

JUSTICE COMMITTEE

CHILDREN (SCOTLAND) BILL

SUBMISSION FROM SHARED PARENTING SCOTLAND

Follow up information from the Children (Scotland) Bill Justice Committee hearing on 14/1/20

1. ICD 11 and Parental Alienation

The International Classification of Diseases (ICD) ICD is the foundation for the identification of health trends and statistics globally, and the international standard for reporting diseases and health conditions. It is the diagnostic classification standard for all clinical and research purposes, administered by the World Health Organisation.

In August 2016, proposals were submitted on the ICD-11 beta draft that “parental alienation” and “parental estrangement” should be considered “narrower terms” of an established ICD-11 diagnosis, caregiver–child relationship disorder. ICD-11 staff included parental alienation and parental estrangement as “index terms” of caregiver–child relationship problem. That meant that when a person searched the index of ICD-11 for alienation or estrangement, those terms would be recognized and the person would be transferred automatically to the page for caregiver–child relationship problem.

On June 18, 2018, the final version of ICD-11 was adopted and posted on the ICD-11 website. Over the next few months, the ICD-11 website was flooded with comments for and against the inclusion of parental alienation in the Index of ICD-11. There was also a way for readers to “vote” for or against comments that had been posted.

The “Collective Memo of Concern to: World Health Organization.” was submitted as part of this discussion. The WHO staff cautioned: *“Index entries serve to be able to code, in case such term is reported. Index entries can in no way be interpreted and must not interpreted as an endorsement or consideration of endorsement of the underlying concepts”* (Team WHO, April 16, 2019).

On September 4, 2019, ICD-11 personnel posted the following statement on the pages pertaining to caregiver–child relationship problem and parental alienation:

The Medical and Scientific Advisory Committee (MSAC) has discussed this proposal. There was agreement that:

- ***Parental alienation is a type of caregiver/parent–child relationship problem and is primarily relevant in forensic settings. It is not a disease or disorder and is therefore located in Chapter 24 Factors influencing health status or contact with health services.***
- ***An index term (and therefore a foundation entity), was added for parental alienation so that it could appropriately be classified in case it is reported.***

- *As an index term, parental alienation does not have a code in the ICD so is not uniquely identified in statistics.*
- *Some discussants refer to a parental alienation “syndrome,” which is not included in the ICD-11.*
- *Incorporation of a term for classification purposes does not indicate WHO endorsement or any sort of formal recognition. It is only an acknowledgement that it is a term that may be used in health care settings and therefore may need to be classified.*

MSAC Recommendation: Retain the index term (and therefore foundation entity) “parental alienation,” as it is an issue that may be recorded in a clinical context.

The index entry that has been accepted links to the following entry:

- [QE52.0 Caregiver-child relationship problem](#)

Substantial and sustained dissatisfaction within a caregiver-child relationship associated with significant disturbance in functioning.

BACKGROUND FROM CANADA

The Canadian Children's Rights Council describes “parental alienation” as follows¹:

“Parental alienation is a disorder that arises primarily in the context of child-custody disputes. Its primary manifestation is the child’s campaign of denigration against a parent, a campaign that has no justification. It results from the combination of a programming (brainwashing) parents indoctrinations and the child’s own contributions to the vilification of the target parent. The alienation usually extends to the non-custodial parent’s family and friends as well.

Many children involved in divorce and custody litigation undergo thought reform or mild brainwashing by their parents. This disturbing fact is a product of the nature of divorce and the disintegration of the spousal relationship in our culture. Inevitably, children receive subtly transmitted messages that both parents have serious criticisms of each other.

Parental alienation, however, is much more serious. It involves the systematic vilification by one parent of the other parent and brainwashing of the child, with the intent of alienating the child from the other parent.”

2. Parental Rights and Responsibilities (PRRs) for unmarried fathers whose name is not on the birth certificate.

John Finnie asked about our response to question 10 in the committee's call for views, regarding who should be awarded parental rights. In my response I mentioned that other countries give parental rights and responsibilities automatically to both genetic parents. These include Australia² which also makes joint birth registration compulsory with some exceptions. The level of sole birth registrations in Australia reduced by approximately 20% in the ten years after that law was passed.

1 https://canadiancrc.com/Parental_Alienation_Syndrome_Canada/Parental_Alienation.aspx

2 Australian Family Law Act 1975 Section 61C (1)

At present all Scottish fathers of children born after May 2016 whose names are on the child's birth certificate have PRRS.

Compulsory Joint Birth Registration in England and Wales was included in the Welfare Reform Act 2009, with an exemption if an unmarried mother has reason to fear for her safety or that of the child if the father is contacted in relation to the registration of the birth. This provision has not been put into force.

As stated at the hearing, we are not seeking to grant parental rights to rapists or other totally unfit parents. If the committee is not willing to extend PRR eligibility to all fathers or seek changes in birth registration procedures, we suggest it would be of significant benefit to children if a simpler and quicker process to assess worthiness and add the father's name to the birth certificate is developed. This would also move one step towards full compliance with ECHR and UNCRC on this point.

I would also reiterate the points made by Dr Barnes Macfarlane in chapter 4B of her report to the Committee. The Scottish Law Commission recommended in 1992 that all parents should have PRRs at birth *'on the basis of parentage alone, subject to any court decree to the contrary.'* That was not accepted in the 1995 legislation, and when this point was raised in discussion of the 2006 Family Law (Scotland) Bill, the concern about children conceived through rape or incest meant that PRRs were only extended to unmarried fathers whose name was on the birth certificate.

She concludes this section with the suggestion that current Scottish Law relating to PRRs may be vulnerable to challenge based on the ECHR and/or the UNCRC³.

3. Assumptions about fathers and mothers

During the session John Finnie also asked Dr Whitcombe about academic research that supports her statement that there is often an assumption that the parent who currently cares for the child is the better parent and more likely to be truthful. The experience of this organisation is that many of the professionals working with families are not engaging with fathers, although we are also aware of good practice by health visitors, social workers and school staff who make the effort to make sure they reach both parents. I offered to provide the committee with links to research in this area.

Osborn, M. (2014) Working with fathers to safeguard children. *Child Abuse & Neglect* 38: 993-1001.

This study audited social work case files from 8 local authorities in England. The father's contact details were not included in just over 25% of cases, but some local authorities managed this task in 100% of cases while others managed to find the father's contact detail in only 60% of cases. It includes this example:

"In the first case there was an exemplary piece of social work practice to find a young mother who had not been in her child's life for the previous two years. The teenage mum had moved to another area of the country and the social worker

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https://www.parliament.scot/S5_JusticeCommittee/Inquiries/Balancing_the_Rights_of_Parents_and_Children_Reportv2.pdf

followed up many leads and old addresses to try to find her. Being unsuccessful in this, the detective work continued through contacts with a practitioner who worked with a sibling of the young mum. Finally she was tracked down, contact was made, assessments were carried out, intervention took place, and eventually the young mum came back into the life of her child. The next file audited also involved a teenage pregnancy. In this case the young father was living around the corner from his child and was not in contact with the child but he was expressing concerns for the child's safety. There was no record of any assessment, no intervention with him, he was not invited to meetings or conferences and was not included within the core group, but no reasons for these exclusions were recorded."

Listening to Fathers - Men's experience of child protection in Central Scotland, Knowledge Exchange Fellowship report by Nick Smithers, Circle (2012)

The purpose of the practitioner research project was to elicit the views of fathers who have been involved in child protection processes through their child/ren being placed in foster care or placed on the child protection register. A literature review indicates that fathers are marginalised from social services and child protection professionals are failing to engage fathers in processes affecting their children. This report provides insight from fathers' narrative experiences across Central Scotland.

Clapton, Gary. (2009). How and Why Social Work Fails Fathers: Redressing an Imbalance, Social Work's Role and Responsibility. Practice. 21. 17-34. 10.1080/09503150902745989.

This paper presents a study of the ways in which fathers have been, and are, depicted in social work literature from theory to training materials and across a range of policy and practice documents. It argues that there is a pervasive and influential negative attitude towards fathers, particularly in the children and families field. The paper identifies and discusses the reasons for this and concludes with practice pointers for the greater involvement of fathers.

4. Lady Hale quote

The full quote that I mangled last week is: Lady Hale, now president of the Supreme Court expressed this in *Principal Reporter v K*⁴ "*No child should be brought up to believe that she has been abused if in fact she has not, any more than any child should be persuaded by the adult world that she has not been abused when in fact she has.*"

Shared Parenting Scotland
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4 UKSC 56 (2010) para 44