

T: 0300 244 4000
E: scottish.ministers@scotland.gsi.gov.uk

David Stewart
Convener
Public Petitions Committee
Room T3.40
The Scottish Parliament
Edinburgh
EH99 1SP

In 2014 Scotland Welcomes the World



29 October 2014

Dear David,

PETITION PE01529 – Enforcement of Child Contact Orders

Thank you for your letter of 1 October about Petition PE01529, calling on the Scottish Parliament to urge the Scottish Government to provide a more straightforward procedure on enforcement of child contact orders, which does not require further court expenses. I am replying because I have portfolio responsibility for family law.

If one parent does not obey a contact order, the other parent can return to court to ask the court to deal with the breach of the order. Requiring the parent to return to the court enables the court to determine whether the order was breached, examine the reasons for any breach and decide how to proceed, having regard to the welfare of the child.

You asked about our policy intention in this area. The Government considers that going back to court is the right approach to enforcement. There may be a variety of reasons why a court order has not been obeyed and the court must assess each case on a case by case basis. In addition, any dispute is a private matter between the parents.

When there is a breach, section 11 of the Children (Scotland) Act 1995 gives the court a wide discretion to vary the terms of the contact order in question. Alternatively, the court can find a person breaching the order to be in contempt of court which is punishable by a fine, or imprisonment, or both.

In some cases legal aid may be available in relation to applications to the court to deal with any breaches of a contact order. The normal legal aid statutory tests would apply to any application: financial eligibility; probable cause and reasonableness.

The Government will continue to monitor issues in relation to enforcement of contact orders: we recognise that it can be a difficult area. However, any major changes would be likely to require primary legislation and we have no current plans for any such legislation.

Finally, in 2006 the then Scottish Executive published the findings of a small scale survey and information gathering exercise on sheriff clerks' perspectives on child contact enforcement. These findings are at

<http://www.scotland.gov.uk/Publications/2006/10/16092253/0>

ROSEANNA CUNNINGHAM