

Scottish Legal Aid Board submission of 6 April 2023

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

Thank you for your letter of 8 March 2023 seeking the views of the Scottish Legal Aid Board on the action called for in the above petition.

Whilst we consider the petition is of more significance and relevance to the Scottish Courts and Tribunal Service, we offer the following observations to the committee.

It seems the petition before the committee seeks to provide opportunity for party litigants to have cases heard in court without the requirement to instruct a solicitor. This would be advantageous to citizens who don't qualify for legal aid, but who might struggle to pay for a solicitor on a private basis.

We agree with the observation in the notes of the Committee that whilst the use of the C100 has potential to simplify proceedings at the start of the case, it won't necessarily do so. The C100 is a complicated form, which may still present a barrier to some, although there may be scope for an improved and simplified form to be devised, if this approach is considered to be worth pursuing.

However, the current or any amended form may not always give all the information necessary to allow the court to determine the best interests of the child in relation to any dispute and cases may still become more complex or involved as they progress. This might result in parties seeking advice and representation from a solicitor as the case progresses.

Should a citizen wish to seek assistance from a solicitor to complete the C100 itself (or similar form), its introduction is unlikely to bring about any savings to the Legal Aid Fund. However, it would potentially be of assistance to those who have difficulty finding a solicitor to represent them, to the extent that they are able to complete the form without assistance.

An increase in party litigants could also potentially have cost implications, as our experience suggests that costs are likely to be greater in a case involving a party litigant opponent. For example, there tend to be more hearings, which are often longer than those involving parties represented by solicitors.

Finally, any change to the way cases are initiated would require a wider overhaul of the court rules, which are framed around the current procedure involving the use of initial writs.

We hope that this information is helpful and if we can be of any more assistance, please do not hesitate to get back in touch.