

CELCIS (Centre for Excellence for Children's Care and Protection) submission of 5 July 2023

PE1977/E: Require social services to inform biological fathers of concerns about their children

Children's human rights

We suggest that the paramount focus in this matter should be on a child's human rights under the UNCRC, as well as European Convention on Human Rights, in particular Article 8, the right to respect for private and family life. All rights under these treaties must be considered, as these are interrelated and indivisible, requiring a skilled approach to individual contexts and circumstances of the child, their parents and, most importantly, to the needs of the child. This is a highly complex area which requires a nuanced and flexible approach within multi-agency assessment, planning and decision making.

Parental rights and responsibilities

Part 1 of the [Children \(Scotland\) Act 1995](#) sets out 'parental responsibilities and rights' (PRRs), which includes both the responsibilities and rights of a mother and father in many families. We note that it may be particularly difficult to devise a working definition and practice to establish biological fatherhood in all families. Many fathers who are biological fathers will have PRRs for a child, but others may not. Some fathers will exercise PRRs where they do not formally have them (regardless of whether they are or are not a biological father), while others who have them will not be involved in the care of their children. Therefore, a practice protocol would be required to establish paternity, with careful planning in any circumstances of doing so. Some children, including those raised in same sex relationships, will be conceived via a donor (who may have explicitly relinquished PRRs), raising further equalities and legal issues.

Careful consideration about information sharing must be made in any circumstance and assessed in terms of a child's rights, including for their views to be given due weight in all matters affecting them, their safety, best interests, as well as respect for privacy and family life. An assessment must take place before information is shared that considers

any risk, for example concerns around domestic abuse, as well as the needs of the child. In some situations, this information could be distressing to a child, and will not be shared if there is a risk of harm to parent or child, with these circumstances are subject to robust assessment and protocols. A child should be consulted on their view and have access to independent advocacy and if appropriate, legal advice.

Supporting child and family social work practice

Child and family social work services should always include fathers taking an active role in that child's life regardless of whether they have PRRs, as part of any assessment into any concerns. We recognise that sometimes fathers may not be actively involved in their children's lives even though they may like to be, for example, in situations of conflict and separation. When a concern is raised about a child, it would be best practice for child and family social work services to make inquiries into a father's whereabouts, and if found, include him in the multi-agency assessment if deemed safe to do so. We recognise that workforce capacity may sometimes prevent social workers from dedicating the necessary time where it is proving difficult to locate the father. We also recognise that for some separated fathers it can be hard to navigate complex state systems. Any parent who has had negative experiences of other state processes can find it especially difficult to navigate systems such as child and family social work services, and there should be consideration of how to engage and support these parents.

In recent consultation work CELCIS has undertaken, some fathers reflected that they felt judged by services and individual staff, not heard or listened to, and that their relationship with their children had been actively degraded throughout their experience with child and family social work services. One father shared his experience where he alleged that, when he raised concerns about his child, these were not taken seriously or acted upon. We recognise that these views are anecdotal, and there may be other relevant factors relating to the individual circumstances of a child and their family.

However, these perspectives indicate a gap in engagement of fathers where there are concerns about their child's welfare. Evidence about engaging fathers in these circumstances emphasises the need for high quality assessments that avoid simplistic approaches to the role of a father, not positioning fathers as "*either* a risk *or* a resource" but recognising that any relationship between a parent and child may include both risk, protective and nurturing characteristics, which must be

understood in the context of each individual relationship and child's needs¹.

Existing legislation and guidance

Whilst there is a need to support high quality, child rights informed practice in this area, CELCIS holds the view that existing legislation and guidance is sufficient to support best practice in this area, and a legislative change will not necessarily address these concerns. Current child protection processes are not statutory,² but are based on practice that manages risk and supports the welfare of children in a local context and are based on the individual needs of a child and their family. The National Guidance for Child Protection in Scotland (2021) does not distinguish between parents but offers general principles in terms of working with families. This guidance also highlights relationship-based and strengths-based approaches to assessment such as [Family Group Decision Making](#) and [Signs of Safety](#). These approaches require a 'whole family' approach to assessment, incorporating the views of all relevant people in the care of the child/ren where it is safe to do so. The use of the national practice model and 'My World Triangle' within the GIRFEC approach requires practitioners to consider the people surrounding the child or young person and the support they provide.³

Where compulsory measures of care are required to support a child and their family, and investigations find it necessary to schedule a Children's Hearing, the [Children's Hearing \(Scotland\) Act \(2011\)](#) sets out 'relevant persons' who should be notified and receive information about Children's Hearings' processes. In most cases fathers will be included as 'relevant persons' for this purpose and therefore will access the information and reports associated with the concerns for the welfare of their child at various points.

We suggest that it may be more effective to address the matters raised by this petition through improvements to workforce learning, knowledge and skills in this area. Evidence from CELCIS improvement programmes show that the principles of relationship-based practice such as this can be supported by:

- A focus on leadership that supports practice;

1 Philip, G., Clifton, J., & Brandon, M. (2019). The Trouble With Fathers: The Impact of Time and Gendered-Thinking on Working Relationships Between Fathers and Social Workers in Child Protection Practice in England. *Journal of Family Issues*, 40(16), 2288–2309. <https://doi.org/10.1177/0192513X18792682>

2 The National Guidance for Child Protection in Scotland (2021)

3 Scottish Government (2022) [Getting it right for every child – Practice Guidance 1 – Using the National Practice Model – 2022](#) (page 10)

- Improvements to self-evaluation, and the collection and use of data across local areas;
- Reflection on current assessment models;
- And high-quality supervision and improvements to workforce capacity.

CELCIS thanks the Committee for seeking our views on this matter, we would also suggest that the Committee seeks the views of Social Work Scotland and Scottish Women's Aid regarding this issue.