

Citizen Participation and Public Petitions Committee

1st Meeting, 2023 (Session 6), Wednesday 18
January 2023

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

Petitioner	Helen Duncan
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to amend the law and update the National Guidance for Child Protection to require social services to inform biological fathers of concerns about their children
Webpage	https://petitions.parliament.scot/petitions/PE1977

Introduction

1. This is a new petition that was lodged on 3 October 2022.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner elected to not collect this information.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.

Action

The Committee is invited to consider what action it wishes to take.

Clerk to the Committee

Annexe A

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

Petitioner

Helen Duncan

Date Lodged:

3 October 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to amend the law and update the National Guidance for Child Protection to require social services to inform biological fathers of concerns about their children

Previous action

I contacted David Torrance MSP for help.

Background information

So many kids have died in horrendous circumstances. Currently social services are not required to inform biological fathers/families about concerns within the child's home.

In my family's experience, social work had been involved for a few months before we were made aware of the concerns. When we asked why we hadn't been informed sooner, my family were told it was none of our business as the original concern related to another child living in the same household.

I have also become aware of situations where fathers were not informed of child welfare concerns and are now fighting to have their children released from foster care.

How many more kids such as Brandon Muir, Liam Fee or Logan Mwangi must die? Recently, in England, Logan Mwangi's father stated the situation could have been different if he knew his son was at risk of harm.

We must put a stop to children being left in harmful situations. By introducing this requirement on social services, fathers will be provided with the opportunity to fully exercise their parental rights and responsibilities.

Annexe B

The logo for SPICe, featuring the text 'SPICe' in white on a purple-to-blue gradient background.

The Information Centre
An t-Ionad Fiosrachaidh

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).

Nicole Beattie and Sarah Harvie-Clark
Senior Researchers

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

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

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Annexe C

Minister for Children and Young People submission of 27 October 2022

PE1977/A – Require social services to inform biological fathers of concerns about their children

Thank you for the opportunity to respond to the above petition.

The petition asks the Scottish Government to amend the law and update the National Guidance for Child Protection to require social services to inform biological fathers of concerns about their children.

I want to assure you that the Scottish Government is committed to ensure that all children and young people grow up loved, safe and respected, through a consistent approach to care and protection.

The [National Child Protection Guidance in Scotland 2021](#) (“the guidance”) describes the responsibilities and expectations of everyone who works with, or comes into contact with children and young people, families and carers in Scotland. It incorporates our understanding of best practice from a range of sources, including practitioner and stakeholder experience, inspections, research, inquiries and learning from Significant Case Reviews.

This guidance is a comprehensive update of the previous 2014 version and was developed through a collaborative process informed by extensive public and stakeholder engagement, including a Scottish Government consultation. Whilst the guidance is non-statutory, the agencies primarily involved in child protection in Scotland, such as police and social work, have statutory duties of care and protection.

Throughout the guidance there is an emphasis on listening to children, participation of and support for families, and multi-agency partnership in core elements of child protection processes. Part 3 of the guidance provides information about such processes, including consideration, assessment, planning, and action required. It describes general principles on how practitioners should involve children and families in child protection processes as well as more specific guidance on information sharing in relation to certain practices, for example inter-

agency referral discussions (IRD), Joint Investigative Interviews (JII), medical assessments and examinations.

When child protection measures are required, social work should include fathers where appropriate and where they have an active involvement in the child's life. If it is in the child's interest, it is safe to do so, and the relevant parental rights are in place, information should be shared and, where appropriate, the father's involvement should be part of the solution and future planning. Nonetheless, each set of circumstances are different and, as such, require professional assessment before information is shared, as appropriate to the child's plan. This assessment should always include the views of the child.

For example, legal issues can have an impact on sharing information where a father does not have parental responsibilities and rights (PRR). PRRs are set out in the Children (Scotland) Act 1995 and include the responsibility to safeguard and promote the child's health, development and welfare. If a father does not have PRRs, social work will request permission to share from the mother; if this is refused, such information cannot be shared.

In terms of a change to inform biological fathers automatically in regard to child protection concerns, it is likely that in some cases, this would place significant risks on both children and adults. For instance, in domestic abuse cases, sharing information around social work involvement could be used as a means of control by an abuser. The Domestic Abuse (Scotland) Act 2018 recognises this possibility and places a duty on courts in all domestic abuse cases to consider imposing a non-harassment order to protect the victim, be that an adult victim of abuse or in a range of circumstances where a child is involved. Other examples include where the child has requested that their father is not made aware and that request been assessed, particularly if there is no contact, to be in the child's interest; and where there may be risk of international abduction.

In finishing, I want to note that we will work with partners to review and update the guidance when required by significant legislative, policy or practice changes on an annual basis, with a broader review every three years to ensure it remains relevant and up to date. Sharing information with biological fathers and/or appropriate family members in child protection cases may be considered as part of our next annual review.

I hope that the Committee and petitioner find the information above helpful.