



glasgow bar association
established 1959

Room 1.29
Glasgow Sheriff Court
1 Carlton Place,
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19th August 2020

URGENT - By email only

To whom it may concern –

Leaders of the Parliamentary Groups, Justice representatives of the Parliamentary groups and Justice Committee members of the Scottish Parliament

Dear Member of the Scottish Parliament,

Proposed amendment of the Children (Scotland) Bill 2019 – Third Stage Debate on 25th August 2020

We refer to the Consultation response previously submitted by our Association with reference to this proposed legislation.

We are writing to lodge objections to the proposed amendment by Liam McArthur MSP regarding all Child Welfare Reporters being social workers. We are advised the proposal is-

“40 In section 8, page 16, line 20, at end insert—

<() Only a social worker registered with the Scottish Social Services Council may be appointed as a child welfare reporter.>”

The consultation document and proposed legislation never contemplated this as a condition, so to change the tenor of the legislation without proper consultation would not serve the families of Scotland well. As an Association, we are fundamentally opposed to this proposed amendment.

There are a number of reasons for this opposition –

As Court practitioners, there are currently insufficient resources to allow such a provision. Requiring all reports to be produced by a Social worker would impact on the service already provided by them and would require a diversion of their already stretched resources. Families in the heart of a protracted legal dispute about their child(ren) are

understandably wary of and often hostile to Social Work intervention. In our experience, the provision of a Social Work report in family cases inevitably is a more protracted process, resulting in a far longer production time for the report and this delay cannot be in the best interests of the child. The solicitor as a child welfare reporter is a long established resource to identify independently the issues in the disputed family case and to make recommendations to resolve the dispute, more often than not addressing at the earliest stage of the process a solution to the dispute without the necessity of advocacy in court to further widen the gulf between the family, which inevitably has a negative impact upon the child(ren).

The consultation about this proposed legislation never made reference to restricting qualification to Social Workers only. Rather it intended to regulate the solicitors and other Reporters who meet the existing high standards imposed by the Sheriff Principals of the Sheriffdoms of Scotland who undertake these duties nationally. The existing Reporters are mainly legally qualified, are the most experienced practitioners in their field of expertise and to lose such an invaluable resource will be a considerable loss to this essential area of Scottish family law. The essence is to meet the standard set, which clearly has worked very well to date.

To attempt to introduce this amendment at this stage undermines the purpose of the legislation in the first place. The Scottish Government is attempting to focus the child at the heart of dispute resolution and to have them actively engaged in decisions about their future. This proposed amendment is not conducive to this. The appointment of a solicitor as a child welfare reporter brings an independent person to the process, they have insight into the court process and they can access immediately the family members to be interviewed, avoiding delays which will arise if Social workers only are instructed to undertake this work.

For all of these reasons, we commend to you our opposition to this amendment. It simply does not serve the best interests of the child(ren) involved in these legal disputes.

Kind regards,

The Executive Committee of the Glasgow Bar Association.