

PE1570/E

**Alan Lee; Petition PE1570**  
**Response to letters from The Lord Justice Clerk, Family Law Association,**  
**Scottish Legal Aid Board and Families Need Fathers**

In response firstly to the Lord Justice Clerk, his response doesn't really assist in this petition. Although I know a court has issued an order but there is no one really to enforce it. Yes, the courts can enforce it but personally, imposing a prison sentence where there is a young child involved wouldn't be the best solution. Could I maybe recommend a community service or unpaid work that would be much more suitable? I do not agree on Lord Carloway's saying that courts "*often be reluctant to engage the full rigours of the law in civil dispute.*" Basically, what is the point in the court issuing an order when it can be easily ignored?

I totally agree with Lord Carloway and also others who have responded that "*it is not always in the best interest of every child that he/she should have continuing contact with both parents.*" However, every effort should be made for contact to continue as normal for the child if it is in his/her best interest. The child's physical and psychological welfare should always be a priority. A question I would like to put to Lord Carloway is; who gives the right for mothers/fathers to end contact if it's not in the best interest of the child?

There must be ways that the court should enforce an order otherwise it will be completely waste of money especially tax payer's money if an order was issued but not enforced which ultimately, the person seeking an order will have to go back to the court. I would finally like to point out Lady Butler-Sloss's comments quoted in the submission from Families Need Fathers in relation to enforcing orders:

*"I would like to see I must say, mothers who flout contact orders required to do all sorts of things that don't actually send her inside. I can see absolutely no reason why she shouldn't do community service. I should like to see her penalised in all sorts of inconvenient ways as long as it doesn't have any impact on her care of the child. So as long as the child is over 5 or goes to a child minder, then there is no reason why she shouldn't be required to go and clean the streets, whatever it may be. I would make her do something really unpleasant so that she understands the consequences of this. But to send her to prison is counterproductive, because the child will not want to know the man who has sent his mother to prison, particularly when she comes back and tells him about it."*

In relation the Family Law Association's response was very disappointing. The association was "*concern that this petition is that the emphasis appears to be focused on the rights of the parents rather than the welfare of the child.*" Contact was stopped by a resident parent, which obviously the non-resident parent will have to seek legal assistance for contact to be reinstated. The welfare of the child will be

---

considered by the court but it should also be considered by both parents which often it isn't. This I totally disagree with FLA. If the court finds it is not in the best interest of the child for contact to be reinstated, all parents should respect that decision of the court. A parent's rights as well as their child's should be the same; contact should remain, whether once a week for a few hours or couple of overnights. Often contact are stopped due to bad taste or disagreement between the parents but there is cases where it is stopped due to a legitimate reason such as inconsistencies that will disappoint the child and cause psychological harm.

Legal Aid is also a major factor in causing psychological harm to not only the child but the parent. The length of time it takes is shocking. My first initial application to SLAB was in August 2015 and to this date, it has been refused, reapplied and refused. The urgency measure that Mr Kenny MacAskill referred to does not apply in relation to contact issues as explained to me by my solicitor. I find the statistics from Mr Colin Lancaster, SLAB's chief executive, is merely on how application is processed. I would be interested to find out what the statistics is for when application for contact cases are applied to approve. The stats over "*three month period from July to September 2015 the average number of working days taken to decide applications in our hands was 16.3days.*" Is this figure for contact or just civil legal aid? I understand determining aspects for civil legal aid applications can be complex and I agree that this depends on the information provided by the application and or their solicitor.

Mr Lancaster again pointed out "*While the petitioner rightly points to research evidence that the interests of children will usually be best served by ongoing contact with both parents, this is obviously not always the case. There is also research evidence that court proceedings in relation to contact can themselves be stressful and damaging for all involved, including the children.*" I'm sure many parents are the same in not wanting to put their child through this court process but there is no other alternative when resident parents stop contact and do not want to resolve matters outwith the courts. The process is certainly stressful and draining for the non-resident parent, whether it's the mother or the father.

The length of time for legal aid to be approved also causes a detrimental effect when the court issues an order for contact. I'm sure non-resident parents would want the previous contact to be reinstated but this might not be the case if for example, the non-resident parent haven't seen the child for over a year, the court might grant contact to be two hours a week and increased every so often. This will be detrimental in the relationship between the non-resident parent and the child especially where the relationship was a good and close one.

The last submission by Families Need Fathers Scotland was certainly one I agreed most out of all the submissions. Like myself, I agree and "*support the need for a comprehensive review of the law relating to contact and residence.*" Over the course

---

of this parliament, a number of petitions has been submitted to the public petitions committee regarding contact and residence which as stated by FNF, this should be seen as an invitation to the Scottish Parliament to review and bring the Scottish Family Law into the 21<sup>st</sup> century. Totally agree with FNF;

*“Our view is that a cultural change in favour of “Shared Parenting” as practiced in many other countries is socially progressive. It would also pre-empt many of the relatively trivial disagreements that take up so much court time and public funding in Scotland. “Shared Parenting” means that both parents are properly involved with the care of their children and have an equal role in making key decisions. It doesn’t mean that there is an inflexible 50:50 division of children’s time but it does mean that children spend a significant amount of time with each parent, both routine activities and special occasions are shared and the child feels that both parents have an equal status.”*

I totally agree with Families Need Fathers submission which I think reflect on my petition.

Finally, in concluding my response to all the submissions, I’d personally like to thank all the submissions submitted for consideration. Putting all this aside; the petition, submissions etc., I just want what is best for all children, what is in their best interest and for them to grow up to be happy. Throughout the submissions and my evidence to the committee, the children’s welfare is paramount and what is in their best interest has been mentioned many times. As a parent, that is what we want isn’t it? I am also trained to put children’s welfare first in my role on the Children’s Hearing System.

My children, our children, Scottish children, deserve the best in life. The best what we can give them. The best education. The best health service. The best start in life. The guidance, support, protection and care. Safeguarding every inch of their best interest should be in every adult’s heart and soul. Children are our future!! It will be their world when we grow old.

I strongly urge the Scottish Parliament to review and update the family law for our children, for our families, for Scottish society and for much more. If families are stable, their values shared and good upbringing, society would not be a mess. Time to look forward and not backwards.

God Bless You All.

---