

JUSTICE COMMITTEE

CHILDREN (SCOTLAND) BILL

SUBMISSION FROM CITY OF EDINBURGH COUNCIL

- 1. Voice of the child: Do you agree with the approach taken in the Bill to remove the presumption that a child aged 12 or over is of sufficient age and maturity to form a view? Do you agree that it should be left to the court to decide the most suitable way of obtaining a child's views? How do you think children should be given the opportunity to express their views? Are there other measures that you think should be in the Bill to ensure that the voice of the child is heard?**

We would argue that a child over the age of 12 is of a sufficient age and maturity to form their own views. We would extend this all children, wherever possible. For younger children or children with disabilities there are a number of resources that can support them to be heard; Talking Mats, Emotion Talk etc. We do not think it should be left to the court to decide how a child's views can be obtained. This would be much better undertaken by someone within the Team Around the Child (Girfec) There should be a duty placed that ensures that children's views are sought and recorded and retained and revisited as the child's grows up.

- 2. Child's best interests: To what extent does the Bill meet one of its key policy aims of ensuring that the best interests of the child are at the centre of contact and residence cases and Children's Hearings?**

As practitioners we think this Bill is a positive shift to keeping children's best interests at the heart of decisions.

- 3. Child welfare reporters and curators ad litem: Do you agree that child welfare reporters and curators ad litem should be regulated? Do you have any views on how this should work in practice?**

Yes, we think they should be regulated. We also feel there should be clear time limits and holistic assessments. Reporters and Curators need to be accountable to the court process procedures and keep an informed and objective opinion.

- 4. Factors to be considered by the court when making contact and residence orders: The Bill would require the court to consider the effect of an order on the involvement of the child's parents in bringing up the child and the effect on the child's important relationships with other people. This is in addition to statutory factors relating to protecting the child from abuse and other factors appearing in case law. Do you agree with this approach? Should any other factors be listed in the Bill?**

Yes, we agree with this approach, but cases need to be considered on an individual basis. In particular, direct contact with birth parents can be destabilising to permanent placements. However where birth family members are supportive of a permanent placement it can be a positive experience for a child as they grow up.

- 5. Other requirements on the court: Do you agree that the court should ensure that certain decisions are explained to the child? Do you have any views on the provision in the Bill which would require the court to consider the risk to the child's welfare of any delay in the proceedings?**

Yes, absolutely the court should ensure that children have a clear explanation (age appropriate) of decisions being made. Also, there should be an expectation placed on the Team around the Child to evidence the child's understanding. Any delay is harmful, decisions should be made in a timely manner, within the child's timescales not those of court processes and proceedings.

- 6. Vulnerable witnesses: The Bill would prevent a party from personally conducting their case in contact and residence cases and Children's Hearings in certain circumstances, for example, where the witness is a victim or complainer of domestic abuse. A solicitor could be appointed by the court to represent the party who is prevented from conducting their own case. Do you agree with this approach? The Bill would also allow the court to order the use of other special measures, such as the use of a live TV link or screen, in contact and residence cases. Do you have any views on this provision?**
- 7. Contact centres: What role should child contact centres play in maintaining contact between children and family members they do not live with? Do you agree with the proposal in the Bill to regulate child contact centres and for there to be a system of independent inspections? The Bill would only require the use of regulated contact centres where referral is made by the court, although the Family Justice Modernisation Strategy suggests solicitors could also be encouraged to refer to regulated centres. Do you agree with this approach? Do you have any views on the practical or resource implications of the regulation of contact centres?**

We have no experience of contact centres managed and run by our Local Authority. We have one private provider within Edinburgh, but it is not designed to support children on statutory orders.

- 8. Enforcement of orders: The Bill would require the court to investigate the reasons for a person's failure to comply with a court's order relating to, for example, contact. Do you have any views on this approach? Are there any other options which should be included in the Bill to ensure orders are enforced?**
- 9. Contact with siblings: Do you agree that local authorities should be required to promote contact between a child and any siblings or other people with whom the child has a sibling-like relationship?**

Absolutely, as members of Stand Up for Siblings CEC fully support the amendment to the Bill to place a duty on Local Authorities. However, we would advise that the wording should be changed to; "promoted and maintained" and the "views of children and their siblings should be sought and recorded". We would also respectively suggest that removal of the word "practicable". There should be no barriers to maintaining sibling relationships through a variety of means; direct contact, digital media, written communication.

Please revisit the use of language, in particular “half blood and whole blood” this is inappropriate vocabulary for the 21st Century.

10. Births registered outwith the UK: Do you have any views on the provisions in the Bill that would allow parental rights and responsibilities obtained outwith the UK to be recognised?

The onus should be on parents to prove/evidence their PRR. It should then be acknowledged in Scotland as being legally sound.

11. Children’s Hearings: Some of the Bill’s provisions, for example, in relation to ensuring that the voice of the child is heard and protecting vulnerable witnesses would apply to Children’s Hearings. The Bill would also make other changes relating to Children’s Hearings, for example, giving the Principal Reporter the right to appeal against a sheriff’s decision in relation to deemed relevant person status. Do you have any views on these changes?

12. Practical, financial or other impacts of the Bill: Do you have any views on the practical, financial or other impacts, such as the equality impacts, of the Bill?

We do anticipate cost implications for Local Authorities; where children are in separate placements and/or in different parts of the country. There will also be cost implications for “Awareness training” across Scotland. Stand up for Siblings is a network organisation with no recourse to public funds to develop any training/rollout.

Also, on a practicable level, resource provision of specialist foster carers (who can meet the needs of sibling groups) is scarce across Scotland and requires protected and blocked placements which incur a cost to Local Authorities.

13. Family Justice Modernisation Strategy / issues not covered by the Bill: The Family Justice Modernisation Strategy, published alongside the Bill, sets out other actions the Scottish Government intends to take to improve the operation of family justice. It also sets out the reasons why certain areas that were previously consulted on by the Government are not being taken forward. Do you have any views on the actions set out in the Family Justice Modernisation Strategy? Are there issues which are currently not covered by the Bill which you think should be?

City of Edinburgh Council
31 October 2019