



Response to the Scottish Government's Consultation on Regulation of Child Contact Centres

7 July 2021

The Scottish Women's Rights Centre (SWRC) is a unique collaborative project that provides free legal information, advice and representation to women affected by violence and abuse. The SWRC exists because of abuses of power and because a gap persists between women's experience of violence and abuse and their access to justice. The SWRC strives to fill these gaps by working with specialist solicitors and experienced advocacy workers. Informed by our direct work with victims/survivors of violence and abuse, we seek to influence national policy, research and training to improve processes and systems, and ultimately to improve the outcomes for women who have experienced gender-based violence (GBV). You can find out more about us here: www.scottishwomensrightscentre.org.uk.

Introduction

We welcome the opportunity to respond to this consultation and we have done so by drawing on our practical experience and expertise in providing legal advice and representation to women affected by gender-based violence, particularly domestic abuse, and from our experiences working with victims/survivors/women in child contact matters. We provide free legal advice surgeries and information helplines to survivors of gender-based violence. Through our outreach we speak directly to victims/survivors and gain insight into the issues faced through the legal system.

Within our response when we are referring to victims/survivors, we are referring to survivors of gender-based violence, particularly domestic abuse.

We have carefully considered the questions of this consultation and have answered those where we consider we can input from our expertise.

Question 3) Do you agree with the proposed process for and frequency of inspections for a provider's registered premises?

Yes, with further comment

We believe that the proposed process and frequency of inspections for a provider's registered premises is appropriate (Initial inspection and then inspection on a three yearly basis). However, we note concerns about the process when issues are raised. We support the Scottish Government's preferred approach to appoint the Care Inspectorate to take on responsibility for inspecting child contact services. As we understand it, identification of a specific issue would in the first instance be encouraged to be raised with the child contact centre directly and then the Care Inspectorate if unsatisfied with the outcome (as is the current procedure for care homes¹). The Care Inspectorates policy for investigating complaints arising from care home facilities is to aim to complete the investigation within 40 working days². This raises some questions: if a particular issue is raised with the child contact centre prompting inspection, we understand that the centre would still be operational whilst they are given 'appropriate time' to rectify the issue(s). In terms of 'appropriate time' the Care Inspectorate has previously specified in terms of their role that they "will set a timescale for the requirement to be met, which may be days, weeks or months depending on its nature and the speed with which it could be reasonably done³." Our concern is exemplified with the following scenario: if closure of an area would lead to any safety concerns for a victim/survivor being forced to encounter the perpetrator at all (for example, closure of entrances/exits and, or waiting rooms). If there are any safety concerns, then the time period given to the contact centre to rectify the issues is critical and could pose a significant safety risk for the victim/survivor. Furthermore, it would also be highly traumatic for the family involved. As such, we propose that consideration be given to the 'appropriate time' given to centres and seek clarification on what safeguarding can be introduced to mitigate the danger and the risk of re-traumatisation that this poses to survivors of domestic abuse. We strongly recommend that sufficient domestic abuse policies are in place which would highlight the need to safeguard victims/survivors and ensure that the handover process is safe and trauma-informed at all times.

Question 5) Should the same minimum standards that apply to registered premises also apply to alternative premises?

Yes

To ensure the safety and wellbeing of service users.

¹ Please see <https://www.careinspectorate.com/index.php/complaints>

² Ibid.

³ The Care Inspectorate, 'Requiring care services in Scotland to improve: how the Care Inspectorate uses recommendations, requirements and its legal powers,' 2018 found at: <https://www.careinspectorate.com/images/documents/171/Requiring%20care%20services%20in%20Scotland%20to%20improve%20leaflet%20June%202018.pdf> p.3

Question 6) Are there any other areas that you think should be included in the minimum standards for alternative premises used on an ad hoc basis?

Yes

We propose that where emergency/temporary accommodation requires to be used, consideration must be given to the safety and wellbeing of victims/survivors using the centre. We propose that even if the alternative premises do not allow for the same safety procedures as the main premises (for example different entrances/exits for victims/survivors and their abuser), that there is a requirement for policies and procedures for staggering arrival (handover) times. There must also be separate waiting rooms for both parents in case of domestic abuse situations.

Question 7) Do you agree/disagree with the proposed process for inspections for alternative premises used on an ad hoc basis?

Agree

Please see our answer at question 3 of this consultation response.

Question 8) Should a contact centre provider be able to self-certify a premises as appropriate in situations where alternative premises are required unexpectedly or in an emergency?

Yes, with comment

We propose that, where the same standards that have been identified for registered premises in section 2.24 of the consultation document cannot be applied for alternative and ad hoc premises, there are certain policies and procedures that must be in place which are vital to ensure the safety of service users who are survivors of domestic abuse. Within these, we would include staggering arrival times and having separate waiting rooms for both parents as compulsory. We would therefore propose that domestic abuse/child protection policies include consideration of what will happen in the event of using alternative and ad hoc premises.

Question 10) These are the key areas we consider staff and volunteers in child contact centres working with children and families should be trained in under the proposed standards (other than staff or volunteers carrying out administrative or maintenance roles).

Please rate each on whether you feel it should be: Required for all staff (except those in administrative roles), Desirable for some staff to complete, but not required for all staff, or Not required for any staff to complete.

- child protection - **Required**

- understanding domestic abuse, particularly the dynamic of coercive control - **Required**
- understanding the ways adults can influence a child - **Required**
- working with families in conflict - **Required**
- responding to children's needs and behaviour – **Required**
- child development, including learning disabilities and developmental disorders - **Required**
- risk assessments - **Required**
- parental mental health - **Desirable**
- drug and alcohol misuse - **Required**
- awareness of other services that are available for children and young people - **Desirable**
- proficient recording of contact - **Required**
- reporting on contact - **Required**
- observing supervised contact - **Required**
- complaints handling - **Required**

For those we have marked as 'desirable', we recognise not all staff will have direct interaction in the contact process and so we have marked some training areas as desirable to reflect that it may not be feasible/appropriate for all staff to undertake. However, we consider that all those working directly with children and victims/survivors should be trained on the key areas highlighted in the subsections below.

We welcome the move towards more permanent staff being employed at child contact centres; this helps with continuity for the families that use the centres, and specifically for those who have and, or continue to experience the trauma of domestic abuse. Nevertheless, we understand that contact service providers are likely to continue their reliance on volunteers and temporary workers. We propose that the same standards should apply to volunteers and temporary members of staff.

Child Protection Training:

It is well established and recognised that children are directly impacted by living in a domestic abuse situation and that any continuation of abuse following the ending of a relationship can continue to cause harm to children's wellbeing and development. The harm of domestic abuse to children is recognised in the Domestic Abuse

(Scotland) Act 2018 [the 2018 Act].⁴ Offences under the 2018 Act are aggravated if children are involved; as per Section 5 (3) which states that where “*a child sees or hears, or is present during, an incident of behaviour that A directs at B as part of the course of behaviour*”⁵ the offence will be aggravated. The Scottish Government Child Protection Guidance (2014) highlights an area of critical concern is that in domestic abuse situations, child contact with the perpetrator can provide a channel for continuing and even increasing domestic abuse against the victim/survivor and children.⁶ The guidance states that “*Protection should be ongoing and should not cease if and when the abuser and the non-abusing parent/carer separate. Indeed, separation may trigger an escalation of violence, increasing the risk to both the child and their non-abusing parent/carer. One area of critical concern is the child’s contact with the perpetrator, which can provide a channel for continuing and even increasing the domestic abuse*”⁷.

Often child contact remains the only link that the abuser has to the victim/survivor and so they can use this as a means of perpetrating their abuse. We often hear through our outreach services from victims/survivors that perpetrators use the child contact process to continue their control and manipulation of both the victim/survivor and children of the relationship.

It is vital that staff are trained on how to handle disclosures and concerns of ongoing experiences by children (and other service users). Back in 2006, in its report ‘*Behind Closed Doors the Impact of Domestic Violence on Children*,’ UNICEF stated that domestic violence is a global problem of enormous proportions and that violence in the home is one of the most pervasive human rights challenges of our time.⁸ Unfortunately, in their more recent 2020 report ‘*The Global Status Report on Preventing Violence against Children*,’ UNICEF continues to report on the scale of violence against children and importantly the impact that the Covid-19 pandemic has had, stating that “*The COVID-19 pandemic and the physical distancing measures imposed in response to it have greatly increased the risk of intra-family violence*”⁹. The 2020 UNICEF report then goes on to identify that “*an estimated one billion children – or one out of two children worldwide - suffer some form of violence each year.*”¹⁰ Further, the 2020 report states that “*1 in 4 children aged under 5 years live with a mother who is a victim of intimate partner*”¹¹. Both reports by UNICEF highlight

⁴Domestic Abuse (Scotland) Act 2018 <https://www.legislation.gov.uk/asp/2018/5/section/5/enacted>

⁵Sec 5(3) Domestic Abuse (Scotland) Act 2018 <https://www.legislation.gov.uk/asp/2018/5/section/5/enacted>

⁶ Scottish Government “*National Guidance for Child Protection in Scotland*” 2014

<https://www.gov.scot/publications/national-guidance-child-protection-scotland/>

⁷ Ibid.

⁸ UNICEF ‘*Behind Closed Doors The Impact of Domestic Violence on Children*’, 2006,

<https://www.unicef.org/media/files/BehindClosedDoors.pdf>

⁹ UNICEF, ‘*The Global Status Report on Preventing Violence against Children*,’ 2020:

<https://www.unicef.org/media/70731/file/Global-status-report-on-preventing-violence-against-children-2020.pdf> at

p. V

¹⁰ Ibid. p.V

¹¹ Ibid. p.8

the prevalence of domestic abuse and the significant impact on children, which we submit **must** be accounted for in training undertaken by centre staff.

UNICEF has previously highlighted the need for greater awareness about the signs of abuse and has found that the way in which professionals communicated with young people when they disclose abuse is key.¹² This is also underlined by research carried out by the NSPCC into their study of disclosures of childhood abuse, which highlighted the important role of adults in noticing the signs of abuse and hearing disclosures in all forms.¹³ The study notes that disclosures can occur in “*many different ways, for example, through verbal or non-verbal means, directly or indirectly, partially or fully and prompted or accidental*”¹⁴. It is vital that staff at child contact centres are trained to identify the different ways in which a disclosure may be made.

The NSPCC research shows that for the sample group of young people involved in the study, disclosures of abuse were made at varying stages to professionals they dealt with as well as family members. The study reports that “*young people made ambiguous verbal statements in attempts to alert adults to the fact that they were being abused,*” but children were dismissed with no action and/or inappropriate action been taken.¹⁵ The study further reports that “*there were three main reasons why abuse did not stop: the recipient of disclosure did not hear or recognise what the young person was trying to tell them; the recipient of disclosure denied or ignored what the young person told them; the recipient of disclosure took insufficient or unhelpful action or handled the disclosure poorly.*”¹⁶

With this in mind, we believe it is vital that staff are trained on how to handle disclosures and concerns of ongoing experiences, as all professionals working with children have a responsibility to ensure the safety of children they are working with and to ensure that there are no missed opportunities for intervention.

We would therefore propose that training is required to recognise the impact of domestic abuse and the child protection concerns that can flow from these situations. Staff **must** be able to sensitively and competently recognise and handle child protection concerns.

Domestic Abuse Training:

It is vital that staff in child contact centres understand domestic abuse, particularly the *dynamic of coercive control*. Misconceptions about domestic abuse are still

¹² UNICEF ‘*Behind Closed Doors The Impact of Domestic Violence on Children*’, 2006, <https://www.unicef.org/media/files/BehindClosedDoors.pdf>

¹³ Debbie Allnock and Pam Miller, *No One Noticed, No One Heard: A Study of Disclosure of Childhood Abuse*, NSPCC, 2013, <https://www.norfolkscb.org/wp-content/uploads/2015/03/no-one-noticed-no-one-heard-report.pdf>.

¹⁴ Ibid, p. 11.

¹⁵ Debbie Allnock and Pam Miller, *No One Noticed No one Heard; a Study of Disclosures of Childhood Abuse*, NSPCC, 2013, p. 20.

¹⁶ Ibid. p. 17.

widespread. Notions of children ‘*witnessing*’ domestic abuse do not adequately describe the variety of ways in which children experience domestic abuse.¹⁷ Children are not simply ‘witnesses’ to incidents of physical violence; they are impacted by a range of coercive behaviours, including financial control and isolation.

SafeLives Scotland state in their report ‘*Whole Lives: Improving the Response to Domestic Abuse in Scotland*’ that “*Domestic abuse training should be introduced for all professionals who may need to respond to victims and survivors of domestic abuse*”.¹⁸ Whilst the SafeLives report makes particular mention of “*police first responders, health and social care workers and members of the judiciary*”,¹⁹ we would propose that this should include child contact centre staff.

We know from our extensive work with domestic abuse survivors, and particularly through our outreach services, that abuse does not end on separation. For many victims/survivors and children, abuse continues or intensifies after separation, with child contact proceedings and arrangements a key avenue through which abusers continue to exert control. It is important for centre staff to understand that when families begin to use child contact centres, they will often still be experiencing the impact of abuse which requires to be recognised and safeguarded by centre staff.

This is particularly important when considering the impact that ongoing contact with their abuser can have on a victim/survivor. Centre staff should be trained to be aware of the impact of abuse and possible triggers that may affect a victim/survivor. Where staff have an awareness and understanding of domestic abuse, they are better placed to implement centre policies on domestic abuse and to ensure the safety of victims/survivors using their centre. Centre staff should have an awareness of safety concerns that may arise when dealing with a domestic abuse situation such as: the impact of bail conditions, the requirement for staggered arrival times and separate waiting rooms and safety planning, where required.

Understanding Child Development Training:

Domestic abuse can profoundly disrupt a child’s environment, undermining their stability and damaging their physical, mental and emotional health.²⁰ The impact of trauma associated with domestic abuse on children at any age can interfere with the achievement of their developmental goals. We therefore recommend ensuring a trauma-informed service and mandatory training in this area.

The impact of chronic fear and of trauma on the brain requires to be understood by those working with victims/survivors. Professor Rachel Pain in her report ‘*Everyday*

¹⁷ C. Sharp and J. Jones, *With Scotland Briefing: Children Living with Domestic Abuse*, October 2012, <https://www.celcis.org/files/2315/4877/0268/WithScotland-briefing-children-living-with-domestic-abuse.pdf>

¹⁸ SafeLives, ‘*Whole Lives: Improving the response to domestic abuse in Scotland*’, March 2017, p. 13.

¹⁹ *Ibid.*

²⁰ Scottish Government, *National Guidance for Child Protection in Scotland*, 2014, <https://www.gov.scot/publications/national-guidance-child-protection-scotland/>

Terrorism: How Fear Works in Domestic Abuse has highlighted that those living with domestic abuse tend to live with “chronic fear which builds up over the long term and leads to significant trauma and negative effects on health and wellbeing.”²¹ This state of “chronic fear and associated stress has serious impacts on physical and mental health”²² and victims/survivors manifest symptomatic behaviour associated with trauma in many ways, “including anxiety, depression, sleep problems, low self-esteem, self-harming and thoughts of suicide”.²³

By understanding the impact that trauma —and particularly trauma from living in and, or experiencing domestic abuse— can have on the child, centre staff will be better equipped to supervise contact and proficiently record contact. We propose that it will be mutually beneficial for staff at the child contact centres and the families they serve to ensure a trauma-informed service, that includes mandatory training in this area.

Understanding the way adults can influence children training:

As we have highlighted, there is growing recognition of the effects of domestic abuse on children and there is evidence that children can be used by abusers directly as a way of exerting control and emotionally abusing the other parent.²⁴

We are aware that perpetrators of abuse often construct the concept of ‘*parental alienation*’ as a weapon against women in an attempt to twist the truth, manipulate mothers into facilitating contact, and discredit accusations of abuse. Sadly, these allegations often appear credible to professionals involved in the family’s life, especially when perpetrators of abuse are able to portray themselves in a positive light, whereas women experiencing abuse may appear emotional and defensive in direct response to the abuse and trauma they have experienced. Victims/survivors of coercive control often report that their abuser continues to perpetuate abuse via child contact which serves to continue a controlling or abusive relationship.²⁵

It is important for centre staff to have an understanding and awareness of the influence and control that adults can have over children. This is essential for the accurate recording and reporting of contact. We take the position that it is vital that staff have mandatory training on being able to recognise the signs of undue/inappropriate influence by an adult when supervising contact. Further, this will be relevant training for staff when dealing with any complaints that children/young persons may make directly to centre staff.

Proficient Recording of Contact:

²¹ Rachel Pain, ‘*Everyday Terrorism: How Fear Works in Domestic Abuse*, Centre for Social Justice and Community Action’, Durham University and Scottish Women’s Aid, 2017, p. 6,

<https://womensaid.scot/wpcontent/uploads/2017/07/EverydayTerrorismReport.pdf>

²² *Ibid.* p. 12

²³ *Ibid.*

²⁴ Rachel Pain, *Ibid.*

²⁵ C. Sharp and J. Jones, *With Scotland Briefing: Children Living with Domestic Abuse*, October 2012.

We consider it vital that a robust system for the proficient recording of contact is in place for victims/survivors who are going through family court process and require evidence of influence/abuse.

We are aware through our outreach work and representation that victims/survivors dealing with the family court process often struggle to portray their concerns of domestic abuse and the impact on the child. It is often difficult, if not impossible, for the victim/survivor to evidence the impact that domestic abuse is having on the child where the victim/survivor is not there to observe/record contact. Child contact centres serve to supervise contact and ensure the safety and wellbeing of families. The recording of contact by the child contact centre can prove to be an invaluable tool in ensuring that concerns regarding contact are made visible and evident to the court, thus ensuring the safety and wellbeing of the child and the victim/survivor.

We submit that where there are potential child protection concerns it is vital that centre staff are able to proficiently and accurately record contact. Good quality data recording is essential to assist both the family court process and any potential child protection services involvement.

As we have previously commented, staff should be well trained in dealing with disclosures by children/young persons. This must include the appropriate and accurate recording of any disclosures made. Omissions or mistakes in the recording of child protection concerns or disclosures could have a devastating impact upon the life and safety of the child/young person.

Reporting of Contact:

Consideration should be given as to the data and information contact centre staff are reporting on in relation to the quality of contact observed and any concerns they have. We would submit that the recording and reporting of contact should not simply be limited to whether contact took place. This would ensure that the welfare of the child remains the paramount consideration of the court decision and review process. Staff must be properly trained and a robust system for reporting of data needs to be put in place. Again, this is particularly relevant for victims/survivors when going through family court.

Question 11) These are the areas we consider that it may be desirable for certain staff at the child contact centre to have training in depending on their role, but that these wouldn't necessarily be required as minimum standards under the regulations.

Please rate each are on whether you feel it should be: Required for all staff as a minimum standard (except those in administrative roles), Desirable for some staff to complete, but not required for all staff, or Not required for any staff to complete.

- an introduction to trauma - **Required**

- adverse childhood experiences - **Required**
- positive transitions - **Desirable**
- attachment theory in child development - **Desirable**
- brain development - **Not required**
- working with families where English is not their first language - **Required**

The Impact of Trauma Training:

The impacts of trauma on the brain and the long-term implications of living through trauma are well researched and documented;²⁶ as such, the importance of trauma informed practice when working with victims/survivors of domestic abuse cannot be over emphasised.

Domestic abuse is profoundly traumatic for victims/survivors and for children, even when it is not directed at them personally, as we have stated in our answer to Question 10 of this consultation response. We therefore maintain that child centre staff must be trauma informed and aware that children and victims/survivors may exhibit Post-Traumatic Stress Disorder (PTSD) symptoms. For example, Women's Aid have identified that in a study by the Royal College of Psychiatrists,²⁷ that children responded to witnessing violence by exhibiting a multitude of different feelings such as anger, guilt, insecurity, confusion and ambivalence. Therefore, it is essential that staff are trauma-informed as trauma is likely to impact on the interactions staff have with victims/survivors. It is also vital that staff are trained on how to handle disclosures and concerns of ongoing experiences.

Adverse Childhood Experiences Training:

Domestic abuse is included as a stressor in studies of Adverse Childhood Experiences (ACEs). The term Adverse Childhood Experiences was originally developed in the US meaning "*intra-familial events or conditions causing chronic stress responses in the child's immediate environment. These include notions of maltreatment and deviation from societal norms*"²⁸ ."

The evidence of the impact of adverse childhood experiences is compelling; for children that experience domestic abuse, there is a strong observed association between experiencing this type of trauma and of health harming behaviours and

²⁶ Fiona Morrison & Fran Wasoff, *Child Contact Centers and Domestic Abuse: Victim Safety and the Challenge to Neutrality*, Violence Against Women 18(6), pp. 711 –720; NSPCC, "How childhood trauma affects child brain development" last updated 31st March 2021, <https://learning.nspcc.org.uk/child-health-development/childhood-trauma-brain-development>; Women's Aid, *The impact of domestic abuse on children and young people*, <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/impact-on-children-and-young-people/>; Scottish Public Health Network (ScotPHN), *Polishing the Diamonds: Addressing Adverse Childhood Experiences in Scotland*, 2016, https://www.scotphn.net/wp-content/uploads/2016/05/2016_05_26-ACE-Report-Final2.pdf

²⁷ Women's Aid, *The impact of domestic abuse on children and young people*.

²⁸ Scottish Public Health Network (ScotPHN), *Polishing the Diamonds: Addressing Adverse Childhood Experiences in Scotland*, 2016.

illnesses, these can include injury and death during childhood, premature mortality and suicide, disease and illness, mental illness.²⁹

It is crucial that staff are trained on how to handle disclosures and concerns of ongoing domestic abuse experiences. Research by UNICEF has highlighted the need for greater awareness about the signs of abuse and has pinpointed the fact that the way in which professionals communicate with young people when they disclose abuse is key.³⁰

Language Barriers:

We would submit that it is essential that consideration is given to the potential language barriers that may face service users. Given the diversity of the Scottish population, many service users will come with specific needs including language barriers and additional support needs (for example, requiring a sign language interpreter). To ensure inclusivity and the safety of all service users, it is important that contact centres are aware of the different needs of service users and have appropriate access to interpreting services and other additional support resources. The importance of having quality training, policies and resources is increased in domestic abuse situations. For example, where a parent with language barriers needs to disclose domestic abuse or wishes to express concerns regarding handover arrangements to centre staff, it is crucial that staff are able to quickly and competently ensure that they can communicate this information. Failures in this area may lead to the disadvantage and further victimisation/abuse of victims/survivors, especially if the other parent is able to communicate more fluently with centre staff.

Additionally, where children may require additional support/language support this must be taken into consideration. This should be an important consideration in terms of the accurate recording and reporting of contact.

Question 14) Do you agree/disagree with the proposed process for monitoring of training requirements?

Agree

We agree that staff should be PVG registered.

We agree that the training requirements *must* be monitored and regulated. The Care Inspectorate is the Scottish Government's preferred option for this regulatory role and we agree that the Care Inspectorate would have sufficient expertise to carry out this role.

²⁹ Ibid.

³⁰ UNICEF, *Behind Closed Doors the Impact of Domestic Violence on Children*, 2006, <https://www.unicef.org/media/files/BehindClosedDoors.pdf> at p9

Question 15) Do you agree/disagree with the proposed process for raising complaints against a child contact service?

Agree

The Care Inspectorate is the Scottish Government's preferred option for this regulatory role and we consider they would have sufficient expertise to carry out this role.

Victims/survivors may wish to raise complaints regarding domestic abuse situations and how this has been handled by a child contact centre. Therefore, there is a need to ensure that the Care Inspectorate staff also have sufficient knowledge and understanding of domestic abuse and trauma-informed training to ensure that they can handle complaints of this nature sensitively and competently.

Question 16) Do you agree/disagree with the proposed process for raising complaints against individual members of staff and volunteers?

Don't know

Upon consideration of the information provided for this consultation process, we feel that we require further information on the proposed process to comment.

We consider that there is a potential gap in relation to complaints about individual staff members. It appears that the only recourse proposed is direct complaint to the contact centre to be dealt with under the individual centre's complaint process. Our concern would be where there is a complaint of inappropriate behaviour by a staff member; how would the contact centre handle this? This Consultation proposes that *"The Scottish Government does not consider that the regulator [The Care Inspectorate] would investigate the conduct of individuals working at child contact centres, other than to ensure that standards of staff training are met."* Absent a named regulatory authority and individual registration and intervention, it is not clear who would have regulatory authority over the individual staff members. There should be a clear mechanism to ensure safety and confidence of the complainer and their family and consistency across Scotland.

We consider that an important element of the outcome should be that the individual member of staff will receive further, targeted training, and where sufficiently serious can be removed from working in the centre.

Question 17) Do you have any suggestions on how guidance on complaints procedures should be made accessible to children using child contact centre services?

Yes

There should be a complaints process which is inclusive of children and young persons. It is agreed that there should be a child friendly complaints mechanism. We would propose that the following should be considered in this regard:

- Children should be made aware of the complaints process from the beginning of their engagement with the centre (where they have sufficient maturity to comprehend the complaints process).
- Any complaint or information forms should be child-friendly and accessible.
- Staff should be trained in appropriately handling complaints by children and young persons.
- Staff should be aware of the influence that adults can have on children and that complaints should be handled sensitively in this regard.
- Thought requires to be given to the process of hearing complaints from children and young persons independently (i.e. without influence of other adults where possible) and in a supportive way.

The United Nations Convention on the Rights of the Child (UNCRC)³¹ is the global “*gold standard*” for children’s rights and sets out the fundamental rights of all children. The Committee on the Rights of the Child has emphasized that States must provide effective and child-sensitive means for children to have their complaints heard before appropriate bodies.³²

UNICEF have designed a toolkit that presents key concepts guiding a child rights approach to complaints handling, they include; The Convention on the Rights of the Child is to be used as the reference framework, the complaint mechanism needs to ensure that the child’s dignity is respected throughout the process, ensure that the best interests of the child are respected at all stages of the process, child participation is vital and all communication with children needs to be conducted directly in a way that is safe, respectful and non-threatening.³³

Furthermore, the Scottish Family Law Case, *Patrick v Patrick*³⁴ provides a template for best practice in the area of communicating with children in a family law context. *Patrick v Patrick* was a contentious contact action in respect of section 11 of the Children (Scotland) Act 1995, heard at Glasgow Sheriff Court. In what has been described as an ‘*innovative move*’,³⁵ Sheriff Anwar took the time to write to the children and explain why the decision was reached (a decision which did not coincide with the views expressed by the children). The sheriff drafted the letter with input from a clinical psychologist to try to ensure the children knew that their opinions

³¹ <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> and as incorporated into Scots Law under The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill found at: [bill-as-passed.pdf \(parliament.scot\)](#).

³² UNICEF, *National human rights institutions (NHRIs) Series: Tools to support child-friendly practices. Child-Friendly Complaints mechanisms*, 2019, p. 6 https://www.unicef.org/eca/sites/unicef.org/eca/files/2019-02/NHRI_ComplaintMechanisms.pdf.

³³ *Ibid.* p. 10.

³⁴ [2017] SC GLA 46: <https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2017scgla46.pdf?sfvrsn=0>

³⁵ *Ibid.*

had been considered, the language was age appropriate and would not cause the children further distress or alarm. We would propose that elements of this process can be utilised when communicating with children and young persons following the complaints process.

Question 20) As we continue to develop these policy proposals and work to understand their potential impact, do you have any comments about, or evidence relevant to, any of the following:

a) the draft Business And Regulatory Impact Assessment – **No**

b) the draft Child Rights and Wellbeing Impact Assessment – **Yes**

The Child Rights and Wellbeing Impact Assessment (CRWIA) provides a process whereby the anticipated impact of any proposed law, policy or measure on children's human rights and wellbeing can be identified, researched, analysed and recorded.

The guidance on implementation of the CRWIA highlights that the "*Government should protect children against all forms of violence, exploitation and abuse and must take appropriate action to properly investigate suspected abuse. The government should also establish social programmes to provide the necessary support for the child, and for those who have the care of the child.*"³⁶ The guidance also emphasises that the Government should *assist child victims, and aide their recovery, with child-centred practice* seen as the cornerstone of outcomes-focused positive wellbeing. As we have noted throughout this response, perpetrators can continue to abuse victims/survivors through child contact, it is essential that child contact centre staff are aware of this. We propose that the obligations highlighted in the CRWIA guidance include ensuring child contact centres are child-centred and trauma informed with robust reporting mechanisms in place. This can be achieved by ensuring the policies and training needs we address in response to Questions 10 & 11 are mandatory for child contact centres and their staff across Scotland.

c) the draft Data Protection Impact Assessment – **Yes**

The impact assessment focuses on data sharing between staff and inspecting agencies. We note that there does not appear to be consideration of data sharing and breaches for individual service users. We note that in cases of domestic abuse, it is important to consider the impact of accidental data sharing with an abuser and for staff to have awareness of safety measures required when dealing with victims/survivors. It is important to highlight that those who have experienced domestic abuse may be wary giving their contact information and home address and

³⁶ Child Rights and Wellbeing Impact Assessment (CRWIA) *Guidance for Scottish Government Officials*, <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2015/06/childrens-rights-wellbeing-impact-assessments-crwia-guidance/documents/crwia---guidance-for-scottish-government-officials---version-2---february->

suggest that there must be robust policies in place to prevent the sharing of information with abusers, both to protect and reassure victims/survivors.

d) the draft Equality Impact Assessment – **No**

e) the draft Fairer Scotland Duty Assessment – **No**

f) the draft Islands Impact Assessment – **Yes**

We would submit that living on an island, or any rural and remote location, presents different and specific barriers to those who have experienced domestic abuse. These can range from a lack of anonymity in small communities, to a lack of support service available for victims/survivors.

We submit that provisions for child contact centres on the islands and rural and remote locations take into account these barriers and consult with local domestic abuse organisations in order to fully understand and ensure the service protects women who have experienced domestic abuse.

-- End of response ---