

PE2163/B: Develop guidance on child contact domestic abuse

Petitioner written submission, 8 September 2025

My petition is aimed at creating an open and frank discussion around the issues many parents who have experienced domestic abuse have in relation to maintaining a relationship with their children.

Many parents who have faced domestic abuse and left that relationship but had to leave their children behind find it difficult to maintain a relationship with their children. They often find their abuser is hostile to the very idea of them maintaining a relationship with their children and will continue to be abusive and controlling. The legal services both civil and criminal which we would reasonably expect to offer a solution to the issues we face are often ineffective and more often used against us to cause further harm. I shall attempt in this submission to outline how the legal services are ineffective and how that impacts on both parents and children.

Police Scotland and the Crown Office and Procurator Fiscal Service (COPFS) see domestic abuse as:

"Any form of physical, verbal, sexual, psychological or financial abuse which might amount to criminal conduct, and which takes place within the context of a relationship."

The proposal within the Children (Scotland) Act 2020 for the court to appoint a Child Welfare Reporter to gather the views of the child or to investigate and report on the child's best interests. The Scottish Government is surely aware that the courts already appoint qualified persons to do this. It may be worth noting that there is evidence to suggest that a child's opinion especially in high conflict cases may not be their true opinion. Research such as that carried out by Dr Kirk Weir and published on the Law Society of Scotland's website in December 2011 outlines how in many cases the child's opinion can be manipulated.

The Scottish Government has acknowledged that court proceedings can be both costly and lengthy and should be avoided where possible. Many parents who are forced to use the courts find that the costs are prohibitive. Many parents get heavily into debt whilst other resort to representing ourselves. There has been a previous petition which sought to allow universal legal aid for all involved in child welfare cases. If you compare published data for the number of family law cases heard in Scotland annually with the number of grants for legal aid for family law cases (obtained from a freedom of information request to SLAB), you will find that it is nowhere near the 80% the Scottish Government state are eligible.

To avoid court the Scottish Government and most family law solicitors would advise going to mediation. The Scottish Government has indicated that it intends to as part of the Children (Scotland) Act 2020 to introduce mandatory dispute resolution. I'm not sure if I understand how this would help abused parents who are trying to see their children. It would not be suitable on the grounds of the abusive nature of the

relationship and has most likely already been offered and refused. This leaves the parent seeking contact no option but court.

An abused parent who then tries to use court action to see their children will most likely have to defend themselves against malicious and vexatious allegations. Some of which can be incredibly distressing and disturbing. Ranging from stalking to assault or even child abuse.

The Scottish Government has pointed out that there are functions within civil and criminal law that are meant to allow a person the ability to stop vexatious or malicious court actions and prevent malicious allegations being made to the police. The Court Reform (Scotland) Act 2014 gives provision to allow persons to prevent vexatious litigations.

As per The Family Law (Scotland) Act 2006 family courts will always be concerned with protecting a child from abuse or possible abuse from the person seeking contact. The legal system then by nature must always disregard the impact false and malicious allegations have on the person seeking contact in favour of protecting children from potential harm. It can therefore be virtually impossible for an abused parent to have a court take any action to prevent abusive parents making such false and malicious allegations. These false and malicious allegations can and do have a profound impact on the mental health of the abused parent. They also have a significant impact on the finances of the parent facing these accusations as well as the drain on court resources.

In general, all that the Scottish Government has suggested comes from the standpoint that it is the abuser seeking contact and fails to recognise that it may well be the victim seeking contact. They have in all my communications with them over the last 9 years acknowledged that where it is safe to do so all parents should be encouraged to have a relationship with their children. They have however, not made any practical suggestions as to how we better support parents when they face intractable hostility towards maintaining a relationship with their children.

Victims of this sort of abuse have no practical means of resolution and will often just give up. The Scottish Government have on more than one occasion told me, my desire for a resolution to the problems that exist with child contact abuses as being "unreasonable or unrealistic."

I fail to see why it is unreasonable or unrealistic for any parent who is or was the victim of abuse to be able to have a relationship with their children free from abuse and harassment from their ex-partner. I also fail to see why it is acceptable for any parent to need to accept that they will be abused just because they wish to spend time with their children.