

# Citizen Participation and Public Petitions Committee

7th Meeting, 2021 (Session 6), Wednesday  
17 November 2021

## PE1838: Regulation of non-statutory child advocacy services

### Note by the Clerk

PE1838: Lodged 4 November 2020

<b>Petitioners</b>	Martin Baker and Katherine Bailey
<b>Petition summary</b>	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.
<b>Webpage</b>	<a href="https://petitions.parliament.scot/petitions/PE1838">https://petitions.parliament.scot/petitions/PE1838</a>

### Introduction

1. The Committee last considered this petition at its meeting on [8 September 2021](#). At that meeting, the Committee agreed to write to the Minister for Community Safety to ask whether the Scottish Government will undertake a consultation and other work necessary to introduce legislation to regulate non-statutory child advocacy services.
2. A summary of past consideration of the petition, responses to information requests and suggested areas for future investigation are provided for the Committee's consideration.

### Background

3. During its consideration of this petition, the Committee received 15 written submissions.
4. [At its meeting on 13 January 2021](#), the session 5 Committee agreed to write to the Minister for Community Safety, the Law Society of Scotland, the Children

and Young People's Commissioner Scotland, Who Cares? Scotland and Inclusion Scotland in relation to this petition.

## Minister for Community Safety

5. In her submission, the Minister states that she is not in a position at this stage to commit to a consultation on the regulation of non-statutory child advocacy services.
6. The Minister does, however, outline issues for consideration in relation to such regulation including enforcement; ensuring the independence of child advocacy services and costs.
7. On the issue of enforcement, the Minister suggests a number of potential options:
  - In child contact and residence cases, courts should only take account of non-statutory child advocacy services if they are regulated. However, it is noted that many of the services provided, such as informing children about what to expect, support and counselling, may not actually be seen by the courts.
  - standards for advocacy services could be laid down, with an independent regulator checking those standards are met and taking action if they are not. The Minister points out that this could create a need for a criminal offence to capture any child advocacy services which operated without being regulated and 'consideration would need to be given as to whether that would be proportionate'.
8. The Minister highlights that, in relation to an advocacy provider's independence, a regulator could not tell the advocacy service what to do or recommend in a specific case. Instead the regulator's role would be to 'ensure that only individuals who meet and maintain set standards, on matters such as training, are authorised to provide a child advocacy service and to run a complaints procedure.'
9. The Minister points out that there could be costs arising from any such regulation, including for advocacy services themselves in relation to meeting standards and the funding of an independent regulator.
10. The Minister notes the need to 'ensure that all services provided to children and young people, including advocacy services, are of high quality', noting that section 21 of the Children (Scotland) Act 2020 adds a new section, 100A, to the Children (Scotland) Act 2015. This section provides that Scottish Ministers must

make such provision to ensure that all children concerned in proceedings in which the court is considering making an order under section 11 of the 1995 Act (on matters such as child contact and residence) have access to appropriate child advocacy services.

11. The Minister concludes by stating that before implementing section 100A, she would propose a full public consultation, with impact assessments, in 2023.

## Petitioner submission

12. In their most recent submission, the petitioners state that they are “dismayed at the apparent lack of urgency on the matter,” noting in particular their disappointment that the consultation is being proposed to begin in 2023.
13. The petitioners reiterate their view that ‘advocacy workers are intervening in children’s lives and influencing his/her view of its own family life without transparency or accountability’.
14. The petitioners believe that the current situation regarding advocacy workers ‘does not seem to be compatible with the duties embedded in the UN Convention on the Rights of the Child or the UNCRC Incorporation (Scotland) Bill.’
15. They conclude by stating that ‘we realise that contact and residence cases are often troublesome for courts but keeping the activities of child advocacy workers in unregulated shadows is not an answer in a modern jurisdiction’.

## Action

The Committee is invited to consider what action it wishes to take.

### **Clerk to the Committee**

## Annexe

The following submissions are circulated in connection with consideration of the petition at this meeting –

- [PE1838/N: Minister for Community Safety submission of 8 October 2021](#)
- [PE1838/O: Petitioner submission of 8 November 2021](#)

The Scottish Parliament launched a new website at the end of Session 5.

All written submissions received on the petition before May 2021 can be viewed on the petition on the [archive webpage](#). Written submissions received on the petition after May 2021 can be viewed on its [new webpage](#).