

# The Voice of the Child in Private Law Contact Disputes in Scotland

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effectively use research to improve the situation for children or families or to address issues in personal relationships

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## What research was used? Why was it appropriate?

My doctoral research explored the processes for hearing children in court actions between separating parents who dispute child contact. My focus was on the promotion of the welfare of children and whether court process enabled them to express their views freely. I was granted permission to extract data from court actions, creating a dataset on just under 300 children. I also undertook surveys of solicitors and of parents, and conducted 33 interviews with sheriffs, parents, solicitors, children and family support professionals.

The quantitative analysis of data from court processes enabled a statistical overview of the existence of allegations of abuse (in half all cases), and of the impact of domestic abuse, and children's views of contact, on the contact outcomes. Collating data on all cases lodged in the one calendar year (at two courts) gave a more representative insight into practice that is possible from analysis of the subset of cases that are reported. Findings were then compared to existing law, policy and practice guidance.

The use of mixed methods enabled triangulation of research findings, with the narratives of women and children providing rich insight into the impact of court process, suggesting areas of strength and for improvement.

## How did you get people interested in the research?

Prior to undertaking the research I made a concerted effort to forge links with individuals and organisations who influence family law and policy in Scotland, so as to increase participation in my research and to enable a wider dissemination of findings. I discussed my research plans with key people such as the former Scotland Commissioner for Children and Young People (SCCYP) and the former Director of the Scottish Child Law Centre (SCLC).

Information about the research, and invitations to participate, were also disseminated via organisations such as the Family Law Association of Scotland and Scottish Women's Aid.

Since completion of my research, I have made sustained efforts to disseminate findings to legal professionals, civil servants, statutory agencies, third sector workers and academics – via conference presentations (eg: for SCLC and the Socio-Legal Studies Association); and delivery of continuing professional development seminars (eg: for Scottish Women's Aid and for Children's Hearings Panel Training). I have submitted reports to Sheriff Principals based on my findings, published a monograph and journal articles and, in 2013, I wrote a research briefing published by CRFR.

This research briefing, and the associated press release by the University of Edinburgh, and news reports, led directly to me being commissioned by SCCYP to produce a report on child contact disputes where there is a history of domestic abuse, based on my findings. This was laid before the Scottish Parliament in December, 2013.

I have maintained contact with individuals within the key agencies and continue to be contacted to provide opinion. Most recently the Family Law Committee of the Scottish Civil Justice Council asked me to submit opinion on the form used in Scotland to advise children they can express their views to the court. Many of the changes adopted by them directly reflect the recommendations I made to them.

## Who benefitted from the research?

The primary beneficiaries of the research are women who are seeking to separate from an abusive partner, and their children.

My report on child contact disputes where there is a history of domestic abuse found that the impact of domestic abuse on women and children is misunderstood by many legal practitioners.

The report is currently used in the training of members of the judiciary who decide such disputes.

It is also the case that women in Scotland continue not to be forced to name the father of their child (which would afford him automatic parental rights, including contact) due, in part, to the opinion I gave to the Scottish Parliament. (See: [http://www.scottish.parliament.uk/S4\\_PublicPetitionsCommittee/General%20Documents/PE1513\\_P\\_Scottish\\_Government\\_21.08.14.pdf](http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/PE1513_P_Scottish_Government_21.08.14.pdf))

Further, the taking of the views of children in private law child contact disputes is set to change due to the work of the Scottish Civil Justice Council, who were informed by my opinion based on this research.

## How did you evaluate the impact?

'Forward tracking' was used to record impact activities. Evidence of impact includes training courses being 'delivered differently' and the use of research in policy development (Morton, 2015: Table 4).

- The report for SCCYP is used for training within the Judicial Institute for Scotland by Dr Marsha Scott.
- Findings on the taking of children's views in court disputes informed a change of practice to be implemented by the Scottish Civil Justice Council.
- My opinion for Scottish Parliament Public Petition PE1513, significantly informed the Government position not to force mothers to name the father of their child on the birth certificate.

## What did you learn from the project?

The key insight I have from the delivery of a range of impact activities is that 'what counts' as evidence of impact - such as documentary acknowledgement of influence by those in government - is one part of a much bigger realm of influence. It is possible for practice to shift to more effective processes at the 'coal face' (in this case for the protection of women and children) without an express top down change in law or policy from central government level.

I have always accepted invitations to speak at local authority training events for social workers (such as East Ayrshire and Dundee), using my research findings to illustrate the need for a shift in response so that women and children can be protected. If practitioners understand the need for a change in practice they may be more responsive to it (eg: the introduction of 'Safe & Together' and High Risk Child Contact assessments for women and children affected by domestic abuse).

Further, informed by Sarah Morton's Research Contributions Framework (2015), I will ensure my future research proposals include a review of the 'theory of change,' a clear statement of my impact strategy and how this will be evaluated.

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