

Briefing for the Public Petitions Committee

Petition Number: [PE1785](#)

Main Petitioner: Shane Hepburn

Subject: Review and reduce social work powers

Calls on the Parliament to urge the Scottish Government to review and reduce the powers of social work departments.

Background

The petitioner's concerns appear to centre around children's social work and the operation of the care system, rather than adult social work. Particularly, the petitioner appears to be concerned about how families and care-experienced children and young people are supported.

The [Independent Care Review](#) was intended to be a "root-and-branch" review of the care system. It was established in 2017 and reported on 5 February 2020.

Legislative framework

Much of the broad legislative framework for adult social work is underpinned by the [Social Work \(Scotland\) Act 1968](#).

The [Children \(Scotland\) Act 1995](#) is the main piece of legislation governing interventions in relation to children and child protection. The [Adoption and Children \(Scotland\) Act 2007](#), [Children's Hearings \(Scotland\) Act 2011](#), and [Children and Young People \(Scotland\) Act 2014](#) all in different ways affect children's social work.

The Scottish Government [published guidance on child protection in 2014](#).

Petition background

In the background to the petition, the petitioner states that the powers social workers have are being abused. The petitioner lists a number of areas that he would like to be reviewed. These include:

- Inappropriate sharing of personal information.
- The removal of children from families without a legal process.

- Permanence Orders.¹
- Oversight of the social work profession.
- Contact arrangements.

Social workers must adhere to data protection legislation. They cannot remove a child from a family, if parents/carers object, without a legal order. Any individual with Parental Rights and Responsibilities (“PRRs”) can attend such hearings which have longer term consequences as to where the child would reside or if those PRRs could be extinguished.

When considering a Compulsory Supervision Order (“CSO”), a Children’s Hearing (or sheriff) must consider whether to make “a direction regulating contact between the child and a specified person or class of person”. A CSO can last up to the child or young person reaching the age of 18.

When any order is made, by a court or a Children’s Hearing, the welfare of the child throughout his or her childhood shall be its paramount consideration. The 1995 Act provides that, insofar as is consistent with the duty to promote the welfare of children in their area who are in need, local authorities shall “promote the upbringing of such children by their families”. Should a local authority apply for a permanence order, representations may be made to the court by the child (or representative), any individual with PRRs, or “any other person who claims an interest”.

Social work as a profession is regulated by the Scottish Social Services Council, which is a statutory body. The SSSC can consider and investigate concerns about a worker’s conduct, professional practice, or health.

Review

It is arguable that many of the concerns expressed by the petitioner in the petition background material are met by current legislation and policy. However, the Care Review has called for a “radical overhaul of Scotland’s ‘care system’” which, it stated, was “fractured, bureaucratic and unfeeling for far too many children and families”. The Care Review highlighted the following demands:

- The balance of power must be upended so that listening to children and young people is always the basis of all decisions made about their lives.

¹ This is a little unclear. The petitioner uses the term “Guardianship Orders” which would allow someone to make ongoing decisions on behalf of an adult with incapacity (e.g. paying bills). However, the petitioner is referring to “guardianship [of] the child”, which is likely to be in relation to a Permanence Order.

- There must be a focus on building and maintaining life-long relationships – that includes a broader understanding of the risk of not having long term, loving relationships.
- Scotland must parent, not process, children so there is no difference between the lives of children in care and their peers. Care experienced children must not miss out on the kind of childhood that many take for granted and the future that all our young people deserve.
- Families must be kept together wherever it is safe to do so. Families must get the support that is right for them at the earliest opportunity and it must be flexible, consistent, patient and free from stigma. This will mean that more children can live a safe, happy life at home with their families.

The care review identified five foundations to its suggested new approach. These were:

- **Voice:** Children must be listened to and meaningfully and appropriately involved in decision-making about their care, with all those involved properly listening and responding to what children want and need. There must be a compassionate, caring, decision-making culture focussed on children and those they trust.
- **Family:** Where children are safe in their families and feel loved they must stay – and families must be given support together to nurture that love and overcome the difficulties which get in the way.
- **Care:** Where living with their family is not possible, children must stay with their brothers and sisters where safe to do so and belong to a loving home, staying there for as long as needed.
- **People:** The children that Scotland cares for must be actively supported to develop relationships with people in the workforce and wider community, who in turn must be supported to listen and be compassionate in their decision-making and care.
- **Scaffolding:** Children, families and the workforce must be supported by a system that is there when it is needed. The scaffolding of help, support and accountability must be ready and responsive when it is required.

When the Care Review reported, the First Minister said,

“It is clear that despite the efforts of those within the system, the actual experience of too many people in care is not what we want it to be.

“We will keep listening to and working with care experienced people because the case for transformational change is now unarguable and their voice must shape that change. We will work with them and with local authorities, care providers and others to deliver that change as quickly and as safely as possible.”

Key Organisations

Scottish Government

Social Work Scotland

Scottish Social Services Council

Centre for Excellence for Children's Care and Protection

Who Cares? Scotland

Children's charities.

Ned Sharratt
Senior Researcher
14 February 2020

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