

# Scottish Government submission of 23 January 2024

## PE2069/A: Ensure accuracy of statements informing Child Welfare Reports

Thank you for writing to ask the Scottish Government to respond to Public Petition PE2069 from Nicole MacDonald, which asks the Scottish Parliament to urge the Scottish Government to ensure the accuracy of evidence gathered by Child Welfare Reporters by introducing a requirement that statements provided as part of their report are signed as a true account.

As the SPICe briefing on the petition notes, the Scottish Government is part way through reforming the law on child welfare reporters. The primary legislation is in place in the Children (Scotland) Act 2020. We held a [public consultation](#)<sup>1</sup> on this and have published an [analysis of responses](#)<sup>2</sup>. We have still to make the regulations: this has been delayed by budgetary pressure.

Given that delay, we are going to set up a working group on child welfare reports. This group will help to inform any changes to current practice and the longer term policy on child welfare reporters. The bodies we invite to the group will be similar to the previous working group which the Government chaired and which operated from 2013 to 2015.

The petition suggests that interviews with a child welfare reporter should be recorded. A majority of the previous working group rejected this suggestion. The main reasons for this were that:

- it is already possible to challenge the content of a report in court
- recording interviews can deter the person being interviewed from being open and honest. This could be particularly true for children, who may be concerned about a parent or other family member finding out what they said. A reporter may paraphrase when reporting a child's views to the court in order to meet this concern.

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<sup>1</sup> <https://www.gov.scot/publications/children-scotland-act-2020-consultation-registers-child-welfare-reporters-curators-ad-litem-solicitors-appointed-represent-person-prohibited-conducting-case/>

<sup>2</sup> <https://www.gov.scot/publications/registers-child-welfare-reporters-curators-ad-litem-solicitors-appointed-individual-prohibited-conducting-case-consultation-analysis/>

We will ask the new working group to consider this point and to make recommendations. We will publish minutes of the working group.

The petition says that “information given in statements for a child welfare report are not checked as accurate but are treated by the court as true in good faith.”

Generally speaking, a child welfare report will reflect the views and the position of each person involved in the case. Family cases will be in court because the parents (or other parties) cannot agree about what is best for a child. Where there is a dispute like this, the parties may disagree about what has happened in the past as well as what is best for the child in future.

The reporter’s role is to gather and prepare information for the court. It is for the court to decide what weight to give the report and any recommendation in it. Where the court considers it necessary, it can order a “proof” hearing. Such a hearing allows the court to hear witnesses give evidence and for them to be cross-examined.

The petition expresses concern about the child welfare report process giving someone a platform to continue abusive behaviour.

The Scottish Government is clear that there is no place for domestic abuse in Scotland. We are aware of the potential for an abuser to use a civil court process to continue to abuse someone. The [analysis of responses](#)<sup>3</sup> to our consultation in this area notes at paragraph 108 that one respondent said:

“whilst many reporters work well, there are those who are either unwilling or indeed hostile to making any statements in their reports to the court of domestic abuse.”

Once we regulate child welfare reporters, we intend that understanding domestic abuse, including coercive control, will be a key requirement for all reporters. Until then, the Lord President and sheriffs principal are responsible for including child welfare reporters on their lists and the presiding judge or sheriff for appointment of a reporter in a particular case.

We will invite a representative of Scottish Women’s Aid to join the working group.

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<sup>3</sup> <https://www.gov.scot/publications/registers-child-welfare-reporters-curators-ad-litem-solicitors-appointed-individual-prohibited-conducting-case-consultation-analysis/pages/4/>

The Scottish Government is also planning workshops with key stakeholders to consider what improvements can be made more generally in relation to the interface between the civil and criminal courts in the context of domestic abuse. This follows Scottish Government funded research on [Domestic Abuse and Child Contact: The Interface Between Criminal and Civil Proceedings - SCCJR](https://www.sccjr.ac.uk/publication/domestic-abuse-and-child-contact-the-interface-between-criminal-and-civil-proceedings/)<sup>4</sup> published in February 2023.

I hope the Committee finds this information to be of assistance in its consideration of the petition.

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<sup>4</sup> <https://www.sccjr.ac.uk/publication/domestic-abuse-and-child-contact-the-interface-between-criminal-and-civil-proceedings/>