

PE1838/L

Minister for Community Safety submission of 18 February 2021

Thank you for your email dated 5 February 2021 regarding Public Petition PE01838. I read with great interest the responses received by the Committee from the various organisations. There are a number of points arising from the submissions which I would like to address.

Registration scheme

I note the Children & Young People's Commissioner Scotland's comment that there is "benefit in exploring the potential for the consistency and quality of children's advocacy services to be improved through some form of registration".

The establishment of any form of registration scheme would be likely to require primary legislation following prior consultation on proposals. The consultation would need to be public and open to all. As a number of responses to the public petitions committee said, children and young people would need to be at the heart of any scheme. This would start with any consultation on what a scheme should look like. I would therefore wish to involve children and young people directly in any consultation.

The operation of a scheme once established would require a register to be maintained which would entail arrangements for considering applications; assessing applicants against set standards; and arrangements for determining whether persons should be removed from the register. The initial and ongoing costs involved would therefore be substantial.

Of course, any work on this would be for the next administration to consider. I would also note that any further work would need to consider and assess what is already in place in this type of area. For example the requirements followed by Scottish Women's Aid workers and the principles and standards set out by the Scottish Independent Advocacy Alliance.

Child advocacy services in Children (Scotland) Act 2020

Section 21 of the Children (Scotland) Act 2020¹ (the 2020 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 those where the court is considering making an order under section 11(1) of the Children (Scotland) Act 1995.

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 help younger children to complete a form giving their views or give their views to a child welfare reporter / curator ad litem. A child support worker could also be responsible for providing an explanation of decisions under

¹ [Children \(Scotland\) Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)

section 20 of the 2020 Act or investigate reasons for non-compliance with decisions under section 22 of the 2020 Act.

As I noted in my previous correspondence, the Scottish Government has produced a public paper which sets out the ways in which children can give their views in family court cases and more detailed plans and timescales on the work it plans to undertake to ensure children's advocacy is available².

Scottish Ministers would need to consider what advocacy services they consider to be required.

The Scottish Government considers the best way to establish such a service would be by grant funding. Any advocacy service established in this way would take time to implement. It could take a year to establish a grant scheme and a further year to run the grant programme and award the funding. The revised Financial Memorandum³ which has been published after stage 2 of the Bill sets out potential cost implications for awarding a grant for child advocacy services. This has been estimated at between £4.65m and £5.17m per year.

I agree with the comments by Children 1st that any service that is endorsed by the Scottish Government needs to offer independent support and advice to children. This would mean advocacy services funded under the 2020 Act would need, as a condition of funding, to meet minimum standards in terms of training and experience.

Section 21 of the 2020 Act would only cover child advocacy services that are provided to children to assist them in participating in proceedings in which the court is considering making an order under section 11(1) of the 1995 Act. It would not cover services supporting children in other situations.

PVG

I note your request for confirmation as to whether non-statutory advocacy workers are required to join the Protecting Vulnerable Groups (PVG) Scheme. There is nothing in the enabling legislation, the Protection of Vulnerable Groups (Scotland) Act 2007 (the 2007 Act)⁴ that requires scheme membership as a condition of doing regulated work with children and / or adults as set out in part 2 paragraph 7 of schedule 2 of the 2007 Act⁵. It is, however, an offence for an organisation offering regulated work to offer that type of work to an individual who is barred, and as a result most organisations do carry out PVG checks as part of their recruitment practice. A barred individual seeking to do, or doing, regulated work will also be committing an offence.

There are changes planned for the future following the enactment of the Disclosure (Scotland) Act 2020⁶ in July last year. The proposed changes to the 2007 Act will put the PVG Scheme on a compulsory footing meaning that scheme membership will be

² [Children \(Scotland\) Bill_SG_paper_revised_version1.pdf \(parliament.scot\)](#)

³ [Microsoft Word - AccessibleVersion_SPBill52AFMS052020 \(parliament.scot\)](#)

⁴ [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(legislation.gov.uk\)](#)

⁵ [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(legislation.gov.uk\)](#)

1. ⁶ [Disclosure \(Scotland\) Act 2020 \(legislation.gov.uk\)](#)

required by an individual carrying out a regulated role (this will replace the current 'regulated work') with children and / or adults.