

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/act-of-sederunt-ordinary-cause-rules-1993-amendment-case-management-of-defended-family-and-civil-partnership-actions-2022).

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