



**PUBLIC PETITION NO.**

**PE01430**

**Name of petitioner**

Ewan Cameron

**Petition title**

Regulation of childminding businesses

**Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to consider new legislation to ensure that child minding businesses of more than six children operate on equal terms when competing with more regulated preschool nurseries.

**Action taken to resolve issues of concern before submitting the petition**

The issues detailed in section 5 have been raised with our local MSP's Jim Tolson, Bill Walker and also the leader of the Liberal Democratic Party Willie Rennie as well as John Swinney Cabinet Secretary for Finance and Sustainable Growth.

Letter from Jim Tolson to John Swinney, 15th February 2011, which highlights the inequalities between a Child minding and nursery business, which are even worse than he thought, his letter states that Child minders pay 2/3rds less rates when in effect the majority do not pay any Business Rates.

Letter from John Swinney to Jim Tolson, 3rd March 2011, (the issue of child minding has not been addressed).

Letter from John Swinney to Bill Walker, 22nd September 2012, (John Swinney confirms that Social Care and Social Work Improvement Scotland (SCSWIS) will be addressing the size of child minders, however no action is detailed. Mr Swinney states "that there is no restriction on what childminders call themselves or trade as.", however our view and that of Trading Standards, they can not pretend to be something that they are not and he also notes that they cannot pretend to be a company.

Mr. Tolson, Mr. Walker and Mr. Rennie have all written letters on our behalf to Fife Council and to date they have not received a full and conclusive response to the issues detailed in Section 5.

**Petition background information**

Due to the operating costs of private sector Pre-School Nursery businesses increasing over the last few years, predominately from increases to VAT and astronomical rises in Business Rates, there has been an increase in the number of people opening Child Minding businesses, as they can operate with far less

overhead costs. In some cases it is unclear to members of the public whether they were putting their child into a Pre-School Nursery or a Child Minding business due to deliberate and unclear marketing. For example "Child Minders" who have advertisements which do not mention that they are actual Child Minders, for example one business has no mention that it is a registered Child Minder, but does say it is a business which Child Minders can not be. Another example exists, which again does not mention that it is actually a Child Minding business, however on their home page they mention Organic Nurseries in the hope that search engines pick this up.

Registered Pre-School Nurseries have to compete against much less regulated Child Minding businesses which do not pay Business Rates and will in most cases be breaching both domestic insurance and mortgage conditions as any Child Minding business with more than six children might require the appropriate Planning Consents to operate a Child Minding business in a domestic property.

All childcare businesses employing more than one person, paid or unpaid, should be carried out in premises that have the requisite Planning Approvals. SCSWIS to inspect and review insurance policies and ensure that all conditions are being met, including Planning Conditions and restrictions concerning lone workers.

The frequency of SCSWIS inspections of all child minding organisations should be the same as Pre-School Nurseries, however where child minders or their staff are unqualified the inspections should be more frequent.

Greater and more open financial accounting of all organisations in the child care sectors.

All staff operating in the childminding sector should be qualified to the same standard as Pre-School Nursery staff.

Avoid "lone workers" supervising children.

The minimum floor space requirements and staff to child ratios should be in line with Pre-School Nurseries.

Individuals will operate from their home, and employ mainly unqualified staff and operate as a Child Minding business. For example a Child Minding business could employ three staff, where each individual can look after six children each, this means a potentially of up to twenty four children from six weeks old up to sixteen years old, all within one domestic home regardless of its size. Refer to Section three, page 7 in this SCSWIS document, "The National Care Standards say that there should be no more than six children under the age of 12 in the care of each childminding service".

Therefore by definition more than six children would constitute a business and might require planning permission and should be registered for Business Rates.

<http://www.childminding.org/images/Registering%20and%20running%20a%20childminding%20service%20SCSWIS%20updated.pdf>

A lot of the Child Minding businesses have not got the requisite Planning Approvals to operate a Child Minding business on the premises, therefore their business insurance, if they have any, will be null and void. Any insurance at all requires you to comply with the requisite laws, if you do not you would not be covered.

The legislation considers that caring up to 6 children in a house by a residential childminder, including the resident's own children, is incidental to residential use and no planning application is required. Therefore any business caring for over six children might requires Planning Consent as it is considered a business by planning legislation and SCSWIS.

<http://www.childminding.org/images/Registering%20and%20running%20a%20childminding%20service%20SCSWIS%20updated.pdf>

Pre-School Nursery premises are inspected by SCSWIS prior to being given the approval for trading, and they scrutinise things such as disabled access, hand wash facilities, children's sized toilets etc., all of which come at a great expense, however, in our view, Child Minding businesses are not subject to the same enforcement of the regulations that should apply to all childcare services. This is backed up by the fact

that we have yet to see a registered Child Minders premises apply for a Building Warrant for works such as altering toilets to suit or for the installation of a disabled ramp.

Most Child Minding businesses have not registered their properties for Business Rates and as above any business with more than six children is classified as a business and therefore Business Rates apply. We cannot find any Child minding businesses at all on the Scottish Assessors Association website which have registered for rates. By not doing so they have a greater financial advantage over registered Pre-School Nurseries. For an example a residential property in Fife that we have been made aware of, is a "Band F" residential property paying £1,614.89, whereas a medium sized Pre-School Nursery will pay in the region of £25,000.00!

Pre-School Nurseries will get an inspection from SCSWIS every one to two years whereas Childminders can go up to four years between inspections, please refer to SCSWIS Inspection Plan Summary 2011-12 Appendix A.

A high percentage of Pre-School Nurseries are limited companies that legally, submit a set of annual accounts and prefer to receive methods of payments in an electronic form creating a paper trail of all income. However most Child Minding businesses operate purely in cash and there is no check mechanism to ensure that all income is declared. We are aware that some larger Child Minding businesses employ their staff on a self employed basis, therefore there is a risk here that the statutory National Insurance contributions are not being paid. Without getting the wage role for the child minding businesses it is impossible for an outsider to confirm, however this process is common knowledge and there is no checking mechanism to prevent it and there should be joined up system between SCSWIS and the Inland Revenue to check staffing and occupancy levels against declared income and NI contributions.

SCSWIS/SSSC requires that the staff in Pre-School Nurseries must have specific qualifications varying to their responsibility/job position, however child minders or their staff require no qualifications. The document below, published by SCSWIS, only recommends that individuals get some training and does not mention any minimum qualifications.

<http://www.childminding.org/images/Registering%20and%20running%20a%20childminding%20service%20SCSWIS%20updated.pdf>

The regulations and most insurance policies state that there should never be a situation in a Pre-School Nursery where you have a "lone worker". However many child minding services have inherent operational hazards such as if the child minder has to go to the toilet, changing a nappy or preparing food and is unable to give their full attention to all six children or leaving a young unqualified assistant in charge of up to twelve children, which if they have any, will breach their insurance. We ran a crèche and baby sitting business at a Hotel in St Andrews and one of the main reasons why we shut it down was it was impossible to get insurance for a lone worker supervising a child, we spent a lot of time on this issue and read all the potential policies that were available for baby sitting and every one had the caveat about avoiding lone workers with vulnerable people.

We are aware of several Child Minding businesses that provide a food service to the children that they care for, however none are registered for the Food Hygiene Information Scheme, as Pre School Nurseries have to be, which means that they will not be inspected by the Local Authority's Environmental Health Inspector. This link is a register for all establishments in Fife that are licensed to serve food and there is not one Child Minder on it, this is the same over other regions as well.

<https://www.fifedirect.org.uk/topics/index.cfm?fuseaction=service.display&objectid=F7837DB7-B7F8-4C70-A599-86A5401C7F36>

In summary

Child Minding Businesses with over six children are in most cases:-

- Less regulated than Pre-School Nurseries. Refer to [www.scswis.com](http://www.scswis.com)
- Do not pay the appropriate Business Rates. Refer to [www.saa.gov.uk](http://www.saa.gov.uk)

- Do not have Planning consent for Class change of use. Refer to local authority planning register.
- Will breach domestic mortgage conditions (operating a business from a domestic residence). Refer to any national lenders terms and conditions.
- Will breach insurance conditions operating a business from a domestic residence. If you do not have all statutory approvals and consents you will not be insured.
- Not registered to provide food, therefore will not be inspected by Environmental Health Services. Refer to local authority Environmental Health register.
- Do not provide the same minimum space standards for children. Refer to [www.scswis.com](http://www.scswis.com)
- Do not have the same minimum staff/child ratios. Refer to [www.scswis.com](http://www.scswis.com)
- Do not have the same facilities as a Pre-School Nursery, such as disabled access, children sized toilets and appropriate hand wash facilities. Refer to [www.scswis.com](http://www.scswis.com)
- Although Child Minding Businesses charge a similar level of fee's as a Pre-School Nursery they do not provide any education i.e. comply with Curriculum for Excellence. (Online research)

Although, there is guidance and legislation, see below links, regarding child minding services, they do not address the issues detailed above.

SCSWIS booklet on Registering and running a childminding service

<http://www.legislation.gov.uk/asp/2010/8/part/5>

PublicServices Reform (Scotland) Act 2010

#### Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/PE01430>

#### Related information for petition

**Do you wish your petition to be hosted on the Parliament's website to collect signatures online?**

**NO**

**How many signatures have you collected so far?**

1

**Closing date for collecting signatures online**

N/A

**Comments to stimulate online discussion**