

PE2166/D: Establish a standardised timeframe for civil proceedings in child custody cases

Petitioner written submission, 1 February 2026

Child Custody Cases Should Never Be Part of Divorce Actions

Clarification and Rebuttal Regarding the Scottish Government response to Petition PE2166: “Establish a standardised timeframe for civil proceedings in child custody cases”

Thank you for sharing the response from the Minister for Victims and Community Safety. The petitioner has reviewed it carefully and wishes to provide the following clarifications for the Committee’s consideration.

While acknowledging the Minister’s reply, it is observed with respect that the response does not engage with the specific mechanism proposed in the petition. It primarily reiterates existing frameworks, referencing laws and policies that have been in place for decades. The core issue, as highlighted in the petition, is the documented absence of their consistent enforcement in streamlining civil child custody proceedings, leading to systemic delay.

The petition’s objective is partnership-oriented and practical: to propose a more streamlined system that safeguards children’s welfare by:

- Expediting family custody hearings to minimise harm caused by protracted proceedings.
- Reducing the psychological and emotional cost of delays on all parties, especially children.
- Decreasing the associated measurable costs to mental health services.
- Aiding the Scottish Courts and Tribunals Service (SCTS) in case management efficiency.
- Generating savings for the public purse through reduced court time and resources.
- The cost of suicide, both of children and parents directed connected to delays.

Clarification on Scope: The Minister’s response, and that of the Family Law Division, appear to reference child protection cases within criminal proceedings. This petition is explicitly and solely focused on **civil proceedings in child custody**, typically arising from divorce or separation. The proposal seeks to introduce standardised timeframes within this civil context and does not intend to alter any vital protections for children within the criminal or child protection systems.

Addressing the Cited Cause of Delay: The response cites Committee Member Fergus Ewing MSP’s valid point regarding the “reluctance of the parties to come to a

deal.” The petition directly addresses this: in high-conflict separations, the divorce action and child custody case become intertwined, with the former often stalling the latter. The proposal is that a sheriff could be empowered to order a proof hearing for the custody matter within a defined period. This would decouple the two processes, allowing the child’s living arrangements to be settled swiftly for their stability, while the financial/divorce matters continue separately. Evidence suggests that resolving custody may subsequently facilitate quicker divorce settlements.

Evidence from Stakeholder Engagement: To inform this petition, correspondence was sent to key stakeholders, not seeking support, but posing a specific, evidence-based question: **“Do you believe that delays in court proceedings in child custody cases cause harm?”**

- **The Minister for Victims and Community Safety** expressed sympathy for the petitioner and acknowledged a problem exists.
- **The Family Law Division** confirmed in writing that they believe delays can cause harm (letter available to the Committee on request). The petitioner appreciates this candour and views it as a basis for constructive future dialogue.
- **Education Scotland** declined to answer directly but indicated a willingness to provide information to the Committee. The petitioner respectfully asks the Committee to seek their views formally.
- **The Scottish Courts and Tribunals Service (SCTS)** acknowledged receipt but provided no substantive reply within their stated response timeframe.
- **Renfrewshire Education Department** provided no reply.

This pattern of non-response or procedural delay from operational bodies underlines the petition’s central thesis: that systems and policies exist but are inconsistently applied, directly contributing to the problem.

Proof of Concept: The petitioner notes that the courts are operationally capable of swift timelines. A recent proof hearing for a Contempt of Court case was assigned within a four-week period. The petitioner can provide the Committee with the relevant case number for verification, demonstrating that expedited processes are feasible within the current system.

Conclusion: This petition is submitted in a spirit of collaborative problem-solving. It is based on direct experience of the system’s human and operational costs and is supported by stakeholder acknowledgements of the harm caused by delay. The petitioner, who stands to gain no personal benefit, seeks only to provide a workable mechanism for the Committee’s scrutiny—one that prioritises child welfare, judicial efficiency, and the responsible use of public resources.

From all parties that have contributed to this petition, the only two who have extensive experience of children’s custody cases have both accepted that delays cause harm.

The petitioner thanks the Committee for its continued consideration and remains available to provide any further clarification required.