

Citizen Participation and Public Petitions Committee

11th Meeting, 2023 (Session 6), Wednesday
28 June 2023

PE1983: Improve the transparency and accountability of Scottish legal courts

Lodged on 21 November 2022

Petitioner Daniel Osula

**Petition
summary** Calling on the Scottish Parliament to urge the Scottish Government to improve the transparency and accountability of the Scottish legal system by ensuring:

- clear information is provided to members of the public about how their case will be considered; and
- information is made available to members of the public about the processes for making a complaint about court staff.

Webpage <https://petitions.parliament.scot/petitions/PE1983>

Introduction

1. The Committee last considered this petition at its meeting on [8 March 2023](#). At that meeting, the Committee agreed to write to the Scottish Courts and Tribunals Service.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received a response from the Scottish Courts and Tribunals Service which is set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 27 signatures have been received on this petition.

Action

The Committee is invited to consider what action it wishes to take.

Clerk to the Committee

Annexe A

PE1983: Improve the transparency and accountability of Scottish legal courts

Petitioner

Daniel Osula

Date lodged

21 November 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to improve the transparency and accountability of the Scottish legal system by ensuring:

- clear information is provided to members of public about how their case will be considered; and
- information is made available to members of the public about the processes for making a complaint about court staff.

Previous action

I have written to the First Minister and to the Cabinet Secretary for Justice, Keith Brown MSP.

I have also made a number of complaints directly to the Scottish Courts and Tribunal Service (SCTS).

Background information

There are two sections to the courts: the appointed Judges, and court staff (civil servants), and in my experience, court staff appear to have the authority to provide a case to a specific Judge at a time of their own choosing.

Without transparency in the processing of court applications, I believe court staff are being allowed to bypass accountability. In my view, this has created a super body of public executives, with any communication

by an MSP to any public service institution being reluctantly ignored or replied to at the convenience of the public servant.

Annexe B

Extract from Official Report of last consideration of PE1983 on 8 March 2023

The Convener: As always when we consider new petitions for the first time, it is important to say to anybody who might be tuning in because we are considering their petition that, prior to our consideration, we do a certain amount of background work in relation to the petition. Often, we seek the Scottish Government's view, although any position that we might take thereafter is not conditional on that. I assure petitioners that we will have begun the process even before our first consideration in public.

The first of the new petitions is PE1983, lodged by Daniel Osula and calling on the Scottish Parliament to urge the Scottish Government to improve the transparency and accountability of the Scottish legal system by ensuring that clear information is provided to members of the public about how their case will be considered and that information is made available to members of the public about the processes for making a complaint about court staff.

In the petition's background information, Mr Osula raises concerns about the transparency and accountability of court staff when cases are being prepared and allocated to judges. He notes that he has pursued complaints about the issue directly with the Scottish Courts and Tribunals Service. In a response to the petition, the Scottish Government states that it considers both matters raised by the petition to be operational matters falling under the statutory responsibility of the Scottish Civil Justice Council and the Criminal Courts Rules Council. The Scottish Government also highlights that the operation of the courts is the responsibility of the Scottish Courts and Tribunals Service under the leadership of its independent board, headed by the most senior judge in Scotland and the head of the Scottish judiciary, the Lord President.

Do members have any comments or suggestions for action?

David Torrance: I wonder whether the committee can write to the Scottish Courts and Tribunals Service to ask what steps it is taking to ensure that the procedural rules and practices of the courts and their complaints procedures are transparent and accessible to members of the public.

The Convener: Colleagues, are we content to keep the petition open and to write as recommended by Mr Torrance?

Members *indicated agreement.*

Annexe C

Scottish Courts and Tribunals Service (SCTS) submission of 19 April 2023

PE1983/B: Improve the transparency and accountability of Scottish legal courts

Thank you for your letter of 28 March 2023 seeking the views of the Scottish Courts and Tribunals Service (“the SCTS”) on the above petition.

The response is submitted by the SCTS acting in its role to provide efficient and effective administration to the courts and tribunals and does not include the views of the Judiciary.

The Committee requested information in relation to two areas:

1. Steps that are taken to ensure that both the procedural rules and practices of the court are transparent and accessible

Every court case involves different parties, facts and circumstances – however the common procedures and rules used in a broad range of case types are made clearly available by the SCTS. The SCTS website provides an overview of the most [commonly used court processes in the sheriff courts](#) and in [the Court of Session](#).

Detailed civil and criminal court procedures are generally set out in court rules. The most commonly used [court rules](#) are also made available to members of the public on the SCTS website. The responsibility for making these rules lies with the Scottish Civil Justice Council for the civil courts and the Criminal Courts Rules Council for the criminal courts.

This information is provided as a guide and cannot cover every situation which might arise in the course of a case. The website also provides information on the Scottish [Tribunals](#). The rules followed by the Scottish Tribunals are a matter for the Scottish Government. Guidance for making an application to each chamber is also publicly available online – for example see [The Housing and Property Chamber](#).

Court and tribunal actions can be complex. Whilst SCTS staff will always seek to assist those engaged in such actions and are able to provide procedural advice in respect of actions it is important to stress that they are unable to provide legal advice, as the staff who are responsible for the administration of the courts must remain completely impartial in relation to the merits of each case before them.

Our website does signpost members of the public to organisations who can assist parties in a case, such as the Law Society of Scotland or Citizens Advice Scotland. Where a member of the public chooses to proceed in an action without legal representation, it is open to them to request the authority of the court to have a lay representative or lay supporter to assist them with an action¹. However where a person chooses, or does not have, legal representation they do have a responsibility to familiarise themselves with the rules and procedure of the court; As noted by the First Division of the Inner House of the Court of Session in [Khaliq v Gutowski \[2018\]](#):

“the court cannot take the role of adviser to a party... it should not become the party’s law agent, just because he appears unrepresented...” (para 41).

2. Steps that are taken to ensure that complaints procedures are transparent and accessible

The SCTS is committed to providing high-quality services and has adopted the [Scottish Public Services Ombudsman’s](#) (SPSO) Model Complaints Handling Procedure. This procedure aims to provide simple, streamlined complaints handling by local staff and seeks to resolve dissatisfaction as close as possible to the point of service delivery. In order to ensure that those using our services via electronic means (such as online fine payment) and those attending our buildings in person have information on how to complain if something goes wrong, awareness of how to complain and the procedure for doing so has been highlighted both online and at the local level.

¹ Eg Chapters 12a and 12b of the Court of Session Rules 1994

[Our website](#) provides general information and a link to the procedure – setting out what a complaint is, how to raise a complaint, how complaints will be handled and what complainants can expect from us. The various stages are explained, including signposting to the SPSO if they remain dissatisfied once the procedure is at an end. We have also published an [easy read version](#), along with [links](#) to information on judicial complaints and how to complain about other organisations our service users may come into contact with as part of the court process – such as the Crown Office and Procurator Fiscal Service, Scottish Prison Service, Police Scotland and Scottish Legal Aid Board.

As part of the steps taken to achieve [Customer Service Excellence](#) accreditation, our [Customer Service Charters](#) – which detail what services users should expect when accessing SCTS services – are displayed on our website, and SCTS locations display a complaints posters, the complaints notice/procedure and charter on their notice boards.

We hope this is of assistance to the Committee.