

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE1977](#): Require social services to inform biological fathers of concerns about their children, lodged by Helen Duncan

Brief overview of issues raised by the petition

The petitioner argues that biological fathers living apart from their children should have a right to be informed by social services about any welfare concerns relating to their children. To this end, the petitioner is seeking a change to the (non-statutory) [National Guidance for Child Protection in Scotland](#). In 2021, this guidance replaced 2014 guidance, [following a public consultation](#). There is a complex landscape of legislation, common law (i.e. judge-made law) and guidance potentially relevant to this petition.

Parental responsibilities and rights (PRRs)

First, Part 1 of the Children (Scotland) Act 1995 ('the 1995 Act') sets out various 'parental responsibilities and rights' (PRRs) in respect of children living in Scotland (where practicable and in the best interests of the child). PRRs are enforceable in court, usually as a last resort, by one parent against another. Under the current law, not all biological fathers will have PRRs.

There is no specific PRR covering the right the petitioner is seeking. However, PRRs are potentially relevant in the context of this petition because one PRR gives a parent a right and a responsibility to maintain "personal relations and direct contact" with a child living with another parent or carer. Such contact can help parents who don't live with their children assess their child's welfare directly at an early stage of welfare concerns arising.

PRRs are referred to in some definitions of a 'parent' in respect of a range of child protection processes. Also, formal routes for fathers to acquire PRRs (e.g. a court order or being named on a child's birth certificate) help children's social work services to identify a biological parent who might, depending on the circumstances, be offered the chance to participate in certain child protection processes. Child protection processes are covered in more detail below.

Child protection legislation

A range of child protection legislation can also apply, depending on the child's circumstances. This includes:

- Part II of the **Children (Scotland) Act 1995**, which, imposes duties on local authorities relating to children who are ['looked after' by the local authority as a corporate parent](#).
- The **Looked After Children (Scotland) Regulations 2009** ('the 2009 Regulations'), which underpin many of the 'looked after child' processes in operation, including [the foster care system](#).
- The **Children's Hearing (Scotland) Act 2011** ('the 2011 Act') which sets out the framework for [the children's hearing system](#). A children's hearing can impose [compulsory measures of supervision](#) in respect of a child.
- The **Children and Young People (Scotland) Act 2014** ('the 2014 Act') which sets out duties to provide services and support for children at risk of becoming 'looked after.'

Parental involvement in child protection processes

Child protection legislation and guidance provide for the possible involvement by parents and other adults in the child's life in a range of child protection processes. The individuals with a potential right or opportunity to participate varies across different legislation. Several key definitions of 'parent' do include a broader group than just parents with PRRs.

The Scottish Government's national [GIRFEC Practice Guidance](#) states that children and young people should be at the heart of the process and that their assessed best interests should be paramount. Furthermore, it is described as good practice to involve all relevant persons as partners to a Child's Plan at the earliest possible opportunity if it is assessed as safe and, in the child, or young person's best interests to do so. Refreshed guidance on a Child's Plan is due to be published in 2023 and the Scottish Government have committed to co-designing the guidance with relevant stakeholders including children, young people and their families.

The [National Guidance for Child Protection in Scotland 2021](#) underlines the responsibilities of adult services to consider the needs of children and their parents where vulnerability and protection needs are identified. Part three of the Guidance outlines child protection processes and describes general principles on how practitioners should involve children and families in child protection processes as well as guidance on information sharing around some child protection practices, including health assessment and medical examination.

In the 2009 Regulations, there are specific duties to notify parents (defined simply as a mother or father) of looked after children on the happening of certain events, so far as reasonably practicable. These include when the child goes into foster care, as well as:

- on the death, serious injury or illness of the child when in foster care, or when [being cared for in the family home](#)
- when a child leaves a home or is taken without lawful authority, when in foster care, or when [being cared for in the family home.](#)

In addition:

- so far as reasonably practicable, local authorities must ascertain the views of individuals including parents (with or without PRRs) when reaching a decision about a looked after child, or a child the authority is proposing to look after (the 1995 Act, section 17)
- local authorities must take “practical and appropriate” steps to promote “personal relations and direct contact” between looked after children and parents with PRRs (the 1995 Act, section 17).

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26/10/2022

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

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Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP