



The Scottish Parliament  
Pàrlamaid na h-Alba

PUBLIC PETITION NO.

PE01835

### Name of petitioner

James A Mackie

### Petition title

Criminalise the submission of misleading or false information in child protection cases

### Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to make it a criminal offence for any person to knowingly submit misleading and false information to a sheriff or Children's Hearing in child protection cases.

### Action taken to resolve issues of concern before submitting the petition

Discussions with MSPs, MP, Lord Advocate, Police Scotland, a Sheriff, professionals involved in child protection, charity workers and members of the legal profession.

### Petition background information

The [Children's Social Work Statistics for Scotland for 2016 - 2017](#) show that 2,631 children were on the child protection register and 14,897 looked after under child protection legislation. This is a total of 16,870 or 2% of all children in Scotland. Of these children, 11,131 (75%) were in care not at home, and the rest were under Compulsory Supervision Orders at home.

Scottish Children's Reporter Administration (SCRA) [statistics](#) show that, between 1 April 2019 and 31 March 2020, 12,849 Children and young people were referred to the Children's Reporter, and 30,363 Children hearings were held. Of that total, 10,823 children and young people (1.2% of all children and young people in Scotland) were referred on care and protection grounds.

During that year, 547 children were subject to Child Protection Orders. 21% of these children were under the age of 20 days. Although no figures are available for the number of Child Protection Orders issued through a Sheriff Court, 2,763 applications were made to the Sheriff Courts for proof, where either the young people and/or their relevant persons did not accept some, or all, of the grounds for referral. Over the past 10 years, an average of 480 children a year have been adopted.

None of the evidence/information provided in these proceedings/hearings was given under oath. No reports submitted had the threat of legal action should they later be proved to deliberately contain misleading information or false information. It is my belief

proved to deliberately contain misleading information or false information. It is my belief that little actual evidence was heard in the proceedings, rather the information given against the families/mothers was based on opinion, presumption, and supposition. However, those compiling reports can give deliberately misleading information, or downright lies, without committing a crime. There are no sanctions in any legislation for those who do submit misleading or false information. In an application to a Sheriff for a Child Protection Order the applicant social worker does not even need to appear.

In his report into the [Orkney Children case](#) Lord Clyde states that a Sheriff or Hearing basically has to accept the information put in front of them. That has not changed.

In focusing on the numbers of children, the system ignores the wider impact on parents and families. Including the wider family, 90,000 people are directly affected by child protection procedures. The impact on family members, especially siblings is significant, but ignored, as are the bad outcomes for many children who have been in care which have been demonstrated by official figures in the public domain.

I believe that this is all because "decisions" are made based on opinions, presumptions and supposition given by individuals with no legal accountability. Child protection procedures in Scotland are carried out under civil law, thus information/evidence led is of a lower threshold than in a criminal court with decisions made on probabilities and/or possibilities.

If a child is referred for offending, they have the right to deny the allegations and have their case determined under Criminal law procedures. Evidence is given under oath and must prove the case. Anybody who deliberately gives misinformation or false evidence/information is liable to be convicted of perjury.

In cases based on child protection ground, where there is proof that deliberately misleading or false information was given to a Sheriff, Justice of the Peace or a Children's Panel, redress can only be sought through civil courts. That action can take years to progress, while the children remain in care. Parents, families, and children can be so traumatised by the Children's Hearing system, they don't even have the strength to consider any actions. Civil procedures are financially beyond the means of most families with parents being quoted £40,000.00 to £80,000.00 as a down payment first.

Families have been unsuccessful when complaining to the Scottish Social Services Council. A FOI response demonstrated that it took no action in 99.7% of complaints lodged by members of the public

I therefore believe that there currently is not an effective mechanism to ensure that professionals working within child protection can be held accountable, should they provide false testimony, and prevent the potential destruction of lives that could then stem from that. Many statutes make it an offence to deliberately provide false information. Why not in child protection?

#### Unique web address

<https://www.parliament.scot/GettingInvolved/Petitions/PE01835>

#### Related information for petition

**Do you wish your petition to be hosted on the Parliament's website to collect signatures online?**

**YES**

**How many signatures have you collected so far?**

0

**Closing date for collecting signatures online**

09 / 12 / 2020

**Comments to stimulate online discussion**

Do you believe professionals, working in the field of child protection, should be accountable for their actions?

Do you agree that if someone misrepresents a child protection case deliberately, they should be accountable in the criminal system?