

**From:** [REDACTED]  
**Sent:** 30 August 2019 13:59  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Our discussion 29 Aug 2019 at St Andrews House: Audio recording link

Thank you [REDACTED] for the meeting with [REDACTED] and me yesterday (29 Aug 2019) at St Andrews House. This is my attempt at a rough summary plus an extra thought or two.

Some of our concerns you explained have already influenced what's in the new draft Bill about to be published. The Draft is finalised, but you explained the usual opportunities for any of us to influence what goes into the final Bill.

In particular, you said that there has been attention to the issue of the need for due qualification for the skilled complex job of assessing children and families going through family courts. You said that there has been resistance to the present practice where private family lawyers sometimes believe they have some natural right or aptitude for this job when the reverse is evidently the case. I guess we shall see how far the new resistance goes. You said the execrable F9 has been binned - but presumably in favour of prettier versions that may make even less sense. We shall see.

We hope that you were able to take something on board - for future development - of our extensive experience, evidence and arguments, already flagged up in our online submissions, that we think make a compelling and more radical case for re-forming family law.

The re-form would be simple. It would be back to the familiar shape and function that all other branches of law operate in order to uphold the law of the land. Family law - as it has been for years and with the very best of intentions - in effect does everything but uphold the law.

Family law has, over decades, incompetently taken on and mistakenly acted as if it is and can operate like a frontline agency does, too readily taking responsibilities off the parents. We propose that family law is re-formed so that these front line responsibilities are kept in the hands of the parents who legally have the role and responsibilities, and to other established competent agencies where they're needed.

We tried to persuade you of the merits of a family law system with no 'in-house' need or place for Bar or Child Welfare Reports. No one needs to do it - whether properly qualified or not. So why spend even more years - as the Draft Bill you told us will propose - developing qualifications for this job when there already are qualified established resourced experienced agencies who can already do the complex job and functions competently? Anyway, even the matter of proper qualification is a small part of the overall system and supported practice required for this purpose - an overall system which I guess has not been thought about in the draft Bill, an overall system that already exists elsewhere.

Since our meeting, I've been thinking that we shouldn't talk (as we did) as if it's necessary for the child's voice to be made such a big issue inside family law. As for Bar CW Reports,

there may be no need or competent place for in-house family law services focusing on hearing the child's voice, whether for purposes of participation or for investigation.

A moment's reflection helps illustrate this. Take how the child's voice - their meaningful participation, wishes, feelings and needs are daily handled, in relation to other matters that affect them, for example, in their schooling. Parents, teachers and others daily observe and enquire about the child's experience, wishes and feelings, picking up on, and taking appropriate action over, minor and major issues for the child's benefit and welfare. But never ever do adults make those enquiries (even with more grown up teenagers) while entertaining or promoting the idea that the first or even the last option is to break the law and just stop the child's schooling as the solution to what they're voicing.

This moment's reflection shows how inept this all becomes in the hands of family law and its clunky construction of a one-off tool (like F9 was) to hit what is far too delicate to be any kind of nail. The matters of participation, welfare and child protection are of utmost importance - but it's again far too important, I'm thinking, to be done inside family law where it will inevitably be done in clunky ineffective ways.

Therefore, we thank you for your interest and invitation to further contact and discussions in the service of children's welfare in family law. That is best served, as you said, by keeping as many parents and children away from the door of the family law system.

My view is that the best and probably only effective way to keep problematic separated family cases away from family law is to re-form family law so it stops offering such an open door as it does. You say the Draft Bill is heading to build up the role of Bar CW Reports, rather than get rid of them; that the focus on the child's voice is not lessening. This is not what we think is the best direction for Scotland to be heading in.

While family law continues to try (and fail) to do what established competent agencies are already there to do if required, those families who most need to be kept away from the door of family law will be the ones most likely to want and to choose this option that will most harm them and their children.

I very much look forward, therefore, to further discussions to help us all get more of a grip and to find a way to achieve what we all want to achieve - to get it right for every child, not wrong.

I hope that is all clear, summarises what we discussed, and adds a couple of points as well. Please tell me if it's not clear.

Meanwhile, as promised, here's my secure Dropbox link to the audio recording of our discussion - only a person with this link can access it.

[REDACTED]

I confirm that this audio recording is for our and your own private use - including to share securely with those of your close colleagues who would have been interested to be there or share in this discussion. We will make no other use or sharing of this recording without consulting you for your approval. We trust you will do the same if you have other purposes for it.

Thanks again.

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