

Written evidence submitted by Both Parents Matter to the Courts and Tribunals Public Bill Committee (CTB10)

Clause 17 – Repeal of the Presumption of Parental Involvement (“the Presumption”) in the Children Act 1989

Introduction

Both Parents Matter, formerly Families Need Fathers and now in its 52nd year, is a respected national shared parenting charity, dedicated to allowing every child the opportunity to maintain meaningful relationships with both parents and their wider family after separation. We believe children thrive when they are supported in a loving and stable environment, free from unnecessary conflict.

We provide valuable information and assistance to thousands of parents and grandparents every year, to maintain relationships and positive involvement with their children following separation. We provide this support through our helpline, peer-led support groups and online forums.

We were a member of the Advisory Group to the Ministry of Justice Review of the Presumption of Parental Involvement whose final report, published on 22nd October 2025, announced the Government’s intention to repeal the Presumption. We also played a valuable role as a charity in the introduction of the Presumption in 2014.

Our knowledge of this area is informed by the experience of the parents we assist and by our interaction with academics, policymakers and subject matter experts. This submission draws on our extensive experience, casework and policy engagement.

We are making this submission to ask the Public Bill Committee to consider two amendments to the Courts and Tribunals Bill:

- (1) Removal of clause 17 “Welfare of the child: repeal of presumption of parental involvement”
 - (2) ***Whether or not clause 17 is removed and repeal of the Presumption proceeds***, insertion of a new clause to the Bill to improve child welfare assessment, with the aim to improve outcomes for children.
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(1) Removal of clause 17

(a) Consequences of repeal of the Presumption

The Presumption was introduced in 2014 following extensive parliamentary debate and reflected broad cross-party recognition that, where it is safe, children benefit from the involvement of both parents in their lives following separation. It was a limited and well-intentioned reform aimed at reflecting the UN Convention on the Rights of the Child (UNCRC) which enshrines “the right of a child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child best interests” (article 9).

Whilst it has often been misunderstood and inconsistently applied, the Presumption is the only statutory provision that codifies such a principle and is therefore reflective of international child-rights frameworks. Furthermore:

1. The Presumption aligns with a substantial body of academic research demonstrating that shared parenting and ongoing contact with both parents following separation (where safe) leads to more positive outcomes for children.

Repeal risks weakening the statutory recognition of children’s interests in maintaining safe relationships with both parents; where a safe relationship with both parents is possible, public policy should support and preserve it. Repeal instead risks reversing decades of progress toward recognising the importance of both parents in a child’s life.

2. The Presumption is an important part of the framework for balanced judicial reasoning.

The Presumption does not dictate outcomes, with decisions determined moreover by the welfare checklist in the Children Act 1989 and the “paramountcy principle”, which is that the child’s welfare is the paramount consideration in any decision; it does however provide a starting point to ensure that the importance of maintaining parental relationships is considered when assessing a child’s welfare.

Removing this important statutory benchmark, and relying instead on practice and non-statutory frameworks, will likely increase inconsistency of practice and lead to more uncertainty of outcome for those already experiencing the stress of the family court.

3. The Presumption is an important signal and benchmark, shaping expectations and behaviour, that a non-resident parent (the father in over 90% of cases) is an equally valuable parental figure, not an optional extra. As such it can help set parental expectations for positive co-parenting behaviour and discourage antagonism and parental conflict, which is most strongly associated with negative outcomes for children. The Presumption can thus play an important role by helping both parents focus on the benefit for the child of a positive relationship with both parents, unless genuine risk is established. It sends the signal that both parents matter.

Repealing the Presumption risks weakening that message and may inadvertently signal, both to parents and professionals, that the ongoing involvement of one parent is discretionary rather than a vital one in a child’s welfare and upbringing. Repeal could therefore create more conflict based on contested expectations and thereby exacerbate the already chronic issue of delay in the family court system, with its acknowledged harm

to children.

The Government's impact assessment "Courts Bill (non IRCC)" (MoJ036/2025) assumes repeal of the Presumption will not impact on the number of cases coming to court nor the length of time cases spend in court, but states "if this assumption is not realised and the repeal in fact has an impact on case volumes or length, the costs/benefits of this policy may be underestimated." (page 18). It would appear the Government has not properly assessed this risk.

4. **Repeal will likely have disproportionate impact on the health and wellbeing of non-resident parents.** This is recognised in the above cited impact assessment which states "Non-resident parents may be concerned that this legislative change will result in their contact with their child being limited. This may be emotionally costly to parents." (para 67). Non-residents parents are overwhelmingly fathers and research shows that, while many fathers remain actively involved in their child's life post-separation, systemic barriers can make sustained involvement more difficult. Our charity user surveys reflect the available academic evidence of extremely high rates of suicide ideation amongst separated fathers (nearly 40%) who are losing meaningful contact with their children. Family court processes, contact denial and emotional isolation are cited as the main reasons for such suicidal thoughts.

Repeal of the Presumption, **unless accompanied with a better framework to support consistent welfare analysis of the benefit for children of involvement of both parents**, risks more children unfairly losing meaningful relationships with a non-resident parent, even when no risk of harm exists; this will make the UK an outlier on shared parenting. Impact assessment MoJ036/2025 makes no reference to whether repeal of the Presumption could lead to more children losing a relationship with loving, non-resident parent and therefore this risk has not been properly considered by the Government.

In section (2) below, we outline what that better framework could be.

(b) The Lack of Evidence supporting repeal

On 22nd October 2025, The Ministry of Justice published the "Review of the Presumption of Parental Involvement, Final report", in which it announced that the Government, having considered the evidence in the review, has decided to repeal the Presumption.

However, by the Government's own admission, the review provided limited and inconclusive evidence of the impact of the Presumption. It could not determine how often the Presumption was applied in judgments, nor could it assess how harm (alleged or found) related to the application of the Presumption.

There were also multiple failings of methodology of the review:

- **The data samples were tiny and unrepresentative.** Quantitative analysis was based on only 245 court judgments, with over half from a single magistrates' bench. Qualitative analysis involved only 29 parents. The review's authors acknowledged this creates sample bias and limits the extent to which findings can be extrapolated to all private law cases. It is too small to draw national conclusions.
- **The data was incomplete and of poor quality.** With researchers unable to access full

court files, there was a lack of detail on outcomes and many files were incomplete, creating patchy datasets. The authors acknowledge that the lack of quantitative data led to a reliance on the above flawed qualitative data, which was perception and experienced-based and not representative of the views and experiences of all those going through the family court.

- **Much of the evidence was out-of-date.** Much of the evidence reflected experiences and cases before the Harm Panel Report in 2020 and therefore also predated the Domestic Abuse Act 2021 and amendments to Practice Direction 12J. As such, much of it related to out-of-date practice in relation to how the family court deals with allegations of abuse. Some of it even predated the introduction of the Presumption in 2014.
- **The literature review was not comprehensive.** It examined only 55 studies, excluded all research published after April 2024, and major studies showing positive outcomes from shared parenting were omitted.

Whilst this charity was pleased to sit on the review's Advisory Group, it contained no independent statisticians nor male-survivor representative, and, despite some judge membership of the Group, it was given no opportunity to comment on or endorse the review's findings.

Despite recognising its own limitations, the review concludes that courts are "intrinsically geared" towards involvement of a child with both parents and that the Presumption should be repealed to help tackle a "pro-contact" culture, which it claims could lead to risk of harm to children. However, the review provides no evidence of any such possible harm from the Presumption to support such a legislative change and no evidence that repealing the Presumption will reduce harm. It should also be noted that the term "pro-contact culture" is not the review's term, but one which originated from organisations campaigning for repeal of the Presumption.

The stated aim of repeal is to strengthen child safety, especially in cases involving domestic abuse and other forms of family harm. Child safety must remain paramount and not be overridden by any principle of parental involvement. However, available evidence suggests that any safeguarding failures have arisen from weaknesses in risk assessment, information sharing and systemic failures, rather than from the Presumption itself. Evidence to Parliament from the Chief Executive of Cafcass acknowledged that the tragic case of Claire Throssell — often cited in arguments for repeal — would not have been affected by the existence or removal of the Presumption. The government's own impact assessment cited above states that "repeal alone is unlikely to materially change outcomes" (paragraph 12) and therefore one has the question the rationale for doing so. Repeal will not achieve what the government claims it is for and risks instead weakening the legal and cultural recognition that, where safe, children generally benefit from meaningful relationships with both parents.

The Presumption already has important safeguards built in: it does not apply where a parent's involvement poses a risk to the child and, even when it does apply, it can be rebutted if there is evidence that a parent's involvement would not further the child's welfare. It operates within the existing safeguarding infrastructure and the "paramountcy principle", that the child's welfare remains the court's overriding consideration. As such it already balances the protection of children from harm whilst recognising the importance of maintaining parental relationships where safe.

The risks attributed to the Presumption in certain quarters appear to arise from misinterpretation or misapplication of the Presumption rather than the statutory provision itself and reflect broader problems in the operation of the family justice system. Government efforts on safeguarding should instead prioritise better judicial and family court adviser training, with robust fact-finding and child-centred assessments, to identify and deal with issues of actual abuse by either parent, whilst ensuring unfounded allegations are dealt with appropriately.

We would invite the Committee consider whether the Government's decision to repeal the Presumption can be justified by the Ministry of Justice review. We would suggest that any such legislative change should only be carried out after a full, transparent, impartial, evidence-based review, investigating all potential harms to children in the family court system, including from the denial of a relationship with either parent, from weaponisation of the child by either parent, and from potential harm caused by either parent; there should also be an impact assessment which considers whether such harms could be exacerbated by repeal of the Presumption.

(2) A better framework – an addition to the welfare checklist in section 1(3) of the Children Act 1989

Repeal of the Presumption risks removing a statutory provision which assists in assessing the importance of a relationship for the child with both parents, where safe. Repeal without wider reform may also unintentionally increase uncertainty within proceedings, particularly at early stages where courts and professionals rely on clear statutory guidance to structure decision-making. Whether repeal takes place or not, we recommend an improvement to the statutory framework to ensure consistency in practice and to assist in analysing parental relationships.

Rather than introducing new rights or presumptions, this could be by way of a modest amendment to the existing welfare checklist in section 1(3) of the Children Act 1989. The amendment — referred to as a **Parental Relationship Test** — would require courts to explicitly consider:

- **The quality and sustainability of the child’s relationship with each parent**, which could include assessing the benefit to the child of having a meaningful, loving, consistent and enduring relationship with both of their parents (where safe), the potential harm to the child from denying or limiting the opportunity to develop or maintain such a relationship, and review of the pre-separation caregiving roles.
- **The nature of the relationship between the parents insofar as it affects the child**, which could include reviewing levels of parental conflict, their ability to communicate about the child’s needs, willingness to engage in dispute resolution or support services and evidence of escalation, obstruction or unmanaged hostility. With parental conflict—not separation itself—being most harmful to children, explicitly assessing this relationship would encourage early intervention and de-escalation rather than prolonging of adversarial proceedings.
- **Each parent’s willingness and capacity to support the child’s relationship with the other parent, where safe**, with considerations of each parent’s ability to place the child’s needs above personal conflict, willingness to facilitate contact, communication and shared decision-making, openness to support, education, or therapeutic input and their insight into the impact of conflict on the child. Where safeguarding concerns exist, this assessment would operate proportionately and never override protection.

Some of these factors are already considered informally but inconsistently. Embedding these considerations directly within the welfare checklist would provide a clearer analytical framework for judges, Cafcass officers and practitioners and ensure they are properly embedded into family justice practice. It would support more structured early assessment, require professionals to evidence how relationship dynamics have been considered within welfare analysis, and reduce ambiguity that can otherwise drive prolonged disputes. It would also improve transparency, reduce the escalation of disputes and support earlier resolution of cases. It would also strengthen safeguarding by embedding clearer scrutiny of relational dynamics within existing protections relating to domestic abuse, risk of harm and supervised

contact arrangements.

Such an addition would not create a new presumption of involvement nor weaken judicial discretion. It would not require cooperation between parents at any cost, nor prioritise parental involvement over child safety. Instead, it would reinforce the paramountcy principle by ensuring that relationships, conflict and safeguarding concerns are assessed consistently, transparently and proportionately within the welfare checklist framework.

Such a targeted amendment to the welfare checklist offers a practical, operational reform aligned with current academic evidence, international policy direction and the Government's Child Focused Courts programme (previously known as "Pathfinder").

The suggested wording for such an amendment to the Courts and Tribunals Bill is:

"In section 1(3) of the Children Act 1989, at the end insert -

"(h) the quality and sustainability of his relationships with each parent, the nature of the relationship between the parents insofar as it affects him and the capacity and willingness of each parent to support his relationship with the other parent, insofar as this is likely to further his welfare now and in the future.""

We also suggest a further amendment:

"In section 1 of the Children Act 1989, at the end insert -

"(7) The court must set out in its judgment how it has applied each part of subsection 1(3)(*the welfare checklist*) in determining the child's best interests.""

Conclusion

Addressing legitimate concerns around contact decision-making arising from the Presumption creates both risk and opportunity: risk if repeal occurs without a targeted framework to support consistent welfare analysis, and opportunity if it is accompanied by focused, child-centred reform.

Parliament can either remove the Presumption without replacement — potentially increasing uncertainty, delay, inconsistency and conflict— or it can take this moment to strengthen the statutory framework through a modest but meaningful amendment to the welfare checklist. The proposal outlined in this submission offers a clear, practicable mechanism to embed a transparent and proportionate assessment of parental relationships within existing safeguarding structures.

In doing so, there is the opportunity to align domestic practice with contemporary academic evidence, international policy direction and the UNCRC: recognising that, where there is no clear risk of harm, children are generally best supported by maintaining safe, meaningful relationships with both parents following separation.

In short, a targeted statutory adjustment offers Parliament the chance not simply to repeal, but to reform — reducing conflict, improving outcomes for children and remaining aligned with the UNCRC.

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