

Equalities, Human Rights and Civil Justice Committee

11th Meeting, 2022 (Session 6), Tuesday 19 April 2022

Children's participation in the court's decision-making process

Note by the Clerk

Introduction

1. The Equalities, Human Rights and Civil Justice Committee agreed to hold a number of sessions about issues falling within its civil justice remit.
2. It held its first civil justice roundtable session at its meeting on [30 November 2021](#), which focused on the use of remote hearings within the civil justice sector as a result of Covid-19 and the sector's experience and future plans for digital justice.
3. At its meeting on [22 February 2022](#), it held a further roundtable on family law and on the law applying to disputes between parents about the care of their children.
4. Following that session, the Committee agreed it would like to further explore the issue of children's participation in the court's decision-making under the [Children \(Scotland\) Act 1995](#) and how best to appropriately and effectively take children's views.
5. This session on 19 April 2022 will focus in more detail on the current ways in which the Scottish courts take into account the views of children in relation to parenting disputes as well as issues arising with existing methods.
6. The Committee is also keen to hear about examples of best practice and innovative methods being successfully used or trialled in relation to children's participation in decision making from a) other parts of the Scottish legal system and b) elsewhere in the world.

Participants

7. The following people will be taking part in the evidence session—
 - Sarah Axford, Service Manager, Children 1st

- Dr Lesley-Anne Barnes Macfarlane, Senior Lecturer in Scots Private Law, University of Glasgow
- Alistair Hogg, Head of Practice and Policy, Scottish Children's Reporter Administration
- May Dunsmuir, Chamber President of the Health and Education Chamber of the First-tier Tribunal for Scotland, Additional Support Needs Jurisdiction
- Jordan Croan, Advocacy and Participation Manager, Who Cares? Scotland

Format

8. The meeting will be held in hybrid format with some Members of the Committee and witnesses attending in person and others joining virtually.

Topics

9. The session on children's participation in the court's decision-making process will be a chance to discuss topics such as—
 - The current methods that are used to obtain children's views under the Children (Scotland) Act 1995 and issues and challenges faced by policymakers and courts when approaching children's participation;
 - What lessons can be learned from experiences of family cases prior to and throughout the pandemic in relation to children's participation, for example, the advantages or disadvantages of remote or in-person hearings;
 - Whether the current system is well designed to enable the court to take views of younger children, ie those of pre-school and primary school age;
 - What benefits a specialist family court system or specialist family sheriffs could provide and if there could be merit in the system of specialised hearing suites used in criminal courts being extended to the civil hearing system;
 - The role of child welfare reporters and issues and challenges arising from this approach;
 - Innovations and best practice examples in use in other policy areas where children participate including international comparisons;
 - The role of the children's advocate and if there is a role for advocates within the civil court system;
 - Whether lessons can be learned from the Tribunal to support participation from children with additional support needs.