

PE1836/E

Petitioner submission of 25 January 2021

I have read the submissions by SPSO and The Promise. Neither is incorrect about the current appeal process. However, in my experience, the system does not work in practice and, I believe, the current system assumes that the mother is guilty as charged.

Agreed that many different agencies/organisations (NHS, schools, police, foster carers, charities and others) are involved in preparing a case. All information is collated by social workers who condense these reports into one for submission to a Sheriff or a Children's Hearing. I believe that these reports are based predominantly on opinion, supposition and assumptions and all information collected is to prove those opinions, assumptions and suppositions.

This Petition asks that the Care Commission be empowered to investigate at very early stages in proceedings. The Care Commission does that with other sectors that involve multi agencies. Care Commission supervises childcare and protection matters but will not look at individual cases. It monitors files, procedures and protocols.

As I understand it, it is rare for a mother/parents to be informed in advance of an application to a Sheriff. Within 48 hours (excluding weekend days and public holidays) of the Sheriff's decision the case appears before a Children's Hearing. Panel members are laymen with, what I believe, is very limited experience. A Hearing is not a trial – it is, to my mind, an expression of thoughts against the mother who does not have the resources within a Hearing to counter them. Any decision a Hearing reaches can be appealed to the Sheriff by mother, child and other relevant persons. A Children's Hearing is scheduled to last no more than 1 hour for each child. Only the mother and relevant persons plus the social workers appear in the Children's Hearing. Children do not always appear, especially if they have been taken into care.

An appeal to the Sheriff must be made within 7 days including weekend days and public holidays. There is no assistance from Scottish Children's Reporter Administrator (SCRA) to lodge an appeal. The family do it on their own or try to engage a solicitor. If an Appeal is not lodged within 7 days, a another cannot be lodged for 3 months.

At an appeal, the Sheriff can only make judgement on the decision of the Children's Hearing. If a Sheriff does uphold the Appeal, the case is referred back to the Children's Hearing for them to review their original decision and the cycle restarts.

Complaints are from children, mothers and other relevant persons and are often about reports submitted by social workers. A complaint against a social worker must be made direct to the Social Worker involved. If the complainer is not happy with the

response, then a further complaint is made to the social workers manager and so on up the line. That can take months, meantime the children continue in care.

Social workers do not have powers to investigate other agencies where complaints are made about the information they have supplied. The child, mother or other relevant person must make individual complaints to these different agencies. In my experience, complaints are not taken seriously and eventually whitewashed or ignored. This process can take months. The engagement of legal advisers is very expensive, and beyond the reach of many families

Complaints that are made to Scottish Public Services Ombudsman (SPSO) and Scottish Social Services Council (SSSC) can only be lodged once the full complaints procedure has been exhausted through the various agencies. The SPSO can only investigate the process followed by the authority complained about. The SPSO does not have the powers to force a reinvestigation of the complaint. SPSO can take up to 4 years to complete an investigation and come up with findings. The SPSO can only investigate some of the bodies/agencies. They cannot investigate complaints involving charities (who provide commercial services to local authorities in child care).

Complaints can be made against social workers to SSSC. Again, SSSC will only accept complaints after the social workers employers' complaints procedure has been finalised.

Both SPSO and SSSC require copies of all files and correspondence that form the complaint. Files must be obtained by way of a Subject Access Request. Despite the legislation it can take 6 months and often a year to obtain full files and only then with the involvement of the Information Commissioner's Office. It can take both SPSO and SSSC at least 18 months and, in my experience, more often up to 4 years to investigate and take any action on a complaint. Meantime children are in care away from their families. Through three different FOIs, SSSC admit that they take no action in 99.7% of complaints from the public.

Taking civil action through the Courts is extremely expensive and takes years to resolve if ever. One case is reported to have cost over £2 million in legal aid and after 7 years it is not fully resolved.

The proposal from the Petition asks for the remit of the Care Commission to be expanded so that it can step in early, prepare and investigate the complaints about the contents and allegations of documents submitted to Children's Hearings and resolve disputes quickly for the sake of the children and their families. It would bring accountability to child protection in Scotland as, I believe, there is none currently.