OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Equalities, Human Rights and Civil Justice Committee

Tuesday 22 February 2022

Session 6

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Pàrlamaid na h-Alba

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EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE
5th Meeting 2022, Session 6

CONVENER

*Joe FitzPatrick (Dundee City West) (SNP)

DEPUTY CONVENER

*Maggie Chapman (North East Scotland) (Green)

COMMITTEE MEMBERS

*Karen Adam (Banffshire and Buchan Coast) (SNP)
Pam Duncan-Glancy (Glasgow) (Lab)
*Pam Gosal (West Scotland) (Con)
*Fulton MacGregor (Coatbridge and Chryston) (SNP)
*Alexander Stewart (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Lesley Anderson (Family Law Association of Scotland)
Rosanne Cubitt (Relationships Scotland)
Megan Farr (Office of the Children and Young People's Commissioner Scotland)
Judith Higson (Law Society of Scotland)
Ruth Innes QC (Faculty of Advocates)
Ian Maxwell (Shared Parenting Scotland)
Dr Marsha Scott (Scottish Women's Aid)

CLERK TO THE COMMITTEE

Katrina Venters

LOCATION

Committee Room 4

Scottish Parliament

Equalities, Human Rights and Civil Justice Committee

Tuesday 22 February 2022

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Joe FitzPatrick): Good morning, and welcome to the fifth meeting in session 6 of the Equalities, Human Rights and Civil Justice Committee. We have received apologies from Pam Duncan-Glancy. Fulton MacGregor and Karen Adam are joining us virtually.

Agenda item 1 is a decision on whether to take item 5, on correspondence from the COVID-19 Recovery Committee, in private. Do members agree to take that item in private?

Members *indicated agreement.*

Family Law

The Convener: Item 2 is a round-table evidence session on family law disputes between parents about the care of their children. I welcome Judith Higson, from the child and family law sub-committee at the Law Society of Scotland; Lesley Anderson, chair of the Family Law Association of Scotland; and Dr Marsha Scott, chief executive officer of Scottish Women's Aid. They are all joining us remotely. I also welcome Ruth Innes QC of the Faculty of Advocates; Megan Farr, policy officer with the Children and Young People's Commissioner Scotland; Ian Maxwell, national manager of Shared Parenting Scotland; and Rosanne Cubitt, head of practice for family mediation and relationship counselling at Relationships Scotland. They are joining us in person.

I refer members to papers 1, 2 and 3, and I invite each of the witnesses, starting with those who are in the room, to make a brief opening statement. I ask Ruth Innes to start.

Ruth Innes QC (Faculty of Advocates): On behalf of the Faculty of Advocates, I thank the committee for inviting us to attend today's round-table discussion. The faculty responded to the consultation in advance of the Children (Scotland) Act 2020, and since then it has responded to the consultation on child welfare reporters and to the recent Scottish Civil Justice Council consultation on rules regarding the mode of attendance at court hearings.

It is generally felt that, during the pandemic, courts have made every effort to keep family cases moving, irrespective of the difficulties. As we move forward, we welcome the recognition in the SCJC consultation that family hearings, other than those of a purely procedural nature, are best dealt with in person, albeit while preserving the option for remote hearings or for evidence to be taken remotely if that is appropriate—for example, if a party is a vulnerable witness. Faculty members have expressed strong concerns about the on-going use of telephone hearings, which have been found to be unsatisfactory in a number of respects.

With regard to child welfare reporters, the faculty responded to the Scottish Government consultation last year. We are of the view that more training and a more regulated system are to be welcomed. However, our general view is that the system should continue to be managed by the courts.

With regard to challenges facing parents and children, I know that other witnesses will highlight other issues, so I will highlight just one, which is the difficulty in accessing therapeutic input or expert psychological support. That issue affects

families and young people in general, not just in cases before the court.

Megan Farr (Office of the Children and Young People's Commissioner Scotland): I am a policy officer for the Children and Young People's Commissioner Scotland. The commissioner's role is to promote and safeguard the human rights of children and young people in Scotland, with particular attention to the United Nations Convention on the Rights of the Child. We provided evidence, including oral evidence, to the former Justice Committee at stages 1, 2 and 3 of the bill that became the Children (Scotland) Act 2020. We continue to be concerned about the impact of virtual hearings on children and young people, as Ruth Innes reported, particularly on their right to participate in proceedings when decisions are being made about them.

Ian Maxwell (Shared Parenting Scotland): I thank the committee for inviting Shared Parenting Scotland to the meeting.

Covid-19 and lockdown created many issues and challenges for separated parents and their children. In some cases, communication between separated parents improved as they worked together against the pandemic. Unfortunately, for many others communication just stopped, along with contact. The closure of courts and contact centres caused massive delays in the progress of cases. Although we appreciate the efforts of so many people in the courts and support services to catch up, what is often referred to as a backlog of cases could, for us, mean the loss of months or years of a relationship between a child and one of their parents.

We welcomed the initial triaging of family cases, which started when the courts were closed. That was used to identify urgent business—for example, if contact was being unreasonably withheld. We appreciate the efforts that so many people in the system have made to get back to something like normal as soon as possible, but Covid highlighted to us just how unsatisfactory "normal" is in Scotland. It is slow, unpredictable, inconsistent between courts and shockingly expensive. In the name of seeking the best interests of the child, our adversarial system pits parents against each other precisely when they need maximum help in focusing on what would be best for their children next week, next year and into adulthood.

We feel that a form of early triaging, now that we have had a taste of it, could inject a sense of urgency into the whole court system. Months of a child's life should not be allowed to slip by because the system is slow. The Cochem family court in Germany has found that such a radical change works very well; cases there have a first hearing in two weeks, not two months. Such an approach here would allow contact to restart as soon as possible—the best outcome for the child—either in a contact centre, if there is concern about safety or abuse, or unsupervised if there is no such concern.

The Covid time has revealed what a blunt instrument our system is, but the will to try something new that we saw during the restrictions should be continued. Parents who are separating need to be supported to help their children to cope with the new arrangements, not punished by having to go to court.

We have just launched the new ways for families approach, which is a combination of online training and one-to-one coaching that gives parents the skills to problem solve on their own account. Relationships Scotland already offers parenting apart training sessions. We know that 44 per cent of civil legal aid is spent on family cases, which amounts to a total of £57 million per year. Increasing the amount that is spent on supporting and training separated parents to reach agreement would save a lot of money on family court actions, and it would help those parents, and above all their children, to enjoy the benefits of shared parenting.

Rosanne Cubitt (Relationships Scotland): I am head of practice at Relationships Scotland, which is a network of 21 member services that provide a range of support to families with relationship difficulties. In the context of family law, we work with families who are experiencing issues arising from separation and divorce, and contact and residence disputes. That is done primarily through family mediation, which helps parents to discuss and agree arrangements for the care of their children, and through the provision of child contact centres, which support children to have a relationship with the parent or carer with whom they no longer live. We also offer counselling for adults, children and young people, and—as Ian Maxwell said—parent education sessions, which we call parenting apart sessions.

We welcome the opportunity to give feedback to the committee on the general issues in this area of work and on the impact of the pandemic. I have sought feedback from our member agencies, which provide mediation, child contact and parenting apart sessions. A number of themes have been recurring over many years and remain an issue, and we would summarise them as follows.

The first theme concerns the need for adequate risk assessment prior to court orders being made, to ensure that referral of cases, in particular for child contact, is appropriate. We do a risk assessment in respect of provision of the service, but further up the line the court makes a contact

order and the question is whether that order is appropriate.

The second theme concerns the need for realistic court orders that reflect what can be provided on the ground. Orders are sometimes made for a frequency of contact or on a timescale that cannot be achieved with the resources that are available, so greater communication with provision on the ground would be helpful for families.

The third issue concerns the communication and information that we get from the court, particularly to allow the child contact centre to make an assessment on supporting that action. Some courts send only the order; some send reports and assessments, which can be helpful.

Our strong view is that hearing children's views is specialist work and that it is critical that the work is undertaken by skilled workers. Not everyone who does that work has undertaken adequate training, particularly when it comes to trauma, safeguarding and child development.

On the pandemic and resulting delays in the court process, to which others have alluded, particular issues for families have been: much longer breaks during which children have not seen their parents, so re-establishing relationships takes longer and is harder; escalated and more entrenched conflicts, as people have had longer in an adversarial process, so it takes longer to de-escalate situations; and significantly more issues with mental ill health and anxiety for children and parents—and for practitioners, who are needing a lot more support, given what they have had to deal with during the pandemic.

There are also longer waiting lists for child contact support, because of the need to do more cleaning and see fewer families; there is a lack of available venues. We have adapted our practice so that we can offer mediation on Zoom. That is working well and we do not have waiting lists for mediation. However, direct work with children is less effective on videoconferencing technology and it is important for children to spend time with the other parent in person.

A broader point is that Relationships Scotland can provide a range of support that is holistic, therapeutic, impartial and unconnected with the court process, and if families were referred much earlier, prior to the escalation of conflict in the court system, we would be able to provide an integrated package of support that would be a cost saving to the public purse. The approach works well alongside the legal process if a determination is needed.

On the proposed secondary legislation, we submitted detailed responses to the various consultations and we contributed to meetings with the Scottish Government. We support all the developments that are raised in the secondary legislation. Our main frustration is with the delay in implementing the alternative dispute resolution meetings pilot. We appreciate that that is not a top priority and that Covid has had an impact on implementation, but there is a danger of the process getting overly complicated and unnecessarily delayed.

The Convener: Thank you. I will bring in our remote witnesses, starting with Judith Higson.

Judith Higson (Law Society of Scotland): Good morning, and thank you for inviting the Law Society's sub-committee on child and family law to give evidence today.

We, too, have responded to most of the consultations that Ruth Innes QC mentioned. We consider it important to look at matters case by case, considering the individual child's needs and seeking flexible and creative solutions to assist families and parents in dispute.

We also consider it important not to put the responsibility for decision making on to children. Decision makers need to understand things from the child's point of view, but to ask children to make the decisions themselves is to place too much responsibility on them.

Our general theme is that we already have a lot of legislation that can achieve the desired goals. We do not need to reinvent the wheel; we can look at and adapt the legislation that we have.

We support the regulation of child contact centres and welfare reporters, and we welcome the work that is being done on ADR. In general, access to support and funding is important.

Examples of the specific challenges that are the result of the pandemic include parents using the pandemic to act belligerently and withhold contact time from the other parent. Some parents have co-operated better than others. Some might have had to shield, and disputes and differences of opinion have arisen over the necessity of doing so.

10:15

Parents have had to consider the position of vulnerable grandparents and how to manage children's time with them safely; indeed, that might have impacted on the other parent's time with the child, resulting in disputes. Some parents have lost the support of childcare that is provided by grandparents, who have become vulnerable because of the pandemic.

On occasion, parents have been more likely to look for alternative solutions as opposed to going to court, given the potential, with the pandemic, for delay in the raising of court proceedings. Other

challenges with the court system included solicitors getting papers from the court when representing parties or children. Solicitors' ability to communicate with the sheriff clerk's office was severely impacted, and evidential hearings were challenging as everyone grappled with the technology.

There have been impacts on trainee solicitors with regard to their getting exposure to the court system. Moreover, solicitors have been advised by certain jurisdictions not to contact the court for updates in cases, because of staff requiring to self-isolate or being unwell.

That is probably enough of an opening statement, convener, so I will leave it there for now. I can flesh out anything as required.

Lesley Anderson (Family Law Association of Scotland): Thank you for the invitation to come before the committee. I am the chair of the Family Law Association of Scotland, which is a network of family law practitioners across Scotland with around 350 members. The association, which provides training to family law solicitors, has responded to the consultations that Ruth Innes QC mentioned. We provide a forum and a mechanism for sharing with members information such as updates on family law.

My work with the association is voluntary. As my day job, I am a solicitor advocate accredited as a specialist in child law as well as family law, and I am a court-appointed child welfare reporter, curatrix ad litem and reporting officer. I have written articles on the development of the court process through Covid and advocacy in the virtual court.

What has been very much on my radar not only as a solicitor advocate preparing for parties but as a child welfare reporter is what I would call a swell in Covid contact cases. I very much agree with Ian Maxwell on all the issues that he mentioned, particularly the huge gap that is being experienced by children in seeing one or other of their parents as a result of Covid.

The issue of interviewing children has also come to the fore. As a child welfare reporter and curatrix, I interview children at least once a week, and I am being asked to interview younger and younger children to ensure that their views are available for the court to take account of in making decisions.

Thank you for the opportunity to give evidence.

Dr Marsha Scott (Scottish Women's Aid): Good morning. I am really delighted to be invited to talk about what are issues of supreme importance.

I am the chief executive of Scottish Women's Aid. As both a women's and children's rights organisation, we care very much about the outcome of some of the issues that are being raised on today's agenda.

I will also be giving evidence to the Criminal Justice Committee tomorrow morning, and I think that that points up one of our concerns about the new arrangement of committees that was put in place after the election. The move has had, I suppose, a good and a bad outcome. I understand the workload issues that are involved, but I am concerned about the separation of civil and criminal law. One of our concerns about the operation of Scotland's justice system for children is the chasm between criminal and civil justice procedures, which means that information from criminal cases involving domestic abuse and harm and trauma to children and their mothers very rarely makes its way efficiently and robustly into civil hearings about child contact.

We have been trying very hard to bridge that chasm by having children identified as co-victims in criminal cases. We failed to get that into the new Domestic Abuse (Scotland) Act 2018, and we are worried that having criminal and civil justice considered separately by two different committees will exacerbate an on-going problem. However, if a different committee getting civil justice means that more attention is paid to it, we would be happy—we would be all over that.

I welcome the committee's invitation and its interest in contact centres and so on, in part because the vast majority of women who contact the Scottish Women's Rights Centre, Scottish Women's Aid and a variety of civil legal aid offices are domestic abuse survivors who are engaging in child contact processes. It is an absolutely critical issue, and I hope that you will forgive me, because I have a few things to say about it.

I find myself in the very unusual circumstance of agreeing with Ian Maxwell, because I, too, do not understand the system's desire to rush back to a status quo that was totally unacceptable prior to Covid in relation to face-to-face and virtual proceedings, delays in the system and a variety of other systemic problems that deny children their human rights.

The entire civil justice system around family law needs to be reframed in terms of the UNCRC and Scotland's obligations to allow children to realise their human rights. Looking at the witnesses on today's panel, Scottish Women's Aid is a children's rights organisation and I am delighted to see Megan Farr from the children's commissioner's office, but that is the extent of the representation of children's rights on the panel. I ask the committee to reflect on that.

I challenge the assumption of a number of speakers before me that shared parenting and/or

child contact should always be assumed to have a positive impact on children's lives. I will talk a little bit about what the children who we serve tell us about how the system operates. We need to scrutinise our system, because we are still operating informally, as if children in those proceedings are, at best, irrelevant and, at worst, collateral damage. In some senses, we still treat them as property and often as the property of their father. We must be willing to challenge the assumptions in our civil justice processes that have operated for hundreds of years.

Often, in discussions about access to justice, the elephant in the room is the lack of availability of legal services, which Covid has very much exacerbated for children and their mothers in domestic abuse cases. Particularly in the Highlands and Islands, there is a crisis in our services about getting access, not just to legal aid lawyers but to solicitors in general to help people in civil cases. I like to say that we have a great access-to-injustice system.

The Government has accepted the recommendations from the report "Improving housing outcomes for women and children experiencing domestic abuse" and from the national advisory council on women and girls that women and children living with domestic abuse should be offered free legal services and representation, but we are not seeing much action on that. I hope that the committee will pick that up and pursue it.

I will ask the committee a question that was posed by a child in one of our services, which is really important for us to think about and answer over the next years of the Parliament. I point to our contact centre consultation response, which was extensive and based on consultation with mothers, children and service providers. The child asked whether children have a right to end an abusive relationship. It is clear that, in Scotland, they currently do not. To my utter frustration, there is the persistence of the notion that there is something called parental alienation, which masquerades in the consultation as understanding the way that adults can influence a child. I have no idea how that got in there, especially given that parental alienation has been taken off the World Health Organization's list of child abuses for lack of evidence. Fourteen academics from across the United Kingdom wrote to the previous Cabinet Secretary for Justice to explain how parental alienation charges in child contact cases serve to silence, to retraumatise and to exacerbate the existing power differential and the outcomes of abuse, with no creditable evidence in research literature. We know that Spain has outlawed the use of parental alienation and similar claims in child contact cases. However, it pops up again in Government consultations.

If we want to look at training on understanding how adults interact with children, it would be of interest to ask why we are not understanding perpetrators' behaviours and how that impacts on children understanding how non-offending parents work to protect their children. Those are all strength-based approaches to helping child contact centre staff to do their job. I encourage the committee to see below some of the assumptions about what parents might be doing to protect or abuse their children.

I will read something from "SWA Response to Contact Centre Consultation" before I finish with a statement from a child who gave evidence to the Justice Committee. In our consultation of 2021, a woman spoke of a

"child '… having to be ripped from her arms by contact centre staff', and of her child '… clutching contact staff whom they hardly knew, and refusing to let go when brought into the room with her dad'. She then overheard her child screaming in another room during contact. Since she has been accused"

in court—she has been excused—

"by her ex-partner of alienating the child from him ... she then felt unable to voice wholly legitimate concerns about how she and her child had been treated"

or about the impact on her child or her fear of the response from the staff should she complain in feeling the need to seek protection for her child.

One of our young experts in a European project that we did on court-ordered child contact said:

"It was quite hard to tell the Child Welfare Reporter how I felt. The first one was strict and polite, but she wasn't smiley. When she came to my dad's house to ask me how my day went I would say outloud that it was fun but I would try to nudge her and hint to her that I wasn't able to tell the truth in my dad's house. But she ignored it. My dad told me that he wanted me to give him a hug, even though I didn't like him I did it anyway, but the court reporter wrote in her report that I was happy to give him a hug. She didn't see what was really going on. When I would tell her later on she would say that I was lying. She would interrupt me and stop me from talking and then I would stutter and not be able to say what I wanted or how I felt."

10:30

The Convener: Thank you very much. We will move to questions. There are seven witnesses, so I ask members to indicate who should answer their question. If other witnesses want to come in, they should indicate that, and I will try to bring them in. The aim is to have a discussion, and we will try to intersperse the views of witnesses with questions from the committee. If we have moved on but a witness still has something to say, they should take the opportunity to get their points on the record. The panel is quite big, so my chairing will not be seamless. It would be too difficult and we would be here all day if we were to go round every witness for every comment.

This is a starting point for the committee on the subject. We will look at everything that we hear today and then decide what more we want to do.

I ask Maggie Chapman to kick off with the first questions.

Maggie Chapman (North East Scotland) (Green): Good morning. I thank the witnesses for joining us and for their opening remarks. You have covered a lot of ground and a lot of different issues. I was struck by what Ian Maxwell and Marsha Scott said about the old normal not being good enough; it is not satisfactory and is not working for anybody. Will Ian Maxwell and then Megan Farr say a bit more about their experience of how the pandemic has shown just how bad the old normal was? What can we do better? In all of this, there is a conflict or tension between the welfare of the child and their rights to be heard and to have their views expressed. I am interested in how you balance those experiences with what I perceive as the welfare versus rights conflict.

Ian Maxwell: That has been touched on a couple of times in the evidence so far. The incorporation of the UN Convention on the Rights of the Child, assuming that that happens, will make quite a big difference to a lot of public authorities, because they will realise that they will have to take children more seriously.

At the moment, sheriffs sometimes write letters to children to tell them what has happened. We feel that that should happen in almost every case in which a significant decision is made in court. The child needs to be informed directly in child-friendly language. Some sheriffs do that. We would also like all judgments in court cases to be published. Obviously, that should be done in an anonymised form so that the individuals concerned are not labelled by that.

The judgments that are made in court are often very difficult ones. I am thinking of one judgment that I read from last year. After a lot of detailed consideration, the sheriff concluded that a child had been adversely influenced by the resident parent—who happened to be the mother, but it could have been the father—and that the child's rejection of her father was not justified. However, given that the child was old enough to have a very firm view on what she wanted, the judgment did not force her to go back to see that parent, but the sheriff sent a letter to the child to say that they felt that her father had a lot of qualities that she was not seeing. The sheriff said that they hoped that, in time, the child would have a coffee with him and get back with him.

That judgment was a very interesting example of what can happen in family courts. The courts are taking a very detailed look at that. Plenty of such cases should never have to go that far in court. Most family court cases do not go beyond child welfare hearings, which, by and large, are inquisitorial rather than adversarial, although they are conducted with lawyers on both sides.

We should move to an inquisitorial system for the Scottish courts and have quicker triaging, because a child does not want to wait months and months before a decision is made about whether they can see their other parent. The longer the child does not see that parent, the more likely it is that the child will think that something is wrong, and it will be more difficult for the child to get back in touch.

The court also needs to protect children. The court is not meant to expose children to risks, and it tries not to, but we need training and support for people such as child welfare reporters. That is contained in the regulation plans that are coming through under the Children (Scotland) Act 2020. A lot of good things are happening, but now is the time to have a radical look at how we handle family cases, which are quite different from most other cases that come up in court. They are about the welfare of children, and we need to have a different approach to them.

Megan Farr: I feel slightly at a disadvantage, because I perhaps took the request for a short opening statement overly literally.

The rights in the UN Convention on the Rights of the Child are interlinked and should not be seen as individual rights. We need to consider the way that they interact with each other. The right to maintain contact with both parents, or all parents, and with the extended family has to be considered, and that has to be in the light of the right for the child to be kept safe. The two need to be balanced.

The other right that we have talked about a lot but have not yet named is the right in article 12, which is often expressed as the right to have a view and to have that view heard. It is actually more than that—it is the right for that view to be given due weight, which can be considerable weight. That does not mean making children responsible for decision making; it means making the adults who make decisions responsible for listening to the views of the child and giving those views due weight.

The article 12 right is also a right to participate. Private law has hung behind other parts of the justice system such as the additional support needs tribunal and the children's hearings system when it comes to the way that those systems put the child at the centre and allow children opportunities to actively participate in a way that is appropriate for them. A lot of good practice is going on in those settings to develop the ability to allow children to participate.

The 2020 act achieved a lot of good things and goes a long way, but it still has not put in place a system that allows children to participate. One issue that is still outstanding is children's lack of standing in disputes between their parents. If a child—it might be an older child—wants to actively participate, they often cannot do so.

Children also face barriers in finding a lawyer who will represent them or even advise them and in obtaining legal aid, which is still means tested—we have heard about adults facing those barriers, but that applies even more to children. Even when a child is trying to exercise their rights autonomously, legal aid is still means tested on the basis of parental income. Children still do not have the opportunity to exercise those rights if they want to. I am not suggesting that it should be compulsory for a child to be a party to a dispute about them, but they should have that opportunity.

One of the on-going themes when we talked about the 2020 act was about recognising that only a small minority of cases actually reach the court. Many are dealt with amicably between parents or with the assistance of bodies such as Relationships Scotland. In the very small number of cases that reach the court, by definition, there is a conflict. If there was not a conflict, no one would be spending money taking things to court.

In relation to children's involvement, it becomes all the more important to properly understand their views. Some of the examples that we hear about the way that children are talked about in courts suggest that, although views are being sought, they are not necessarily being given the weight that needs to be given to them. It is suggested that children can be unduly influenced. There is real concern that that is actually a way of dismissing children's opinions when they are inconvenient.

We are supportive of alternative dispute resolution and mediation. It is important to reduce to an absolute minimum the number of cases that reach the court. However, there is still varied practice in how children are visible in that process, and how children's views are heard. That is a gap that we have not addressed. Rosanne Cubitt's organisation and other people who are involved in mediation are working on that, but there is probably still work to do to allow children the right to participate in the process when decisions are made that affect their entire life.

Rosanne Cubitt: On that last point, for our family mediation process within Relationships Scotland, our mediators do additional training for consulting with children. We have that established set-up process, so that children can participate and have their views heard, and those views are fed back to the parents in mediation so as to inform their decision making. It is still very much the parents' decision, but the children have an opportunity to express their views.

Maggie Chapman: Thank you very much for that. This perhaps shows my lack of knowledge of the complete landscape, but I am interested in this. Megan, you seemed to be speaking about the challenge of infantilisation and not taking children as human beings with their own minds, and about them being used as pawns in some cases, in some ways, perhaps more so where there is actual conflict—and you highlight the cases that go to court. I wonder whether we need to be thinking about doing some work around this. I do not think that everything can be solved with training, but there is something around training on what trauma means and on what people's capabilities are. Capabilities will change within an individual, never mind among a group of people, as they grow up. Could you say a little bit more about those kinds of issues, which we need to be able to get at?

Megan Farr: This is absolutely not exclusive to civil justice or to any of the processes that we are discussing. The issue exists across society, where we still consider children in a way that infantilises them to an extent, to use your word. We underestimate their capacity to express their views and to take sensible decisions.

When we discuss the issue, people start using worst-case examples—I think that I have probably done that myself in the past. We might say, "Well, if a three-year-old says they want to be an astronaut, that is not possible." Actually, it might be. It is not the case that that three-year-old cannot have sensible views about what is important to them, who is important to them or what they want to happen in their life.

Article 12 of the Convention on the Rights of the Child mentions "due weight" and "age and maturity", but that is sometimes used as an excuse to exclude. The presumption in the 2020 act is a massive improvement, but the presumption should be that the child can express their views and have them taken into account. There should be quite a high bar to say why they should not—that should be a rare thing.

The reference to "due weight" is useful for very small children, who do not necessarily express their views clearly. Drawing on Judith Higson's point, it is also a matter of not making the child responsible for the decision. Returning to Ian Maxwell's point, when "due weight" means that what the child has said is not what is going to happen, that needs to be communicated back to the child in a sensitive way by the system, not necessarily by the sheriff but by someone who can explain it to them. One of the discussions that arose when the bill that became the 2020 act was being considered was about whether to have an

"or a parent" provision. Actually, no: do not put parents in that role. That communication needs to be made in a way that is sensitive to the child.

I mentioned the presumption, and that has been one of the real positives. It is part of trying to generate a culture change—and the sort of culture change that we are talking about relates to the incorporation of the UNCRC. Previously, 12 became a magic cut-off, because the presumption was from the age of 12. In some families, contact orders were ended when each child, progressively, reached the age of 12, but the younger siblings still had to attend contact until they reached 12.

That development has been a real positive. However, this issue is not just a justice thing; it is about how all of us as society consider children and their views and opinions. I think that we are well on that road now—we have started the work, although it is not going to be instant. The 2020 act was a part of changing that.

Pam Gosal (West Scotland) (Con): Good morning, and thank you for your opening remarks.

The written evidence that has been provided says that sheriff courts still do not seem to be equipped with Webex for child welfare hearings, and that parents are not being included in the Webex child welfare hearings. Are you confident that children are being heard in child welfare hearings?

Under the Coronavirus (Recovery and Reform) (Scotland) Bill, the use of remote hearings could be extended until 2023. How would that impact the rights of parents and children to be heard in child welfare hearings? I put that to Ian Maxwell.

10:45

Ian Maxwell: Recently, we were very surprised to hear that Glasgow sheriff court, which is the biggest sheriff court in Scotland and which has a good team of family sheriffs, is not even managing to use Webex for child welfare hearings—it is still doing them by phone.

There has been a massive change. It was good that the courts got telephone conferences, and then Webex, up and running, but we now need to move more quickly back to having people in courts so that the sheriff can see them and they can see the sheriff and one another. With parents who do not manage to agree, the sheriff needs to, in a sense, push them towards agreement. We would be very keen—as, I think, would quite of few of the lawyers in the group—for face-to-face family hearings in court to resume as soon as possible.

You also asked about the children. Despite their name—"child welfare hearings"—very few children, if any, appear in such hearings. There is a degree of protection there, in the sense that we do not want to take children into court, but we need to hear their views. We must find ways in which children's views can be communicated. At the moment, that can be done through the F9 form, through the sheriff speaking to the child, through the child welfare reporter or through a Relationships Scotland child consultation. There are many ways in which that is done; each court does it differently.

In Germany, children have a right to speak to a judge, but only judges who have done training in listening to children are allowed to handle that. There is some such training in Scotland, but by no means is it the case that every sheriff who talks to a child has gone through that training. There is a lot of change that could be made. We should use the learning from the Covid problems, along with all the law changes and the other things that have been implemented, to move us forward.

The Convener: Ruth, would you like to come in?

Ruth Innes: Yes. As I indicated at the outset, we are of the view that telephone hearings are not an acceptable mode of hearing. People are excluded, including parties to the action. It is not an open way of dealing with matters.

There have been a lot of benefits from virtual and Webex hearings. I work as a child welfare reporter. Obviously, the core of a child welfare reporter's work is in seeing the child face to face, but the ability has opened up for us to have a Zoom communication with the child before meeting them face to face, so that they know who they will be meeting, and to enable them to communicate with us more freely and more in a manner that they would be used to, and I think that that could be used a bit more.

Megan Farr: I agree with the concern about the use of virtual hearings continuing. It is really concerning that that will continue for so long, particularly in relation to issues around children and young people. Virtual hearings present a barrier to participation, not just of parents but of children. Likewise, I would be concerned if virtual consultations between child welfare reporters and children continued.

That said—this discussion is taking place in relation to the children's hearings service, too—in some cases, the use of virtual technology can be an enabling factor for children and young people. It can provide a different type of participation that can be more comfortable for them. However, when the decisions about that are made, they need to be based on the child's best interests and needs, and their views on the issue, not on what is convenient for the system. The concern is that use of the technologies that we have all got so used to

using becomes a default because it is easier, not because it is better.

On the topic of training, I think that that is an on-going issue. It is interesting that compulsory training seems to be in place in other countries. It is important to ensure that there is consistency in the knowledge and understanding of and training on children's needs and rights.

Dr Scott: We will talk extensively about virtual trials and hearings tomorrow. However, I really want to point out to the committee, first, that I think that the system is uncomfortable with virtual trials and hearings, but also that I am not clear that the evidence is there to show that they are not a better option to deal with the delays that are growing like a virus in our system. Justice delayed is justice denied.

I suggest that you invite the advocacy, support, safety, information and services together project—ASSIST—which is a court advocacy service in Glasgow, to come and speak to the committee about children. We know of one case where a child is involved and three years will have passed by the time it comes to court,. You can imagine the impact that such a delay has on a child.

There has been a pilot in Grampian of virtual trials for domestic abuse, and we know that the recommendation, which the Lord President has accepted, is for virtual domestic abuse courts in every sheriffdom in Scotland—not just to address the backlog, but because there is a lot of evidence that it is better to take evidence from witnesses and victims in a context where we do not put the victim in the same room as her abuser.

Civil proceedings are particularly egregious, because victims are always in the same room as their abuser. Screens and other special measures are rarely allowed by sheriffs, because they want the setting to be more like something that they consider to be informal. Children often do not want to be in those rooms, but that does not mean that they do not have a view or that they do not want that view to be given its due weight.

The question is how we can make all kinds of hearings work for children, rather than rushing back to in-person hearings based on the comfort of the adults in the system.

Lesley Anderson: I will respond to a couple of the points that have been made. I practise across Scotland and my understanding is that the use of Webex for child welfare hearings, rather than teleconference hearings, is the norm. The difficulty with teleconference hearings is that people cannot see one another. From an advocacy point of view, we cannot see, for example, what papers the sheriff has.

I wrote an article about virtual advocacy, including the issues with telephone hearings. If someone is faced with a telephone hearing, I would always ask the sheriff clerk to ensure that their client is given the telephone number so that they can also dial in. Ruth Innes talked about the issue of parties being excluded. As I said, across Scotland, the norm is Webex rather than telephone hearings.

On the point about children's views, my experience is that sheriffs have them at the forefront of their minds. People cannot now lodge a writ without an F9 form. The F9 form is put in children's language and sent to the court with the application before the sheriff will even grant warrant to serve, and then the court will consider how best to take the child's views.

A relevant case was decided last year by Lord Malcolm in the inner house of the Court of Session. He made reference to section 11(7B) of the Children (Scotland) Act 1995 and article 12 of the United Nations Convention on the Rights of the Child in discussing the weight to be placed on a child's views and the requirement to take their views. The result has been that we have been instructed to interview children who are as young as four. The court regularly wants the child's views to be taken even if, for example, there is a slight variation to a contact order.

In my experience, the court is very well aware that a child's views require to be taken, and consideration is given to how best those views can be taken.

Judith Higson: I just want to pick up on a couple of issues that have been raised. Marsha Scott mentioned other stakeholders. As I was preparing for the meeting and going through the agenda, it occurred to me that we have the children's hearings system and the fairly recent legislation that opened up the possibility of anyone who is concerned about a child making a referral to the children's reporter. Seemingly, access is more direct, as opposed to being reliant on social work or education as a gateway to a referral. It might be worth considering getting feedback from the Scottish Children's Reporter Administration, because, generally, it deals with the most vulnerable children and parents.

Flowing from that is the matter of how children's views are taken, which we have already mentioned. We have the F9 form, which was recently modified and for which the procedure was updated. A child can instruct a solicitor, although we have heard about the challenges involving the availability of solicitors who act for children.

Clan Childlaw came to my mind as an organisation that might be another stakeholder to

consult. It is Scotland's law centre for children and young people. Its input might be welcome.

A few other things have occurred to me. It is important to have a child-centred approach to family court cases—that is where the Law Society and the sub-committee have been coming from.

There are positives and negatives to the increased use of technology. The impact that a sheriff can have when they speak directly to parties should not be underestimated. We should not lose the impact of experienced sheriffs who deal with such cases every day speaking directly to parties and move to phone call-type hearings, which some parents have not even been included in. I appreciate that solicitors should be aware that they can request that their clients are included, but there have been hearings at which parents have not heard what is going on. It is important to highlight the potential impact on parents of a sheriff's comments, such as, "Let's be sensible—this is your child that we're talking about".

As I have said, there are positives and negatives to the technological side of things. For instance, a child can feel safer with a camera switched off when they speak to somebody. A remote hearing can be easier practically and emotionally for a child or parent. A child might be able to give their views from a safe place such as school or they could give a recorded statement. It is important to consider the needs of the child in each case. It certainly occurs to us that the court rules could be updated to require the use of remote hearings to be considered at case management hearings. Older children are obviously more capable of engaging remotely.

It has already been mentioned that consideration should perhaps be given to asking the child how they want their views to be taken. At the moment, we very much see the adults—the sheriff and decision maker—making that decision. We could tell the child the options and ask them how they would feel.

The Convener: I will go to Rosanne Cubitt and then Karen Adam. If folk still have something to say, they can come in after that.

Rosanne Cubitt: Although the F9 form has been redrafted in a child-friendly fashion, I am almost speechless that we should think that sending a child or young person a form and expecting them to complete it is an okay way to get their views. I just had to say that.

The Convener: Thank you for that and for keeping your response brief. We are tight for time, and members want to cover other areas, so I ask that we all try to be brief. However, I understand that we are covering big topics.

11:00

Karen Adam (Banffshire and Buchan Coast) (SNP): We know that coercive control and abuse often escalates and intensifies post marriage during family separation. We also know that the pandemic has enabled an increase in the exercise of such control. We have had parents and children share their lived experience of family members continuing to abuse and exercise coercive control over children post separation through court processes and contact arrangements. Was coercive behaviour during periods of lockdown and the pandemic more generally seen in the justice system? Is the system equipped to deal with coercive control, and are the people in it trained on it? Are the signs of such control easily spotted? Are they looked for? Has access to justice been hindered because of that? I will start with Dr Scott.

Dr Scott: I am often very critical of the system but, to be fair to it, it is probably unrealistic to expect it to figure out how to suddenly become sensitive to perpetrators' use of the courts in furthering their abuse, particularly in post-separation proceedings, as you pointed out, in the middle of a pandemic, when that is something that it did not do well when we were not dealing with the pandemic.

However, we and our sister agencies Victim Support Scotland and ASSIST have heard of many cases in which the system—I refer to both the police and civil processes—was incapable of acting in a timely manner. We had one instance in which a perpetrator had a child for visitation and did not bring them back for more than a month afterwards, claiming multiple Covid exposures. The system did not have a tool with which to respond to the risk in that.

You asked if the system is able to identify coercive control and to respond to it in the civil courts. Our experience is that it is not able to do that yet. We know that all sheriffs and judges were trained in the new law, and I thank Lord Carloway for making that training mandatory. However, anybody who knows anything about the effectiveness of training, and the duration of its effectiveness, knows that one-off training is unlikely to create behaviour change, or even to change attitudes or create an understanding of the change, without infrastructure and accountability, neither of which we have at the moment.

I must point out that there are pockets of excellence in the system, but women and children are telling us that, in general, their experiences of court are as retraumatising and frightening as they have ever been—and many victims would never report issues again because of that.

Karen Adam: I put the same questions to Judith Higson.

Judith Higson: Your first question was whether coercive control and abuse is easily spotted. There will always be challenges around such things. I do not think that any of us are particularly well educated in that area, and the education and training of the judiciary, practitioners and everybody involved in cases that involve children would be very useful.

Coercive control and abuse is a very nuanced area. A complicated web can be created and unpacking that in individual relationships can be quite complicated. Are the police equipped to flag up such things?

Coercive control and abuse is happening. I have clients who have symptoms of such relationships.

I had set aside some time for training on narcissistic personality disorder to inform my own practice. In my work with coaches and family therapists, they have told me that it can often affect quite highly educated people, and not necessarily the lower socioeconomic levels of society. It can, of course, be found there, too; my point is that it is prevalent in all socioeconomic levels in society and does not discriminate on the basis of wealth. Does that not make the issue much more important to address?

Karen Adam: I will leave it there, convener, but I look forward to working on the issue further.

The Convener: A few other folk have indicated that they want to contribute. I will take Megan Farr first.

Megan Farr: With regard to coercive control and domestic abuse, Marsha Scott has very clearly set out the situation with the courts as far as adults are concerned. However, we are probably even further behind in recognising the impact on children and young people.

Indeed, the 2018 act itself was very much informed by an incident-based model; in other words, the child had to be present. With coercive control, however, if there is a child in the house, they are by definition present. The whole point of the definition of coercive control is the recognition of the pervasiveness of that form of domestic abuse, but we probably have an even bigger hill to climb in being aware of the impact on children.

I also want to thank Rosanne Cubitt for raising the issue of the F9 form, because we have a long-standing concern about its use in gathering children's views. If there is one thing that could have an influence, it would be having to fill out a form that you did not understand in the first place and which you needed someone's help with. Given that the measures in the 2020 act are intended to completely replace rather than supplement the current measures, it should not be seen as a first step, and I very much hope that it will be phased out very quickly.

Lesley Anderson: I have referred to the F9 form, because the court requires it to be made available before the action is lodged. As a child welfare reporter who regularly interviews children, I do not think that, for the reasons that have already been given, it is the way to get the child's views. However, that is what the court rules require. The court should at the outset consider how the child's views can best be taken, but that is just my personal view as a practitioner.

Moreover, I point out that the Family Law Association of Scotland organises training on coercive control. As part of this year's annual general meeting conference, Nadine Martin talked about being a trauma-aware practitioner, and awareness of such issues is at the forefront of the minds of everyone, including me, not just as a practitioner but given the other aspects of my role. Clients often come into my office, and when I ask them, "What do you want to happen?", there is complete radio silence. As Judith Higson has said, this is something that you come across regularly, and you need to be aware of it when you are thinking about how best to represent a client.

Moreover, child welfare reporters have to be alert to these issues in thinking about the child's best interests. After all, those interests are the court's paramount consideration in any proceedings.

Ian Maxwell: The F9 form is better than it used to be, but it is still totally inadequate if we are expecting children of various ages to understand it. In England and Wales, the Children and Family Court Advisory and Support Service—or CAFCASS—has been doing a lot of work on this with young people's advisory boards and has been looking at, for example, children sending in little video clips, drawings and all sorts of other things. We should therefore view the F9 form as a temporary process that could be vastly improved.

Specialist sheriffs are another topic. Those sheriffs undertake a difficult job. In some Scottish courts, we have specialist family sheriffs doing a really good job. In a lot of other sheriff courts, the same sheriff does all the other processes.

There is inequality of opportunity. Why should you not get a family sheriff if you go to a court in Lerwick or Thurso whereas you would get one in Edinburgh, Glasgow or other cities? The triage that I talked about, coupled with the case management changes that are gradually being introduced, could mean that we get experienced family sheriffs dealing with the hardest cases in the court.

Alexander Stewart (Mid Scotland and Fife) (Con): I thank the witnesses for their comments, which have been enlightening. They talked about access issues, insensitivity issues and the backlog that we have experienced because of the pandemic. It would be good to get views about the family justice modernisation strategy that has been put in place. Does it go far enough in trying to tackle some of the issues that we identified? That is the next step in making some progress. If there are still gaps, and fears that the strategy will not achieve what the witnesses expect it to achieve, there needs to be follow-up scrutiny and governance around how that process will advance.

Megan Farr: To be fair to the civil servants, there has been disruption across every part of the Scottish Government over the past two and a half years. It is not just because of the pandemic. Other things have impacted on their workload.

The family justice modernisation strategy is a good starting point. There will be opportunities to discuss how improvements can be made. It is positive that we acknowledge that our family justice system needs to be modernised. Incorporation of the UNCRC and, later, other UN human rights treaties will necessitate a re-examination of the current proposals.

The fact that time has elapsed as a result of two years or more of disruption to normal work—not just Government officials' normal work, but all of our day-to-day jobs—probably means that the strategy needs a mini review. However, that is positive because a lot of learning has happened in the past two years.

Rosanne Cubitt: I could not have put it much better. I agree with Megan Farr.

We heard quite a lot about the family justice modernisation strategy prior to Covid. Since then, the focus of conversation seems to have been the secondary legislation under the Children (Scotland) Act 2020. At this point, it would be worth reviewing the act and what in it needs to be amended. People think that, because the act was passed, it is in place but, actually, a lot is still to be implemented. I had a researcher contact me and ask how the ADR pilot meetings have impacted on families. I told that person that there had been absolutely zero change because we were still talking about a pilot. A lot of what is in the act has not had an impact yet.

Ian Maxwell: Such questions are being asked across the world. Judiciaries all over the world are considering exactly those issues.

Singapore has moved to a more problem-solving approach to family cases. It is a similar sized country to Scotland, although perhaps not quite the same as Scotland, and it is taking that approach, in the same way that we have used a problem-solving approach in drug and alcohol courts so that the court process is about working out not who is right and who is wrong but what will be best for the children.

The other thing that has happened internationally is that there have been some trials—not court cases but experiments—to see whether issues can be tackled in a certain way. Australia has often tried measures out before introducing them.

It is difficult to do that in a court system, but it is possible to try things. For example, there will be the trial of the alternative dispute resolution processes.

We lack a lot of data on the number of cases, the amount of time that is spent and the cost in the Scottish courts. We need more data on that.

11:15

Dr Scott: In the victims task force and through the Covid emergency work in the justice system, we have had lots of conversations about the delays to the modernisation agenda. There are some things that, if they were implemented with speed, would make an enormous difference to the experiences of victims and children in the courts. That includes pre-recording interviews, taking evidence by commission and a variety of other things. We keep hearing that those things are too expensive or too difficult to do, but we spend millions and millions of pounds on hearings, many of which never take place or get postponed and so on.

I want to pick up on Rosanne Cubitt's comments on risk assessment and decision making in relation to awarding contact. I point to that fault in the system, which cascades down and leads to many of the other problems that we have been discussing. We believe that contact should never be ordered unless it is manifestly clear that the child and the non-offending parent will be safe with that contact. We have child contact centres because those orders get made all the time when it is not manifestly clear that contact will be safe. We should consider child contact centres as a stopgap and a short-term approach to safety, rather than as an answer to safety concerns.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning. I thank the witnesses for their evidence so far. It has been a really interesting session. A lot of the areas that I was going to ask about have already had quite a good airing, which is down to the flexible way in which the meeting has been convened and members' questions.

That said, I would still like to ask some questions. We have spoken about children's

participation, which is a big issue and was a big issue for me when we considered the Children (Scotland) Bill in the previous parliamentary session. Could the witnesses who might not have had the chance to articulate their points on the subject suggest to the committee ways in which we could ensure that children's voices are better heard in the family law process? I know that the convener has asked members to ask their questions of specific witnesses. I am not sure whether anybody who has not had the opportunity to speak about the issue would like to come in.

Ruth Innes: I have not spoken about the issue, but I am not sure that I can add much. I certainly agree with what other witnesses have said about use of form F9. I did my dissertation on form F9 in 1999; changes have been made only recently, but it is still a form. That definitely needs to be changed. We need to know how children want to participate in proceedings, so let us find out what would be most appropriate for them. The pandemic has certainly moved things forward in relation to everybody's use of technology. How can technology be harnessed to improve children's participation?

Lesley Anderson: One option that is available to the court is the appointment of a curatrix ad litem to represent a child in court proceedings. That is not normally done, but it can be done if matters are particularly complex, and it tends to be done for older children. I have on-going cases in which that has worked really well. The curatrix is there simply to represent the child and to interview them regularly. The child's views are conveyed through the curatrix, who also represents the child's interests in court proceedings, if that makes sense. That option can work really well, instead of the child being interviewed by an independent person, such as a child welfare reporter. I have spoken about the F9 form.

Megan Farr: I have already spoken on the issue, so I thank you for letting me come back in. There are real opportunities when it comes to implementing the 2020 act. I am concerned to hear that courts are requiring the F9 form; I hope that that will not last much longer.

There is, as part of the family justice modernisation strategy, an opportunity not to see this as "job done", but to continue to develop how we hear children's views and allow them to participate in proceedings. The 2020 act provides the flexibility to allow various professionals to take on the reporter role. There was a lot of discussion about which professional should be allowed to do that, but I think that it is useful to have flexibility to allow the profession of the reporter to be whatever is appropriate for the particular child. There is, possibly, a larger discussion to be had about the role of the child welfare reporter or curator ad litem, and about models that are used in other jurisdictions. Australia and New Zealand, for example, use children's lawyers and, in Australia, the model varies from state to state. There might be quite a lot to learn from there.

Finally, it would be useful both to have more research on collecting the views of very young children, and to build capacity in relation to how that is achieved. It is often seen as a problem because we do not properly understand how to do it; however, there is good practice out there, so there is an opportunity to build capacity. It is not reasonable to expect professionals who currently work in the area necessarily to have that capacity, because it is a relatively new concept in law. However, there is lots of potential.

Dr Scott: I have a couple of points to make. One is that we should make sure that we keep a close eye on our bairn's hoose work. Children who are experiencing domestic abuse are included in the list of constituencies who can be supported by the bairn's hoose model. I think that we will learn from that model so much about how we can fix other elements of the system.

On the F9 form, I do not want to beat a dead horse, but I will say that the Children and Young People's Commissioner Scotland did extensive work—Megan Farr was probably involved in it—on consulting young people on what they want and how they want to be consulted. They said, "Don't use that form; ask us." That alternative was rejected at the time by the court system. One problem in the system now is that we do not have the infrastructure for children and young people to participate in development and design work. We are having discussions like this—about why we do not know how children would like to do things—because we did not involve them early enough in the process.

We have asked the justice department to help to set up a standing children and young people's participation group—we had such a group prior to the existence of the Children and Young People's Commissioner Scotland—to feed back on justice matters. We cannot—[*Inaudible*.]—children out of our pockets and expect them to be in a position to engage with the system on anything like an equal basis. We have a survivors reference group for adults. We suggest that, if the committee wants to get on-going—[*Inaudible*.]—information from children and young people about the system and how they want to participate in it, we need to fund a standing group. We have worked with other stakeholders on volunteering to support that, but we cannot do it without funding.

On Megan Farr's point, Mothers in Mind is a project in Canada that works specifically with children aged under four. I am happy to connect Megan with that work, which is very interesting.

There is no evidence that the child advocacy programme, which is in the 2020 act, has been moving at a fast pace—or even at a slow pace. In Power Up/Power Down, which we developed with the children's commissioner, children have told us that the single most important thing that they need in order to interact with the system is an advocate whom they trust. The advocate does not have to be a Scottish Women's Aid children's worker, although they could be. The child advocacy system needs to be a higher priority for implementation; we can pass such things in law, but unless they are made real in children's lives, they are just sticking plasters.

Ian Maxwell: I point out that although we have mentioned domestic abuse and coercive control a lot in the discussion, many cases in family courts do not involve those things at all, but are simply disputes between parents or involve allegations that may or may not be upheld.

In considering court involvement in sorting out disputes between parents, domestic abuse is an important factor. Men and, in some instances, women commit domestic abuse, but you cannot design the entire system on that basis. You have to think about what is best overall for all cases that go to court.

The Convener: I will just go back to Fulton to check whether he is happy with that.

Fulton MacGregor: Thanks, convener. I had—[*Inaudible*.]—I think Judith wants to come in.

Judith Higson: Thank you. I have recent experience of a court sending out an F9 form for a child who was aged three. That was a training issue for that particular clerk. My understanding, having reviewed the legislation, is that the F9 form is appropriately used for children of school age—those aged five and over. However, things such as I have just mentioned have happened, and there is a consensus that the F9 form is not a particularly good way of taking children's views.

It is important to take a balanced approach in relation to making quick decisions and making informed decisions. I will borrow a bit from the education system: if we are to get it right for every child, an informed decision is more likely to be a better decision. There should be a balance between making a quick decision, which is obviously important for children, and making a good decision that is informed by the relationships around that child.

Rosanne Cubitt: We have had from children really clear evidence in feedback that they want to meet a person and that getting a form in the post does not enable them to express their views.

More than just a short conversation is needed, as well. All our mediators who meet children have at least two meetings with them. The process is about exploring their experience—it is not about answering a particular question that the court might have identified. It is a bigger thing; it is specialist work and it needs to be done by people who know what they are doing.

The Convener: Okay. We will go back to Fulton MacGregor.

Fulton MacGregor: Thanks, convener. I had a lot of questions on child welfare reporters and contact centres, but the issues have been extensively covered, so in the interests of time I am happy to leave it at that.

The Convener: There are a few areas that we have not managed to cover, but we have covered many issues in depth. There are quite a few things for the committee to consider and take forward. I thank you all so much for your evidence.

11:29

Meeting continued in private until 12:13.

Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447
Fax: 0131 348 5423

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