

JUSTICE COMMITTEE**CHILDREN (SCOTLAND) BILL****SUBMISSION FROM DR KATHERINE E. EDWARD**

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?

It would be my view, based on clinical knowledge and expert witness experience within the family courts that there are many idiosyncratic factor relating to individual children that can impact on their maturity and ability to form their own views, that an specific presumption based on age may preclude some younger children who are very able to form their own views, and prevent identification of some older children who for reasons of individual ability or circumstantial factors might struggle notable to form a view. This is particularly of concern with regard to manipulation or pressure exerted by parents. I would imagine the Court would be well placed to decide how views could be taken and would expect psychologists would be happy to offer advice in individual cases where required. The mode of expressing views should be tailored to the child where possible, although I would expect that most children would manage better with one-to-one verbal information or video, as requests to write views can intimidate some children and lead to curtailed responses from them that lack content and context.

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?

Having had access to a large number of reporter and curator reports I would suggest that the quality of the process is notably variable and clearly relates to the experience and training of the individual solicitor. I have had concern in the past when speaking to children who have had notably negative experiences of speaking to a curator and Safeguarder. I would suggest that to take a child's views and understand their circumstance requires specific training and should be regulated.

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?

I would suggest that it would be exceptionally helpful for children to have an understanding of why certain decisions are made. This can aid their psychological health and adjustment to changing circumstances, even when decisions are not those they would have wished. Children often feel out of control and unheard in the process and being informed about the thinking that has led to decisions that effect them would have a greatly beneficial impact.

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?

This approach would further ensure the protection of vulnerable witnesses in complex situations whilst improving their experience of the Court process and the outcomes. I would expect that the use of special measures would be subject to assessment of what is appropriate and helpful for each individual witness.

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?

Contact centres can play an important role in facilitating reunification and introduction of alienated parents and allow contact to be safe and contained. However their approach and quality varies greatly and I would expect regulation and inspections would assist over coming this.

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?

I would expect it would be helpful for local authorities to be required to promote contact, with siblings and others, where that contact can be safe and beneficial. When children are looked after they can easily lose some or all the social and family links that underpin their identity and the importance of others in their life can be greatly overlooked within assessments, and this requirement would overcome that. Contact, however, should not be enforced where it would not be safe or would entrench complex and potentially abusive dynamics.

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