

PE1768/A

Petitioner submission of 3 January 2020

I have read through SPICE report to your Committee re Petition 1768. The information provided is correct and confirms exactly what I say in my Petition (and confirmed by those who signed the Petition) that the only information recorded other than date time, location and attendees is the decision of the Panel Members. Very clear from the SPICE submission is the fact that it does not state that a full minute is kept of the Hearing. A full minute of the meeting in which you and your Committee will discuss my Petition and this submission will be taken and kept as well as the decision your Committee takes. Anybody can read that Minute at a later date and understand why and how your Committee came to its decision, irrespective of the decision. That does not happen in a Children's Hearing.

Mention is made in the SPICE submission about the number of Appeals and compares to Criminal Proceedings Appeals. There can be no correlation to either stats as they are operated under completely different judicial processes. One can ask the question as to why 54% of Appeals to the Sheriff in Child Protection cases are not upheld. The answer to that may be found in Sheriff's written judgements where they state clearly that they do not have the full information to ascertain why the Children's Hearing came to its final decision, therefore they cannot uphold the Appeal through lack of information. That point comes back directly to the fact that no Minute is kept of Children's Hearings. Great play is made in legislation and procedures that the opinion of the child must be noted. The Sheriff cannot "hear" the child's opinion of the situation if no record/minute of the Hearing is kept.

The SPICE report states that "oral evidence" can be heard during an appeal to a Sheriff. The writer is obviously not aware of what actually happens within a Sheriff Appeal. Members of the Children's Hearing are not called to give their reasons and what evidence they based it on. The Children's Hearing is represented at these Appeals by the Reporter who can only be speaking from memory of what took place as no record is kept of the full discussion and how those attending agreed or disagreed on points of issue. Children and parents taking part in a Children's Hearing are highly stressed from the situation and bear in mind that instructions to a Children's Hearing is that it should not last more than one hour

with 15 minutes for writing up the decision. As a result children and their parents are confused, stressed and are often accused of misunderstanding what was said and by whom.

If a full minute was kept of the Hearing, then children and families could sit and read it in a calmer place before deciding to Appeal a decision. Such a Minute might actually reduce the number of Appeals going to a Sheriff Court. If a Minute was available for the Sheriff to read, then the Sheriff would be in a far stronger position to actually understand what was said and done, thus make a more balanced view in his decision making. The presence of a full minute at a Sheriff Court Appeal would shorten the time taken for the Appeal and also reduce the stress on the child and family, something that can only be good for them. The percentages of Appeals that are upheld or not may not alter but at the end of the day the family will have a better idea of why the decision was reached. That is called Justice and is part of Articles 6 and 8 of the ECHR.

The SPICE report states “Scottish Government officials chair the Children’s Hearings Improvement Partnership (“CHIP”). CHIP seeks to bring together a range of people from organisations across Scotland to develop and improve the Children’s Hearings System.”. Neither children or their parents who have been through the system are involved in these discussions, therefore every point made and discussed is totally one sided without knowledge or understanding of the other – namely the child and parents view point. Mention is also made of consultation. Children and parents who have been through the Childrens Hearing system are seriously stressed. Often they are not aware of “consultations” and certainly for the greatest majority, they do not have the stamina to sit down and give their opinion on any part of the Childrens Hearing and child protection system even if they were aware of a “consultation”..