

JUSTICE COMMITTEE

CHILDREN (SCOTLAND) BILL

SUBMISSION FROM GRANDPARENTS APART UK

ONE - Voice of the child

We agree the court should decide the most suitable way of obtaining the child's views. This will prevent potential parental bias on presenting the decision to a child and will make the court more accountable to the child.

However sheriffs and judges and other court personnel should not be allowed to deal with family cases without having completed the necessary training to understand that children can be coerced by either parent, that alienation is prevalent when family cases reach court and that mental health issues may be involved in a parent's behaviour. Minimum standards of training are crucial to recognise domestic abuse by either parent.

There must be a basis of consistency with flexibility for the individual case.

TWO - Child's Best Interest

The Bill falls short of meeting this aim.

Too many other considerations are being made a priority e.g. immediate financial implications instead of considering long term benefits for children, how other officials will feel instead of how the child is affected, how women's domestic abuse victims seem to have too much influence over policy which affects all children, not just those involved in abuse situations.

THREE - Child Welfare Reporters & Curators Ad Litem

Yes - They should be regulated and trained in child development and trauma training, with an openness to acknowledge men and women can each be victims and perpetrators.

FOUR - Contact & Residence Orders

Positive approach but needs further safeguards so that the child's relationships are not jeopardised by one-person control or mental health issues not being recognised, acknowledged and taken into consideration. Both parents mattered when parents lived together - this should remain the priority when they don't live together. This is not a gender issue - this is a child cruelty/abuse issue. A week is a long time to a child - months and in some cases years, can be a lifetime lost to a child.

Continually going back to court only enforces uncertainty for the child and has a cost implication for all, which also impacts on the child.

Contact with grandparents - Why does a child have a right of inheritance after the death of a grandparent, but no right of contact during life?

An EU Court of Justice ruling on 31st May 2018 states "The concept of 'rights of access' referred to in Article 1(2)(a) and in Article 2.7 and 2.10 of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No. 1347/2000, must be interpreted as including rights of access of grandparents to their grandchildren.

Regarding the Charter of Grandchildren - this was supposedly promoted by Government in 2006 but little was done to do so and Social Work Departments (those that knew about it) ignored it because it wasn't law, meaning children continued to be removed from their families unnecessarily, so 'proposing to continue to promote it' means absolutely nothing for children and their grandparents.

Exactly how do the government plan to promote the Charter?

FIVE - Other Requirements

Yes - Courts should explain the decisions reached. Courts should consider the risk to the child of delays and repeated time-wasting. Relevant Person status needs to be clarified and consistently applied. (The individual has or recently has had significant involvement in the upbringing of the child).

Clarification on what should be considered in the child's best interest and what constitutes a child's important relationships with other people - to avoid grandparents being excluded by social work etc. The Charter for grandchildren states that 'grandparents can and do provide a vital source of stability in their grandchildren's life. By refusing to back this up the government are not acting in the child's best interest.

SIX - Vulnerable Witnesses

Yes - our only concern is that this infers that the female or the child is the vulnerable witness - there is a need to acknowledge that men can be vulnerable witnesses too. This is very unequal and children already suffer because of assumptions by authorities and courts. On Page 22 Part 4, point 4.34 of the information provided by Ash Denham, only Women's support organisations have been consulted. Equal consideration should have been given to Men's support organisations such as AMIS if we are looking at the child's best interests, which is the object of this exercise.

All abuse is wrong, **all** victims should have access to support and **all** vulnerable witnesses should be protected, if we are serving the best interests of the child,

SEVEN - Contact Centres

Yes, Contact Centres should be regulated and adequate training for solicitors or anyone else involved with decisions or support for children is crucial if a child's best interest is the true objective.

EIGHT - Enforcement of Contact Orders

Yes - must be investigated and must be done without delays. Check that any accusations of abuse are not fabricated. Consistency is crucial and proceed with enforcement without delay. Families shouldn't suffer because of scurrilous accusations of abuse or simple bloody-mindedness. All genders can be abusive, coercive and have mental health issues.

If a court has made an order in the best interest of the child, then not to enforce that order is a breach of the child's best interest so consequences must support that.

NINE - Contact with Siblings

Yes - the need for this highlights that authorities haven't been acting in a child's best interest proving a need for guidelines/rules. Families have been broken and separated for far too long often due to Social Work manipulation.

The length of time that any Social Work involvement and the reason for that involvement remains on the child's 'record' needs to be looked at.

TEN - Births Registered Outwith UK

No comment

ELEVEN - Children's Hearings

Relevant person guidance needs to be formalised so that there is no room for manipulation by authorities or social services.

TWELVE - Practical Impacts of the Bill

Equality is not consistent enough throughout the Bill. The non-resident parent is still unequal to the resident parent. Children are still being denied the right to family life. Too many are isolated from family members unnecessarily with the support of our laws and legal system and a lack of understanding that the effect a decision actually has on the child.

They are denied the right to know their hereditary information, holistic development (see European Convention), medical/genes etc. and the right to make their own decision about who they want to have contact with.

Children are being punished too often because their parents don't live together.

THIRTEEN - Issues not Covered by the Bill

Some of our laws and proposed laws are not necessarily consistent with EU legislation, whilst it is referred to, when children are affected. Avoiding lengthy, costly and damaging court procedures for families must be prioritised. Solicitors making money out of family trauma should not be the priority. The quick resolution of problems, issues and behaviour are a necessity.

Examples -

EHCR

Article 8 - Right to Respect for private and family life

- 1) Everyone has the right to respect for his private and family life, his home and his correspondence
- 2) There shall be no interference by a public authority with the exercise of this right except in accordance with the law.

Article 13 - Right to an effective remedy

Everyone whose rights and freedoms are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity, (This applies to Social Services)

Article 14 - Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in the Convention shall be secured without discrimination on any ground such as sex.

Article 35 - Admissibility Criteria

The court may only deal with the matter after all domestic remedies have been exhausted - and within a period of six months from the date on which the final decision was taken. (This process and timeline is cruelty to children)

Article 45 - Reasons for Judgements and Decisions

Reasons shall be given for judgements as well as for decisions declaring applications admissible or inadmissible

Protocol No. 7 - Article 5 - Equality between spouses

Spouses shall enjoy equality rights and responsibilities of a private law character between them, and in their relations with their children, as to marriage and in the event of it's dissolution. This Article shall not prevent States from taking such measures as are necessary in the interests of the children.

Protocol No. 12 - Article 1 - General prohibition of discrimination

The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex.

UNCR -

Article 7 - as far as possible the right to know and be cared for by his or her parents

Article 8 - respect the right of the child to preserve his or her identity, including nationality, name, family relations recognised by law without unlawful interference. *Does this imply that preventing contact is against EU law?*

Where a child is illegally deprived of some or all of the elements of his or her identity, State Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9 - Ensure that a child shall not be separated from his or her parents against their will - all interested parties given an opportunity to participate in proceedings and make their views known - right to maintain personal relations and direct contact with both parents on a regular basis, except if not in their best interest.

4) Separation by State - the State Party shall upon request provide the parents, the child or if appropriate another member of the family with the essential information concerning the whereabouts of the absent member of family unless detrimental to the child. State Parties shall further ensure that the submission of that request should have no adverse consequences for the person concerned. (*This relates to Social Services practice*)

Article 12 - Child's right to have views heard

Article 13 - Child's right to freedom of expression

Article 14 - Child's right to freedom of thought

Article 17 - Child's access to information - aimed at his or her social, spiritual and moral well-being and physical and mental health.

Article 18 - States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents, or as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2) States shall render appropriate assistance in the performance of their child rearing responsibilities.

Do you believe that it would generally NOT be in a child's best interest to have contact with grandparents?

(Safety concerns aside as this is already covered in other legislation).

Where is the government's consultation with Male Domestic Violence support groups?

Every man should not be tainted with what is a dangerous presumption of being an abuser just because *some* men are violent. All women should not be considered victims just because *some are*.

We do our children a huge disservice to make this assumption and this could mean children are left in the care of a dangerous person. Clearly not in the child's best interest!

Grandparents Apart UK
12 November 2019