



SCOTTISH
CHILDREN'S REPORTER
ADMINISTRATION

9 September 2009

Franck David
Assistant Clerk to the Public Petitions Committee
Scottish Parliament
Edinburgh
EH99 1SP

Principal Reporter/Chief Executive:
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Dear Mr David,

CONSIDERATION OF PETITION [PE1257](#)

Thank you for your letter of 17 June 2009, inviting the Scottish Children's Reporter Administration to comment on Petition PE1257 in the name of Mark Hutchinson:

"Petition by Mark Hutchison calling on the Scottish Parliament to urge the Scottish Government to ensure that solicitors acting as court reporters and who knowingly supply false information to a Sheriff are not immune from prosecution and their reports are amended to correct any inaccuracies before a decision by the court is made."

We understand that you would welcome comment on the:

1. Specific issues raised in this petition.
2. Specific issues raised during the discussion on the petition:
 - do solicitors appointed as court reporters have the adequate training and experience (social, psychological) to understand and deal with children?
 - Is the lack of such training likely to have detrimental effects (children can give small signs that only trained professionals can see and understand)?
3. Relevant action your organisation is taking to address these (the Committee is interested in specifics e.g. what is the action, how is it relevant, why is it being taken, when).

It is important to note that solicitors do not act as court reporters in Children's Hearings court proceedings so we feel unable to comment on the specific issue raised by the petitioner, namely the supply of false information by a court reporter.

However, it may be of value to the Committee to be aware of the methods by which children's interests are safeguarded and represented in Children's Hearings proceedings.

Safeguarders/

Safeguarders: Safeguarders in Children's Hearings cases can be appointed at the discretion of individual Hearings or Sheriffs. The court or the Hearing must consider in any proceedings before it whether a Safeguarder should be appointed and, if so, what the terms of reference should be. If the Hearing decides to appoint a Safeguarder it must record its reasons for that decision.

Safeguarders have three roles:

- To ensure that children's comprehensive rights are protected, beyond simply their legal rights.
- To ensure that the view of the child is established, valued, and communicated to its hearing/court, by whatever means are deemed appropriate.
- To ensure that the proposals being put forward are judged to be in the child's best interests.

Every local authority is required to maintain a panel of Safeguarders, who can be solicitors or others with relevant professional skills or experience. More information on Safeguarders is available from the Scottish Safeguarders' Association.

Curators ad Litem: The court also has the power to appoint a Curator ad Litem. There is no explicit provision for this within the Children's Hearings legislation, rather it is practice in certain Sheriff court areas that a Curator be appointed rather than a Safeguarder in some circumstances. The Curator serves broadly the same function as the Safeguarder.

Legal representatives: Legal representation is provided free of charge for a child or young person where the Hearing considers it likely that there may be a recommendation of secure accommodation, or where legal representation is needed to allow the child to participate effectively at the hearing. Children's Legal Representatives are members of special panels maintained by local authorities and are qualified solicitors who work in public or private practice. Legal Representatives are expected to be sensitive to the atmosphere and ethos of the Children's Hearing.

In our response to the Scottish Government's *Strengthening for the Future* consultation, which outlined proposals for the reform of the Children's Hearings System, we supported proposals for a code of practice and specialised training for legal representatives for children. We took the view that, as with practising solicitors and advocates, the Law Society or the Faculty of Advocates could be responsible for their professional conduct and for matters of indemnity. This would lead to greater protection of children's rights through improved consistency and quality of representation. We see no reason why solicitors acting as court reporters could not be subject to the same requirements if they were to be eligible to work with children.

Yours sincerely

Netta Maciver
Principal Reporter/Chief Executive