



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE COMMITTEE

AGENDA

1st Meeting, 2020 (Session 5)

Tuesday 7 January 2020

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Children (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

Chloe Riddell, Policy Manager, Children 1st;

Megan Farr, Policy Officer, Children and Young People's Commissioner Scotland;

Joanna Barrett, Policy and Public Affairs Manager, NSPCC Scotland;

and then from—

Fiona McMullen, Operations Manager, ASSIST;

Dr Marsha Scott, Chief Executive, Scottish Women's Aid.

2. **Subordinate legislation:** The Committee will consider the following negative instrument—

Firefighters' Pension and Compensation Schemes (Amendment)
(Scotland) Order 2019 (SSI 2019/382)

3. **Children (Scotland) Bill (in private):** The Committee will review the evidence heard earlier in the meeting.

J/S5/20/1/A

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The papers for this meeting are as follows—

Agenda item 1

Paper by the Clerk

J/S5/20/1/1

PRIVATE PAPER

J/S5/20/1/2 (P)

PRIVATE PAPER

J/S5/20/1/3 (P)

Agenda item 2

Paper by the Clerk

J/S5/20/1/4

Justice Committee

1st Meeting, 2020 (Session 5), Tuesday 7 January 2020

Children (Scotland) Bill

Note by the clerk

Introduction

1. The Children (Scotland) Bill was introduced in the Scottish Parliament on 2 September 2019. It is a Scottish Government Bill. The Bill mainly makes changes to how disputes in relation to children are settled when families break down.
2. According to the Scottish Government, the policy aims of the Bill are to:
 - ensure the views of the child are heard in contact and residence cases;
 - further protect victims of domestic abuse and their children;
 - ensure the best interests of the child are at the centre of contact and residence cases and Children’s Hearings; and
 - further compliance with the United Nations Convention on the Rights of the Child (UNCRC) in family court actions.
3. More information on the Bill can be found here:
<https://www.parliament.scot/parliamentarybusiness/Bills/112632.aspx>
4. A SPICe briefing on the Bill can be found here:
<https://digitalpublications.parliament.scot/ResearchBriefings/Report/2019/11/21/The-Children--Scotland--Bill-1>
5. SPICe have also prepared a briefing looking at how other legal systems deal with parenting disputes, which can be found here:
<https://digitalpublications.parliament.scot/ResearchBriefings/Report/2019/11/20/Resolving-parenting-disputes--Scotland-compared-to-other-countries-1>

Justice Committee scrutiny

6. The Bill was referred to the Justice Committee for Stage 1 scrutiny. The Committee launched a [call for evidence](#) on 20 September 2019, with a closing date of 15 November 2019. To date, 74 responses have been received and published here:
<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/113648.aspx>
7. Any further late responses will be published on that webpage in due course.
8. As part of its scrutiny of the Bill, the Committee commissioned an external academic, Dr Lesley-Anne Barnes Macfarlane of Edinburgh Napier University, to review both the current law and the proposed reforms in the Bill from a human

rights perspective. Her report can be found here:

https://www.parliament.scot/S5_JusticeCommittee/Inquiries/Balancing_the_Rights_of_Parents_and_Children_Reportv2.pdf

And a summary report here:

https://www.parliament.scot/S5_JusticeCommittee/Inquiries/Balancing_the_Rights_of_Parents_and_Children_Report_Summary.pdf

9. At its meeting on [26 November 2019](#), the Committee took evidence from Scottish Government officials assisting Ministers in taking the Bill through Parliament (“the Bill team”).
10. At its meeting on [17 December 2019](#), the Committee held a roundtable evidence session with Dr Fiona Morrison, University of Stirling, Professor Kay Tisdall, University of Edinburgh, and representatives from the Children and Young People’s Commissioner Scotland and Scottish Women’s Aid. These individuals and organisations have been involved in recent research projects which have included hearing directly from children and young people on issues relating to the Bill. The purpose of the roundtable session was to explore the findings from these projects on children and young people’s experiences of contact disputes, their views on how the current system could be improved, and whether other work needs to be done to hear children’s views on these issues.
11. The Committee then took evidence on the Bill from Professor Elaine Sutherland, University of Stirling, and Dr Richard Whitecross, Edinburgh Napier University.
12. At its meeting on 7 January 2020, the Committee will hear from two panels of witnesses. On the first panel will be: Megan Farr, Policy Officer, Children and Young People’s Commissioner Scotland; Chloe Riddell, Policy Manager, Children 1st; and Joanna Barrett, Policy and Public Affairs Manager, NSPCC Scotland. On the second panel will be: Fiona McMullen, Operations Manager, ASSIST; and Dr Marsha Scott, Chief Executive, Scottish Women’s Aid.
13. At future meetings in January, the Committee will hear from other witnesses with an interest in the Bill.

Justice Committee

1st Meeting, 2020 (Session 5), Tuesday 7 January 2020

**Firefighters' Pension and Compensation Schemes (Amendment) (Scotland)
Order 2019 (SSI 2019/382)**

Note by the clerk

Introduction

1. Members of the Committee discussed the Firefighters' Pension and Compensation Schemes (Amendment) (Scotland) Order 2019 (SSI 2019/382) at their meeting of 3 December. Members agreed to write to the Minister for Community Safety in relation this instrument and to revisit the instrument at a future meeting.
2. The Annex to this paper contains a response from the Scottish Ministers to the Committee's letter.

Action/recommendation

3. Members are invited to consider the response and agree whether to make no further recommendations in relation to this instrument.

ANNEX

LETTER FROM MINISTER FOR PUBLIC FINANCE AND DIGITAL ECONOMY

(18 December 2019)

Dear Ms Mitchell

SSI 2019/382 and pensions for firefighters

Thank you for your letter of 3 December 2019 to Ash Denham MSP Minister for Community Safety concerning a report from the Delegated Powers and Law Reform Committee on SSI 2019/382 and survivor benefits from the 1992 Firefighters Pension Scheme. I am replying as I have responsibility for the devolved public service pensions.

Firstly, please accept my apologies for the drafting inconsistency of this instrument. I would like to assure the Committee that although there are minor inconsistencies and errors in the drafting of articles 1(3) and 9, I am content that they still achieve the purpose intended, providing the necessary and correct retrospective effect to the articles concerned. The error in article 9 referring to “paragraphs” 10 to 12 rather than “articles” 10 to 12 should not cause any confusion to the reader, given that there are no other provisions in this instrument similarly numbered. On that basis I do not propose any corrective action is required but if the Committee feel that a correction should be made, this can be included with the next amendment to the scheme.

Turning to your second point, it may help if I explain that there is a longstanding policy that general improvements to a scheme should not have retrospective effect, as the costs arising from improved terms must be met by scheme members rather than by taxpayers. When the New Firefighters’ Pension Scheme was introduced from 6 April 2006, it included provision for survivor pensions for unmarried partners where the scheme member and partner were in a long-term relationship and either financially dependent or in a state of mutual financial dependency. The costs to the scheme and therefore the scheme contributions reflect that provision. Given the no retrospection policy, extending this provision to the closed 1992 scheme was not considered, however members of the 1992 scheme were offered the opportunity to transfer to the 2006 scheme at the time of its introduction. A similar approach was taken with the Police Pension Scheme where the 1987 scheme does not provide unmarried partner benefits whereas they are provided in the New Police Pension scheme introduced from 2006.

I can confirm there are no plans to extend unmarried partner benefits to the 1992 scheme.

I hope this is helpful.

Regards

Kate Forbes MSP