

Citizen Participation and Public Petitions Committee
Wednesday 21 January 2026
2nd Meeting, 2026 (Session 6)

PE2205: Extend access to justice by reforming court rules in equality and human rights claims

Introduction

Petitioner Daniel Donaldson

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to:

- remove or raise the £5,000 monetary limit in Simple Procedure for claims brought under the Equality Act 2010 and Human Rights Act 1998; and
- extend Qualified One-Way Cost Shifting (QOCS) to cover equality and human rights claims.

Webpage <https://petitions.parliament.scot/petitions/PE2205>

1. This is a new petition that was lodged on 3 November 2025.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. Every petition collects signatures while it remains under consideration. At the time of writing, 13 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered.
6. The Committee has received a submission from the Scottish Government, which is set out in **Annexe C** of this paper.

Action

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

Clerks to the Committee
January 2026

Annexe A: Summary of petition

PE2205: Extend access to justice by reforming court rules in equality and human rights claims

Petitioner

Daniel Donaldson

Date Lodged

3 November 2025

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to:

- remove or raise the £5,000 monetary limit in Simple Procedure for claims brought under the Equality Act 2010 and Human Rights Act 1998; and
- extend Qualified One-Way Cost Shifting (QOCS) to cover equality and human rights claims.

Background information

I am petitioning to ensure vulnerable individuals who can't afford or access legal representation are not deterred from seeking justice due to financial risks.

The current civil justice framework prevents many ordinary people from enforcing their rights. Under Simple Procedure, individuals can only bring claims worth up to £5,000, excluding many discrimination and human rights cases. Claims above this value must be raised under Ordinary Cause, a complex and costly process that usually requires legal representation. Additionally, some personal injury actions under £5000 must be raised using another procedure called summary cause. The systems in Scotland are too complex for an ordinary person to access. This contrasts with England and Wales whereby the small claims systems have higher thresholds (£10000) and any claim starts by filling in a form in the Court outlining your statement. This allows unrepresented parties to use the civil justice framework with ease and without the need for a Solicitor. Finally, the legal aid situation has not improved in Scotland.

Annexe B: SPICe briefing on PE2205



Overview of issues raised by the petition

The petitioner is concerned that complex court procedures in Scotland make it difficult for ordinary people to enforce their rights. In particular, he notes that the financial limit for claims made under Simple Procedure is £5,000, in comparison to a £10,000 limit for Small Claims procedure in England and Wales.

He is calling for:

- the £5,000 threshold for Simple Procedure claims to be removed or raised for claims under the Equality Act 2010 and the Human Rights Act 1998
- for “qualified one-way costs shifting” to be extended to cover equality and human rights claims.

Current court processes

- **Simple Procedure** is a simplified type of court procedure, designed to be used for relatively low value claims, without the need for specialist legal advice. It is used in the sheriff courts. [Further information about Simple Procedure](#) is available from the website of the Scottish Courts and Tribunals Service.
- There are other forms of court procedure in the sheriff courts, including Summary Cause and Ordinary Procedure. Both are more complicated, so that it will usually be advisable to have the help of a solicitor to bring a case.
- There are other types of court action relevant to the issues highlighted by the petitioner. **Judicial review** is a type of court procedure which can be used to look at the administrative fairness of a decision by a public body. It is an important option in human rights claims, and may be relevant in equality claims too. Employment-related equality claims can be raised at an Employment Tribunal.
- Judicial review claims can only be raised in Scotland’s most senior court, the Court of Session. Procedure in the Court of Session is very complex, meaning that specialist “advocates” must be used¹, in addition to a solicitor, to present the case. This makes court action in the Court of Session expensive.

¹ It is always open to an individual to represent themselves in any action. However, the more complex the action, the more risky this approach is. It is not recommended for most types of court case.

- Employment Tribunals have procedures which are also designed to be used without legal representation. Parties will usually bear their own legal costs, so the rules discussed below for legal expenses do not apply.

Legal expenses

- A key risk in legal action is having to pay the other side's legal expenses if you lose your case. Legal expenses are the costs relating to bringing a court case, including solicitor's fees, court fees and costs for things like getting evidence from experts. This means that, when considering taking legal action, a person must consider not only how they will pay their own legal expenses but how they will pay for the other side's costs if they lose.
- The standard rule is that "expenses follow success", so that the winning party is usually entitled to claim their legal expenses (note that there are limits in legislation, so that full costs will not generally be covered) from the losing party. The courts can use their discretion to vary this rule, and sometimes court rules themselves make alternative provision.
- **Qualified one-way costs shifting** (QOCS – pronounced "kwocks") refers to court procedural rules which change the standard position in relation to liability for legal expenses. Where QOCS applies, the pursuer (person raising legal action) is not liable for the defender's (the person defending legal action) legal expenses if they lose. However, the defender remains liable for the pursuer's legal expenses if the pursuer wins. The pursuer must conduct their case in an honest and reasonable way.
- QOCS is generally used in court actions where there is a recognised imbalance between the positions of the parties. It is used for personal injury claims in Scotland, where the defender is usually an insurer or large business with experience of court action, and the pursuer is usually an individual who will not have dealt with complex court action before.
- Simple Procedure uses maximum thresholds to cap the money which can be claimed for legal expenses. These are broadly related to the amount claimed by the pursuer. This means expenses are roughly proportionate to the value of the claim, and that parties know the maximum level of liability in advance.

Legal aid

- Legal aid provides financial support to enable people on low and moderate incomes to access legal advice. Civil Legal Aid is the type of legal aid used for representation in civil court actions, such as actions relating to equality issues or human rights. Advice and Assistance may also be relevant for initial advice on an equality or human rights-related legal problem.
- The SPICe briefing [Legal aid – how it works](#) has more information on eligibility, including financial eligibility, for legal aid. Note in particular that an award of legal aid protects the recipient from having an award of legal expenses made against them if they lose the case (although the court has discretion on this issue).

- The petitioner notes that “the legal aid position has not improved”. There are significant concerns about the availability of solicitors offering legal aid from some stakeholders. The Equality, Human Rights and Civil Justice Committee recently [undertook an inquiry into legal aid](#). It noted [the existence of “legal aid deserts”](#) – geographical areas or subject matters for which it was very difficult to access legally-aided legal advice.

Alternative options

- The petition calls for the Simple Procedure threshold to be increased. This would mean more cases could be dealt with via a procedure designed to be used by non-lawyers. They would also benefit from a capped system of legal expenses.
- However, the financial threshold in Simple Procedure is a rough proxy for the complexity of the case. The more complex a case, the more likely someone will need legal advice and representation to present it effectively². There are lots of circumstances where someone who does not have a detailed understanding of the law is unlikely to be able to present a claim effectively. This may be an issue for human rights claims and more complex equality claims.
- QOCS provides protection for the person raising a claim against an award of legal expenses should they lose. This reduces the financial risks of court action. For complex cases, legal expenses could run into the £10,000s (or even £100,000s). Thus, QOCS could be a useful way of shielding pursuers from the risks of bringing human rights and equality cases. However, QOCS significantly disadvantages defenders, in particular where these are also individuals or small businesses/bodies.
- Judicial review (which is a common way of raising human rights claims) could be seen as having the type of dynamics QOCS is designed to protect against. In all cases there will be a (probably well-resourced) public body as a defender and often an individual as a pursuer. However, the last time this issue was considered in depth in Scotland, [the recommendation was not to extend QOCS to judicial review proceedings](#)³.
- There are other mechanisms to protect people from some of the risks of raising legal action. **Protective Expenses Orders** can be used by the courts to limit liability for legal expenses should a pursuer lose their case. However, the courts have discretion in how they choose to use them, creating uncertainty about whether and how they will apply.
- **Group actions** allow lots of people facing the same issue to bring court action together, thus sharing the costs and risks related to legal action. However, they will not be appropriate in all cases.

² Note that using Simple Procedure does not prevent someone from seeking advice and/or representation from a solicitor. However, the costs of doing so can only be claimed up to the capped expenses thresholds. Civil Legal Aid (for representation in a court case) is only available for claims worth more than £3,000.

³ Sheriff Principal Taylor. (2013) [Review of Expenses and Funding of Civil Litigation in Scotland](#). Chapter 8, paragraph 55.

- Setting up a new tribunal (or extending the issues a current tribunal can deal with) is a further option for creating a more user-friendly forum for dealing with disputes. However, concerns around pursuing complex claims without legal advice and representation are also relevant in this context.

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2 December 2025

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

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Annexe C: Written submission

Scottish Government written submission, 12 December 2025

PE2205/A: Extend access to justice by reforming court rules in equality and human rights claims

Does the Scottish Government consider the specific ask[s] of the petition to be practical or achievable?

Simple Procedure

Simple Procedure is a legal process in Scotland designed to resolve civil disputes where the claim value is £5,000 or less. It is designed to provide a quicker, less formal, and more accessible route to justice for individuals. It is intended to be a user friendly straightforward and cost-effective method for individuals to resolve their disputes without the need for a lawyer. The procedure is distinguished by its emphasis on negotiation and settlement, with court hearings being a last resort.

While officials have generally kept the Simple Procedure limit under continual review there have been very few calls for an increase in the Simple Procedure limit to date either from court users, the legal profession or justice partners. There has been no detailed analysis specifically undertaken in relation to removing or raising the £5,000 limit in Simple Procedure claims brought under the Equality Act 2010 and the Human Rights Act 1998.

Removing or raising the monetary limit would require secondary legislation to be taken forward under section 72 (12) of the Courts Reform (Scotland) Act 2014. The Scottish Government have no plans to do this in this Parliamentary session.

Qualified One-Way Cost Shifting (QOCS)

QOCS rules in Scotland civil courts were introduced (Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018) to enhance access to justice for personal injury claimants. The rules came into effect on 30 June 2021, and they limit a defender's ability to seek expenses against a pursuer in personal injury cases. They apply in both the Court of Session and the Sheriff Court and provide that a pursuer will not be liable for expenses if they conduct their claim in an appropriate manner.

QOCS were introduced to significantly reduce the risks of adverse costs awards and remove barriers to those seeking to vindicate their rights in civil courts.

Primary legislation would be required to extend QOCS to the cases sought by the Petition. There have been few calls for such a change and the Scottish Government possesses limited data in respect of these categories of claim and the nature and extent of any issue is unknown. At this time, the Scottish Government does not consider it has the sufficient data or evidence to support such a change. The need to deliver against existing priorities combined with the limited time remaining in the current parliamentary session will restrict further investigations.

What, if any, action the Scottish Government is currently taking to address the issues raised by this petition, and is any further action being considered that will achieve the ask[s] of this petition?

The Scottish Government is not currently taking action to review the monetary limit for simple procedure. Removing or raising the monetary limit in Simple Procedure is a policy decision which would require evidence gathering, full analysis and consideration. Any changes would require secondary legislation under section 72 (12) of the Courts Reform (Scotland) Act 2014. The Scottish Government have no plans to do this in this Parliamentary session.

Whilst no plans are in place to explore the issue of QOCS applying in the types of cases sought by the petitioner, when officials progress the review of the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 (after the 2026 Scottish Parliament election), consideration may be given as to whether QOCS could be extended to other types of civil litigation cases in the future if appropriate.

Civil Courts and Inquiries Division