

**PE1838/A**

Minister for Community Safety submission of 1 December 2020

Thank you for your email dated 4 November 2020 regarding Public Petition PE01838. The petitioners are calling on the Scottish Parliament to urge the Scottish Government to ensure that non-statutory child advocacy services are properly regulated to ensure competence, transparency and accountability.

The welfare of the child is the paramount consideration for the court when they are deciding whether or not to make an order for contact or residence. Before coming to its decision the court will consider a variety of evidence. This may include reports or information requested from parties to the case and other organisations. The reports and information requested from parties may come from a variety of sources, including children's advocacy services.

In deciding what is in the best interests of the child the court may also seek the views of the child. The Scottish Government produced a public paper earlier this year which sets out the ways in which children can give their views in family court cases. This is available at:

[https://www.parliament.scot/S5\\_JusticeCommittee/Inquiries/Children\\_\(Scotland\)\\_Bill\\_SG\\_paper\\_revised\\_version1.pdf](https://www.parliament.scot/S5_JusticeCommittee/Inquiries/Children_(Scotland)_Bill_SG_paper_revised_version1.pdf)

Any regulation of child advocacy services would require a full consultation and primary legislation. The scope for, and effect of, regulation may be limited as child advocacy services are not only provided by organisations or persons acting in a professional capacity. A child may equally be supported by, for example, a relative. If child advocacy services were to be regulated then consideration would need to be given as to how this would be enforced.

The Scottish Government recognises the important role that advocacy workers can play in ensuring children are able to give their views. In general terms, child advocacy services could help make the family court process less stressful for the child concerned. This could be in the best interests of the child. Child support workers could also help younger children to complete court form F9 (on giving views to the court in cases under section 11 of the 1995 Act).

The Children (Scotland) Act 2020 (the 2020 Act) does seek to improve the ways in which a child's views are heard.

The 2020 Act gained Royal Assent on 1 October 2020. Section 21 of this Act requires the Scottish Ministers to make such provision as they consider necessary and sufficient to ensure that all children concerned in relevant proceedings have access to appropriate child advocacy services. Relevant proceedings are defined as proceedings in which the court is considering making an order under section 11(1) of the Children (Scotland) Act 1995. There is more information on how I envisage this service running in the supplementary Financial Memorandum to the Act which is available at the link below:

<https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/children-scotland-bill/stage--2/supplementary-financial-memorandum-children-scotland-bill.pdf>

Any advocacy service that is appointed under section 21 of the 2020 Act would need to offer independent support. There is more information on the work we plan to undertake to ensure children's advocacy is available in the paper on children's views which I have referred to earlier.