I wish to add the following submission to my earlier Petition 1673, which is currently under consideration by the Committee.

**Care Inspectorate**

Mothers and families often have genuine complaints about the way child protection in Scotland operates, especially when they see the poor outcomes for children in care.

Some families will have made formal complaints to the Care Inspectorate in individual cases. The response from the Care Inspectorate is that they do not investigate individual complaints about children in care.

The Care Inspectorate’s remit appears to be restricted to checking protocols and procedures put in place by various child protection partnerships. Checking these without investigating actions in the field is putting many very vulnerable children at further risk.

At the moment, there is no vehicle for investigating individual complaints. The Scottish Public Services Ombudsman can only investigate the way in which a Local Authority has handled a complaint made to them and not the original complaint.

The only other action available is a civil action through the Court, which is beyond the finances of most families.(minimum down payment in excess of £50,000.00). Furthermore actions through the civil Courts can take years with the child(ren) remaining in care separated from the family.

By failing to investigate serious individual complaints about child protection problems, I believe that the Care Commission is failing to protect very vulnerable children and families.

Even where there are written procedures and protocols in place, this does not mean that those working to them are following the rules correctly and, as a result, vulnerable children and their families suffer greatly.

**Action I am calling for -** The law should be amended to give the Care Inspectorate powers to investigate individual complaints in child protection. They appear to have these powers when dealing with care homes for the elderly, as well as other institutions, so why not for children in care?

**Legal Accountability in applying for a Child Protection Order**

A Sheriff or a Justice of the Peace can by law make a Child Protection Order stating a list of conditions which can and do include the child ‘being looked after not at home’ i.e. separated from their family.
All child protection procedures in Scotland are carried out under Civil Law, thus the information/evidence provided in the application for the Order and subsequent Children’s Hearings is of a much lower standards than in a criminal court. Rather than meeting the criminal standard of proof (beyond all reasonable doubt), decisions are based on opinion and decided on the balance of probabilities.

As stated in my original petition, in March 2017 a judgment of the UK Supreme Court (in the matter of EV (A Child) (Scotland) [2017] UKSC15) found that the Court system in Scotland should only make judgments based on pure evidence and facts, not the opinion of social workers.

In the case of children and young people who offend, children have the right to deny the allegations and have their case determined under law in a criminal court. All evidence is given under oath. Evidence must be given to prove the case and anyone who deliberately gives misinformation or false evidence is liable to be convicted for the crime of perjury.

Child welfare cases are dealt with under civil law. This means that any evidence is not given under oath and so the threat of a conviction for deliberately misleading or lying to the court does not apply. In cases where there is proof that a ‘witness’ has deliberately given misleading or false information to a Sheriff, Justice of the Peace or a Children’s Hearing, either verbally or in writing, then the only option open is to bring an action through the civil courts for damages. Few parents are aware of that procedure and even if they are, parents, families and children can be so traumatised by the process of going through the Children’s Hearings system, that they don’t have the strength to consider bringing an action.

Legal aid is very restrictive and a high number of people do not quality. Private civil procedures and financially well beyond the means of most families with some parents being quoted in the region of £70000 to £80000 as a down payment first.

Private and civil cases can take many years to prepare and get to Court. The current lack of legal accountability gives some individuals the feeling that they are above the law and therefore can give more of a personal opinion than truthful evidence.

In the meantime, children can be in care away from home when they should be at home having a family life, as they are entitled to under Article 8 of the ECHR.

With no fear of a criminal conviction and subsequent personal penalties to those who do deliberately submit misleading and/or false information in child protection cases, many abuses of the system, especially by professionals employed with organisations that are corporate parents, can be ignored.

Child protection is promoted as looking after the welfare of the child. That welfare is threatened and undermined when personal feelings and opinions are given as ‘evidence’, when this evidence is not of the same standard as that given to a criminal court.
I believe that the deliberate use of misleading information and/or lies in child protection reports is common and usually directed towards a parent, who contrary to common law, are guilty until they can prove their innocence. This is a situation that is untenable, as well as being morally wrong. It is almost impossible to prove your innocence, when the evidence against you is misleading and/or false.

Many children are capable of reading reports written as part of child protection proceedings. They understand what is being said. Reading misinformation about one or both of their parents can cause them emotional and traumatic stress. How can society expect them to trust professionals who have given wrong information about them and their family?

**Action I am calling for** - Child protection is there to look after the welfare of children and their families. There is a moral and legal responsibility to make sure that those making accusations in child protection cases produce truthful reports, irrespective of the circumstances and their own personal opinions.

This can only achieved by a legal requirement for such submissions to be in person and under oath. Those providing submissions should be held criminally and legally liable for their actions, actions that have the potential to destroy lives.