**Name of petitioner**

James Mackie

**Petition title**

Operation and running of child protection services in Scotland

**Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to create an independent, QC-led inquiry into the operation and running of child protection services in Scotland.

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

I have discussed and corresponded with MSPs. On the various elements of child protection services, I have also discussed and corresponded with affected families, social workers, third sector organisations, Police Scotland, the Scottish Social Services Council, the Scottish Public Services Ombudsman, the Care Inspectorate, lawyers and local authorities.

**Petition background information**

The system which governs the operation of child protection services in Scotland does not work. Procedures, protocols and enforcing agencies are outdated, out of control, unmanaged and operate in a manner that is contrary to natural justice and human rights legislation. A judgement in the Supreme Court on 1 March 2017 (in the matter of EV (A Child) (Scotland) [2017] UKSC 15), the Appeal Judges held that Sheriffs and the Court system in Scotland should only make judgements on pure evidence and facts, not the opinion of social workers. In light of this judgment, the current system fails to work on evidence but acts purely on opinions from inexperienced, under-trained ‘professionals’. All systems are geared and focused on proving parents and families abuse and neglect children. There is no support to help families who may be going through short-term difficulties. The end result of the current system is that Scotland now has the highest ratio of children in care compared to other countries. Families are broken up and traumatised for life. Statistics show that children separated from their parents and family have a higher percentage of teenage mothers, homelessness, unemployment and criminal convictions.

Physical assaults, malnutrition, sexual harm, exploitation, exposure to substance abuse, domestic violence and verbal abuse to or in the presence of babies and children are rightly not tolerated by society. There are procedures and legislation in place to protect the most vulnerable babies and children in society. Persons accused of abuse and neglect of children and babies can and are rightly charged with criminal offences in
a Court of Law. Within that legal system the full details of the allegations are investigated, the accused interviewed at the time of the allegation and real evidence heard by a Sheriff or other Court. Through that system all the evidence is heard and the accused has the legal right to challenge it.

However, in current cases of alleged child abuse and neglect the normal rules of law do not seem to apply. All legislation about “Child Protection” assumes the parents and families are guilty as charged and it is up to them to prove their innocence of perceived and/or opined possible harm and/or abuse and/or negligence current or in the future. The line between actual abuse and neglect and personal opinions and speculation as to what is and maybe abuse and neglect has been completely redrawn by the “child protection” system in Scotland and has meant that every family in Scotland risks being accused of child abuse or neglect.

Children’s Hearing/Panel system
The Children’s Hearing/Panel system was introduced in the 1970s following the Kilbrandon Enquiry when the main focus was on taking children out of the criminal courts, and bringing together welfare and justice. In the early years of the Scottish Parliament it was suggested that the system needed to be reviewed. There is currently an enquiry into the “criminal offending” aspect of the Children’s Hearing System but not the whole system, especially that part that deals with ‘purely child welfare matters’.

The Children’s Hearing system has moved away from children referred on offence grounds to children referred on purely welfare grounds. The ratio is approximately 3.5 non offending to 1 offending child. The majority of these children are under 11 and the majority of those are under 4 years of age. Statistics show that in 2014, over 12000 children were in care outside the home in Scotland with a further 3700 “in care within the home” (this at an estimated cost of £150.00 per child per day = £657,000,000.00 per year). The number in care at home has gone down considerably while the number removed from home has gone up. Scotland now has the highest rate of children being removed from home in the UK.

There always has been and there will continue to be a need for some children to be in care outside the home. However, there are serious concerns over the number of children referred to these hearings on the grounds of “abuse and neglect” with removal being based on the apprehension of probable future harm rather than on evidence of actual harm.

Lay people who volunteer to be members of Children’s Hearings/Panel have to be applauded, however the training system and operation drives them towards always considering the “risk to children” as presented by the “professionals”. The current situation is best described by Maggie Mellon, former Vice Chair of the British Association of Social Workers in her open letter to the Scottish Parliament and published in the public domain in the online journal Common Space and on her website:

“Sentence first, trial later for many parents and children who are separated by decisions of the hearings, and don’t get to have the case heard until the child has been hurt and the family broken.”

Papers provided for hearings are a chronological account of dates and events that they, the social workers, in their opinion show that the children are at risk of “abuse and neglect”. The Panel members have access to these papers 8 days before a Hearing but the family, by law, only receive them three days before a Hearing. Within those three days are weekends and public holidays. Depending on the number of children involved, there will be between 40 and 100 pages of documentation.

In setting the three-day notice period, absolutely no consideration is given to the vulnerable state of the parents and families nor any learning disability/difficulty they may have. Three days’ notification, especially over a weekend or a public holiday rarely gives the parents/family time to seek and get legal advice. Parents and families in the majority of cases end up in a Hearing on their own, highly stressed and unable to comprehend what is going on. Families are expected to lodge papers for the Hearings four days in advance. How can they do that if they are not in receipt of the papers
submitted by social workers? The panel do not receive any background information on the parents or family or even the children. No information is given on any possible learning disability/difficulty/mental illness of the parents or the child.

No information is given where domestic violence is a problem within the family, in many cases where children are subject to Children’s Hearing controls, other family members, especially grandparents, support and have much input to the family in crises. They have the right to be classed as “relevant persons” in relation to the children and are given limited powers under the legislation. Under the current system, they have to apply to the Children’s Hearing to be so classed. Those designated “relevant persons” can have their status challenged at any time by social workers. One questions if the “relevant person” is playing a serious role in helping the family, whether they are resident with the family or not, why social workers should challenge the position. The current definition of what constitutes a “relevant person” should be widened in order that children and parents under the supervision of Children’s Hearings should be better supported. If the Children’s Hearing members decide that the person is not a “relevant person”, they have seven days to appeal to a Sheriff.

The only remedy for parents and “relevant persons” to challenge the system is to appeal to the Sheriff Court, an option that is extremely limited to parents and “relevant persons” purely on the grounds of cost and availability of legal representations.

The current practices of Children’s Hearings in Scotland are seriously flawed and appear to breach various pieces of legislation in relation to Human Rights. The current system demonises families, separates children and families, often for decades. The current system places babies, children and families under severe emotional and psychological pressures leading to family break down and major health issues for some.

**Child Protection Orders**

The system for applying for Court Protection Orders does not require families to be advised and can prevent them having the opportunity to address a sheriff at the time an application is being considered. A sheriff can only take at face value what is written in the application documents and other than speak to the person who submitted the application, no other evidence or information is sought at the time. The person drawing up the documents does not require to be in front of the Sheriff at the time of the discussion but can be spoken to by the Sheriff by electronic/telephone. Often applications for CPO’s are done outside normal Court hours, are not necessarily held within the Sheriff Court and the “informants” can be several hundred miles from the Sheriff asked to do the review and approve the application.

I have discussed experience of CPOs with families and lawyers. It was confirmed in those discussions that most applications for CPO’s contain the author’s opinion and suppositions as to what may happen, not what has happened to create concern over the wellbeing of babies and children. The Sheriff dealing with the application for a CPO does not have the benefit of input from the family/parents and/or their legal representatives to enable them to make a balanced judgement. Personal experience of the Petitioner and others is that the documentation placed in front of a Sheriff is not done under oath. Therefore no crime of Perjury can be made against applicants who have deliberately placed lies, disinformation and mis information within the documentation. Police Scotland do not seem to be prepared to investigate such complaints and unwilling to consider any other criminal offence committed by the person(s) who submitted the untruthful documents.

When a CPO is granted a meeting of the Children’s Panel/Hearing must take place within 48 hours. However, that 48-hour period is extended if the CPO is issued prior to a weekend or public holiday. In any case, families and their legal representatives get little time to read and understand the allegations made against them. In many cases, the CPO is not overturned at the 48-hour meeting but comes back to the panel 8 days later. At that stage most families and their legal representative have had the opportunity to further study and understand the claims and suppositions made in the original application for the CPO. In the meantime, the babies and/or children have been in care with complete strangers, deprived of the company and comfort of their families.
Even if the CPO is overturned at the 48 hour meeting the babies, children and families are seriously emotionally and psychologically traumatised, a state that may remain with them for life.

Where an application is submitted to a Sheriff based on lies, misinformation and supposition and a CPO issued, it would appear that the parents and families have no come back in law. The authors of applications for a Child Protection Order appear to be protected by the "system", cannot be held to account for the lies and misinformation that they may put in such an application therefore operate with impunity. All such information is held on the family's files with social works and other agencies for life and can be used time and time again to control the rights of parents and families. The babies, children and families have no legal redress against these falsehoods and have to suffer emotionally and psychologically as a result, often for life.

At Risk Register and Core Group meetings

Procedures and protocols for placing a child on the "At Risk Register" and for the running of "Core Group meetings" where a child is on a Compulsory Supervision Order are the same. Parents and families are not advised that they are entitled to legal representation at these meetings. Even if they were aware of being able to have legal representation, Legal Aid does not appear to cover such meetings and the cost of legal advice privately is prohibitive for the vast majority of families, especially those from a poverty situation. Very rarely are parents and families advised that they can have the services of an independent advocate to speak on their behalf. Therefore, very vulnerable people are forced to face the system on their own without support or legal representation.

The only Government Guidelines adhered to/ used by social workers and others involved in "child protection" is the National Risk Framework to Support the Assessment of Children and Young People (http://www.gov.scot/Publications/2012/11/7143/downloads#res409310) - a set of templates to be completed when gathering information re a child.

It is designed purely to record what the writer believes to be negativities within the family/child(ren)s situation. There is no scope for balanced reporting. The templates are designed specifically to record inaccurate and negative reports against a family with the sole intention of creating a (false) paper trail to control the family or to apply to the courts for Child Protection Orders/Compulsory Supervision Orders. Following those guidelines and templates, absolutely no baby, child or family in Scotland (irrespective of creed, religion or social status or class) would escape an accusation of "child abuse and neglect."

The normal composition of a "core Group Meeting" is a minimum of five from social works, a police officer, the health visitor supplemented by a school nurse and/or head teacher, manager of a Pre School Nursery, charity/third sector workers, medical staff and any other "professional" deemed relevant by the lead worker.

Questions need to be asked as to why it requires 5 members of social works departments to attend such meetings. Other than gathering more negative information against the mother, the benefit to the parents of such meetings is questionable. At a time of austerity, questions must be asked as to the cost of running such meetings and if the money for these meetings would be better spent on providing better support and help for the family. Including salaries, management and preparation time each meeting costs the public purse approximately £1200.00 or more once a month per family. Would the time of those attending such meetings not be better spent in the community giving real support to the families?

During the proceedings (but normally at the start) any member of the "Core Group" can state that they have "privileged information" to disclose, therefore the parent(s) and family have to leave the discussion room. The parent(s) and family are never privy to what is discussed during each closed period even although it has a major impact on further proceedings. Natural justice and Human Rights legislation is surely broken by such procedures. No other Court in the land would force an accused person to leave a Court Room even when very secret evidence was being led or discussed. Parents, families and lawyers cannot understand why such procedures should be allowed when
a baby, child and families future is involved.

Parents and their representatives are never given copies of agendas for “Core Group” meetings even although all the “professionals” in attendance do. It is common practice that parents and their representatives do not receive Minutes of one meeting until after the following meeting that approves them. The net result is that the family have no chance to question any adverse and/or incorrect detail against them in the Minutes. These Minutes then form part of the family file and move forward with incorrect information which can and often is used against the mother in Child Protection Orders or at Children’s Hearings.

Conclusion
The current system of “child protection” as practised in Scotland is based purely on political and personal ideology backed by personal opinion which ignores Government guidelines on working with families, (especially those with learning disabilities/difficulties), legal procedures and in doing so breach Human Rights legislation and the United Nations Convention on Children’s Rights. The rights of parents and families to take legal action against such failings are very restricted because the cost is so high and Legal Aid severely restricted.

Many families have looked for Government agencies or independent organisations to investigate current Child Protection methods and procedures in Scotland. Those contacted do not have the powers or resources or even the will power to investigate individual cases or the overall situation. In any investigation of “child protection” services and social workers, the role and capacity of the Scottish Social Services Council and the Care Inspectorate must be investigated. Like other authorities involved in “child protection” they seem to ignore complaints.

Few law practices in Scotland that are prepared to represent families in such cases and they are based in the Central Belt of Scotland which leaves families and parents in large areas of Scotland without access to basic legal advice. Legal Aid is extremely restricted in Child Protection cases meaning that only very wealthy families have the necessary and available resources to challenge any decision/action made against them in relation to their children and families. Even when legal support is available, the time allowed for parents and families to read the papers is so short, there is no time for either them or their legal advisor to have time to read and understand them, never mind write up a response.

It is a belief of all parents and families dragged into child protection matters that there is a culture within social works and associated NGO’s and other agencies that pre dates the 1960s. That culture appears to be above reproach and investigation. Such a culture is endemic across Scotland and can only have been started within the universities/education establishments that train/educate social workers. The training system needs to be investigated and completely overhauled.

The Petitioner asks that the current situation involving social workers, other agencies and NGO’s in “child protection” be examined independently by a QC in order that the matter is properly investigated. The role of Government Agencies, third sector and private organisations and educational establishments in the current child protection scenario must be included in the enquiry. Many who have suffered the trauma of the current “child protection” system see it as being a cash cow for many third sector and private bodies.

In the independent enquiry, it is requested that families who have experienced “child protection” be interviewed by the lead investigator. It is requested that family members and the children be psychologically examined to fully understand the short and long term emotional and psychological trauma they have endured. The enquiry should examine what impact the Supreme Court judgement of 1st March, 2017, has on the legality of the National Guidelines for Child Protection In Scotland, 2014 and the Named Person Legislation. To date, all enquiries into Child Protection have been carried out by, and contributed to, by professionals practicing “Child Protection”. The voices of the “victims”, namely the children and their families have never been heard. Part of the enquiry should look at the role of third sector organisations.
Unique web address
http://www.parliament.scot/GettingInvolved/Petitions/PE01673

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
18/09/2017

Comments to stimulate online discussion

Do you agree that child protection procedures currently operated in Scotland are out dated, out of control, unmanaged and beyond reproach in their current practices and place children unnecessarily at high risk of being taken into care, emotionally and psychologically traumatised for life along with their parents and families?

Should an inquiry be started to ensure families are able to have proper time and support in child protection procedures as in the current system they get little or no time to defend themselves and their children, there are very few legal companies experienced in such matters and most of them are so expensive to use that families are excluded from due legal process and representation?

Do you agree that the whole system of child protection needs a complete review and overhaul by way of an independent QC-led inquiry into current practices which would enable parents and families subjected to the extreme and excessive procedures to be heard?