The Scottish Civil Justice Council and Relationships Scotland suggested a review of what happens currently, the latter suggesting that a starting point might be

“a review of the current process ... for making applications for child contact or residence orders”.

Do members have any comments or suggestions for action?

Maurice Golden: We should write to the Scottish Government to seek an update on the pilot scheme for mandatory alternative dispute resolution meetings and ask whether it has any plans to review the present system for initiating court action in relation to child contact and residence orders.

CPPP/S6/24/10/6

The Convener: Are colleagues minded to accept that suggestion?

Members *indicated agreement.*

Annexe C: Written submission

Minister for Victims and Community Safety submission of 6 November 2023

PE1984/J: Introduce C100 form for child arrangement orders in Scotland

I am grateful to the Committee for the letter of 6 October 2023 in relation to Public Petition PE1984. You asked for an update on the pilot scheme for mandatory alternative dispute resolution meetings; and whether the Scottish Government has any plans to review the present system for initiating court action in relation to child contact and residence orders.

Pilot of mandatory alternative dispute meetings

The Scottish Government recognises the benefits of keeping family disputes out of court and encouraging the use of alternative dispute resolution (ADR) in appropriate cases.

Section 24(1) of the Children (Scotland) Act 2020 (the 2020 Act) requires the Scottish Ministers to arrange a pilot scheme of mandatory meetings to provide information to individuals involved in proceedings under section 11 of the Children (Scotland) Act 1995 (such as child contact and residence cases) on the alternatives to court for resolving disputes.

Until we have fulfilled the duty under section 24(1) there is a requirement in section 24(4) for the Scottish Ministers to lay a report before Parliament explaining why the duty is not yet fulfilled and stating when we expect to do so. These reports are required twice-yearly, covering six-month periods starting from Royal Assent in October 2020.

To date four such reports have been laid and published:

- [First Report](#) - Scottish Government website (PDF)
- [Second Report](#) – Scottish Government website (PDF)
- [Third Report](#) – Scottish Government website (PDF)
- [Fourth Report](#) – Scottish Government website (PDF)

The fifth report will be laid in due course.

We noted in our response to the Committee dated 3 April 2023 that we are progressing with implementation of section 24 of the 2020 Act. Work has been ongoing, but it is likely to be later next year before we will be in a position to advance with the pilot.

Work to date includes engagement with key bodies on an initial paper on how the pilot may work and a roundtable with ADR providers. Key themes emerged, including that meetings should be with parents individually rather than jointly; that if further

provision is required to set up the pilot this should be done by regulations made by Scottish Ministers; and that we need to ensure all forms of ADR used in family cases are covered in the meetings.

The other main tasks required to establish the pilot include:

- putting a body in place to coordinate the facilitation of the information meetings.
- determining the parameters of the pilot, e.g. geographical extent, pilot size and duration.
- determining to what extent meetings could be provided online.
- determining how many facilitators would be required; the recruitment and training of facilitators; and preparing information for parties attending these meetings.
- considering whether secondary legislation is required to set up the pilot.
- considering the need to propose new court rules, which would involve preparing a policy paper for the Family Law Committee of the Scottish Civil Justice Council to consider.
- establishing what is needed to evaluate the pilot.

Review of the present system for initiating family court actions

The Scottish Government does not plan to review of the current system for initiating actions for child contact and residence orders at the present time, given other priorities and pressures. As noted in our response to the Committee on 3 April 2023, our priority in relation to contact and residence cases is to implement the 2020 Act and progress further actions in the [Family Justice Modernisation Strategy](#) (FJMS).

There are a number of actions in the FJMS that could help improve the experiences of individuals going through child contact and residence disputes. In addition to the pilot of ADR meetings, we plan to progress the following FJMS actions:

- to produce guidance for adults on what it is like to go through the family courts. This will set out what can be expected when attending court; provide clear and accessible information on court procedure; and signpost to support (paragraph 6.21).
- to produce a child friendly version of the guidance (paragraphs 6.21 and 6.22).
- to prepare a policy paper for the Family Law Committee of the Scottish Civil Justice Council on simplifying and clarifying the language used in family courts, including in interlocutors, to help litigants and children (paragraph 6.24).

- to produce guidance on alternatives to court, recognising that for many there will be benefits in trying to resolve their family disputes out of court (paragraph 7.19).

Finally, new rules of court, which are designed to enhance case management in family actions, such as contact and residence cases, are now in place. These rules came into force on 25 September 2023 and a key aim is for cases to be resolved more quickly, preventing undue delay in proceedings relating to the welfare of children. More information is available at: [Act of Sederunt \(Ordinary Cause Rules 1993 Amendment\) \(Case Management of Defended Family and Civil Partnership Actions\) 2022 \(scottishciviljusticecouncil.gov.uk\)](https://www.scottishciviljusticecouncil.gov.uk).

SIQBHIAN BROWN MSP