



The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITION NO.

PE01768

Name of petitioner

James A Mackie

Petition title

Children Hearing proceedings should be minuted and or recorded

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to ensure that all proceedings in a Children's Hearing are minuted or recorded.

Action taken to resolve issues of concern before submitting the petition

I have discussed this issue with MSPs, an MP and with the Information Commissioner's Office (ICO) and the Scottish Children's Reporter Administration (SCRA).

Petition background information

Children's Hearings were established in Scotland in 1971 and are the backbone of child protection in Scotland. According to the Scottish Children's Reporter Administration, statistics for 2017/18 show 32,553 Children's Hearings were held at around 30 hearing centres across Scotland.

Currently there are 18000 looked after children under the Children's Hearings system with 11200 of those being children being accommodated away from home (e.g. in foster care).

Children's Hearings have the powers to remove children from their parents from birth until 18 years of age.

Through several Subject Access Requests to the Scottish Children's Reporter Administration asking for copies of minutes/recordings of discussions leading to a decision at a Children's Hearings, I have discovered that, other than the final decision of the Hearing, no records are taken or kept of a Hearing.

If a parent or child disagrees with the decision of the Hearing, they have the right to appeal in the first instance to the Sheriff thereafter higher courts.

Parents have told me that when they have tried to appeal a Children's Hearings decision, it is often not upheld (it is unsuccessful). They believe that this is because Sheriffs are not fully aware of the reasons why a Children's Hearing came to the decision it did. This is due to there not being a full minute or record of the Hearing.

A Children's Hearing normally has 3 Panel Members who are volunteers. Also attending are the parent(s) and their legal representatives (if legal aid available), the children (and their legal representatives (if children over the age of 12 years) any relevant person and other representatives as well as two social workers and any other professional deemed necessary for the Hearing. A Children's Reporter is present to give legal advice to the panel Members and to note the decision of the Panel at the end of the Hearing.

Every "looked after child" has at least one Children's Hearing a year so that any order (for example, setting out where they should live) can be renewed or withdrawn.

It is extremely rare for a Panel Member to see the same child in any subsequent Hearing(s). Therefore, because no full record/minute of a Children's Hearing is kept, Panel Members attending Children's Hearings have absolutely no information on any discussion from previous Hearings other than a note of the final decision/recommendation made. All they have is the chronological report from social workers as to events between Hearings.

By law parents should receive this social work report at least three days before a hearing. Often that target is not met and parents will receive them less than three days before the hearing. That leaves parents very little time to read and understand what has been said (reports often run to 50 pages or more) and does not give them time to get legal advice. Very often these reports are contested in the Children's Hearing, yet that discussion is not recorded for future Hearings or Appeals.

Instructions to the Chair of a Children's Hearing is that a hearing should not last longer than one hour with 15 minutes set aside for writing up of the decision (although some do last longer). The first 10 minutes of any hearing is normally taken up with introductions and information about procedures. This leaves very little time for discussion with the parents and/or children (if they are present).

This means that key decisions about the future of a child and their family are generally taken in a 35 minute period.

In contested cases, parents may be so traumatised that they are unable to retain any of the discussions. For some teenagers, they can feel that their requests and opinions are ignored.

Having a full minute or record of the Hearing would help make sure that everything that was said was available to them after the Hearing had taken place.

No other constituted public sector, private sector, voluntary group or statutory body holds meetings without keeping a minute/record of that meeting.

The Children's Hearings system can separate children from their families for years, in some cases decades.

With no records being kept of the discussions within a Children's Hearing, many families and children find it almost impossible to challenge any decision that is made.

I believe that the Scottish Government should review the Children's Hearings system's current practice of recording decisions, to ensure it complies with Article 6 of the European Convention on Human Rights.

The Children's Hearings system should put in place a system allowing all discussions within a Hearing to be recorded/minuted in full. Such record/minute should be made available to parents/children/relevant persons if required and within a time frame which allows an appeal to be made to a Sheriff

Unique web address

<https://www.parliament.scot/GettingInvolved/Petitions/PE01768>

Related information for petition

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

How many signatures have you collected so far?

0

Closing date for collecting signatures online

03 / 01 / 2020

Comments to stimulate online discussion

- Should full minutes/recordings of all Children's Hearings be kept?
- Who should be able to view these?
- How should the discussion be recorded?