

Scottish Parliament Justice Committee Call for Views:
Children (Scotland) Bill
November 2019

The Consultation

The Scottish Parliament's Justice Committee is asking for views on the Children (Scotland) Bill. The Bill mainly makes changes to how disputes in relation to children are settled when families break down. This includes changes to ensure that the voice of the child is heard in court proceedings. The Bill also includes measures aimed at protecting the best interests of children, such as requiring child contact centres to be regulated.

The Scottish Women's Convention (SWC)

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. Women in Scotland compose the vast majority of those responsible for protecting our children, both as parents and as carers. It is crucial that any reforms that seek to safeguard the rights of the most vulnerable are informed by the voices of women.

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?

Yes. The SWC agrees with the approach to remove the presumption that a child aged 12 years or over is of sufficient age and maturity to form a view. All children, regardless of age, should have their own personal opinions accounted for where decisions affect them.

Children should be allowed to express themselves in a variety of ways. Appointment of appropriate officials, who can liaise with the child in order to not only ensure their views are best understood but are also fully aware of the proceedings should be paramount. Allowing children to have their own voices and experiences heard ensures they are given a legitimate say.

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?

The Bill does go some way to ensuring the best interests of the child are at the centre of cases. For some children, proceedings and children's hearings can be an extremely intimidating and confusing experience. Children are often not made fully aware by those around them of exactly what is going on. Ensuring that legislation underpins the best interests of the child is crucial to fostering a safe environment where they do not feel intimidated or imposed upon.

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. The involvement of the child's parents and other important relationships they may have in their lives should be paramount to the court's consideration. These may be the strongest bonds they have formed throughout their life. The loss of that relationship should be at the forefront of any decision made. This would be particularly beneficial for grandparents and other relatives who may have fostered close bonds with the child.

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?

The court system should be built on ensuring children are at the very heart with their own interests put first. Outcomes from proceedings can provide major change and upheaval within a young person's life. These may unintentionally reinforce negative and traumatic experiences for children and can have lasting negative implications on their lives.

Any matters that will impact on children throughout this process should always be fully explained in a sensitive manner. The outcome of a judgement must be made clear to the child as well as impacts to them and their family.

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?

Given that domestic abuse overwhelmingly impacts on women and children, such provisions are seen as a positive step forward.

Having to face an abuser in court is an extremely traumatic ordeal for many women. Giving evidence in front of an abuser is a difficult and harrowing experience. The adoption of any measures which allow witnesses protection, particularly in cases where violence against women has had an impact, should be wholly considered in order to make them as comfortable as possible when presenting a case.

Children who witness domestic abuse may experience psychological and emotional episodes. Those responding to such instances should be satisfactorily trained and be aware of any trauma which may have had, or has the potential to have, a negative impact on the child during the case and beyond.

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?

Yes. Relationships must be at the forefront of any decisions. This will support the best interests of children and promote their wellbeing. For many young people, the bond formed with a sibling is often their most important and influential relationship. It is crucial that this continues to ensure the least amount of upset to a child's life when having to go through this process.

Conclusion:

The SWC welcomes the opportunity to respond to the amendments put forward for this Bill relating to children involved in family disputes. Women have noted that the placement of children's rights should be at the forefront of legislation in order to promote safeguarding and welfare. Implementation of this proposal seeks to highlight Scotland's place in ensuring children and victims are at the heart of the judiciary process.

For further information, please contact

The Scottish Women's Convention

Email – info@scottishwomensconvention.org

Telephone – 0141 339 4797

www.scottishwomensconvention.org

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission paper provides the views of women and reflects their opinions and experiences in a number of key areas relevant to women's equality.

Scottish Women's Convention is a charitable company limited by guarantee. Registered in Scotland No. SC0327308. Registered office 2nd Floor, The Albany Centre, 44 Ashley Street Glasgow G3 6DS.

The Scottish Women's Convention is a Charity registered in Scotland No. SC039852.