

**Written evidence submitted by The Family Services Foundation to the Courts and Tribunals
Public Bill Committee (CTB22)**

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

1. Introduction to The Family Solutions Foundation (FSF)

- 1.1 The FSF is a charitable organisation committed to improving outcomes for children and families experiencing separation, conflict, and change. Rooted in the belief that children thrive when they are supported by stable, nurturing relationships, FSF works to ensure that policy, practice, and public understanding reflect the needs and rights of children whose family lives are undergoing transition.
- 1.2 FSF brings together experts, practitioners, and researchers to develop evidence-informed approaches that strengthen family relationships, reduce conflict, and promote the wellbeing of children. The Foundation plays an active role in shaping national conversations on family justice, delivering and supporting initiatives that focus on early intervention, positive co-parenting, and safeguarding children’s relationships with those who play a meaningful role in their lives.
- 1.3 Through research, advocacy, and collaboration with partners across the sector, FSF aims to influence the design of services and the development of policies that put children’s welfare at the centre. Its work champions the principle that, wherever safe and appropriate, children benefit from meaningful relationships with both parents and wider family members, and that systems serving families should be accessible, fair, and supportive.

2. Rationale for Submitting Evidence.

- 2.1 The Family Services Foundation (FSF) maintains that removing the presumption of child contact in cases of parental separation, particularly where matters are resolved through the legal system risks causing unintended harm to the wellbeing of children and young people. While it is acknowledged that a small proportion of non-resident parents (most commonly fathers) may pose risks to their children following separation, there is limited evidence to suggest that abolishing the presumption of contact would effectively address these concerns.
- 2.2 FSF recognises that there is an important opportunity to modernise and strengthen the legal framework that protects children’s rights and safety. However, such reform should focus on enhancing the protections available, rather than creating conditions that may inadvertently prevent children from maintaining safe, meaningful relationships with their parents.
- 2.3 On the contrary, a substantial body of evidence, indicates that children are more likely to thrive after parental separation when both parents are safely involved in their lives,

when conflict is reduced, and when communication remains focused on the child's best interests.

3. Summary of the Evidence Submitted in this Response

This submission focuses specifically on Clause 17 of the Courts and Tribunals Bill, which proposes to repeal the presumption of parental involvement. It seeks to provide an evidence-informed perspective on

- 3.1 Removing the presumption of child contact after parental separation risks harming children's wellbeing, as existing laws already protect children's safety while promoting involvement from both parents when safe and appropriate.
- 3.2 Existing legal protections: Current law, including the Children Act 1989 and Practice Direction 12J, prioritizes child welfare and allows courts to restrict contact if harm is shown, ensuring safety in parental involvement. The Domestic Abuse Act 2021 further supports risk identification in family proceedings.
- 3.3 International obligations: The UK is bound by the UN Convention on the Rights of the Child, which mandates that children maintain contact with both parents unless contrary to their best interests and ensures children's views are heard in decisions.
- 3.4 Ongoing reforms: The Pathfinder Pilot introduces a problem-solving model to identify risks early and improve safety, with positive early outcomes that could be disrupted by removing the presumption.
- 3.5 Risks of removing presumption: Starting from a position that both parents' involvement is not beneficial may contravene the Convention and diminish children's rights and protections.
- 3.6 Importance of parental relationships: Safe, meaningful involvement with both parents supports children's identity formation and emotional resilience, while absence of one parent can cause confusion, rejection, and identity gaps.
- 3.7 Impact on families and professionals: Changing the law may confuse professionals supporting families outside court, disproportionately affect non-resident parents (mostly fathers), and increase emotional strain and mental health risks for separated parents.
- 3.8 Family court system strain: Removing the presumption could increase court workloads, lengthen hearings, cause more disputes, and reduce motivation for out-of-court resolutions, worsening delays harmful to children.
- 3.9 Need for careful evaluation: Major legislative changes should undergo impartial impact assessments incorporating children's perspectives to avoid unintended consequences and ensure reforms are evidence-based and child-centered.

4. Current Protections that already exist.

- 4.1 Introduced in 2014, the presumption holds that both parents' involvement benefits a child, unless it poses a risk of harm. This presumption as it currently stands does not require equal contact or shared care and does not override safeguarding concerns. The court's primary concern remains the child's welfare.
- 4.2 Under current law, courts begin with the idea that a child has a right to involvement from both parents where it is safe, and the welfare of the child remains the paramount consideration. Removing the presumption risks undermining that child-centred starting point.
- 4.3 Section 1(2A) of the Children Act 1989 (hereafter referred to as the act) states that involvement of both parents "will further the child's welfare unless the contrary is shown" — a safeguard that already allows courts to depart from involvement where harm is evidenced.
- 4.4 Section 1(3), of the act necessitates consideration of any harm which the child has suffered or is at risk of suffering as part of the Welfare Checklist, which the court must have regard to when deciding issues concerning a child's welfare. The checklist already requires consideration of children's emotional needs, risk of harm, parental capability, and wishes/feelings.
- 4.5 Section 1(6) of the act expressly ensures the presumption applies 'if the parent can be involved in the child's life in a way that does not put the child at risk of suffering harm'.
- 4.6 Practice Direction 12J (PD12J) provides the family court with a framework where allegations are made and domestic abuse has been raised as an issue in the proceedings and necessitates consideration of risk of harm to the child and other parent when making both interim and final orders for contact.
- 4.7 While PD12J already references domestic abuse, the Domestic Abuse Act 2021 provides the legal definition that family courts must apply. The Domestic Abuse Act 2021 forms the basis for identifying abuse and ensuring protective measures in family court proceedings.
- 4.8 The United Nations Convention on the Rights of the Child (UNCRC) was ratified in the UK in 1991. Therefore, the UK must uphold the rights in the Convention, and UK laws should be compatible with the Convention.
 - i. Article 3 of the Convention sets out that
In all decisions affecting children, including contact arrangements, the best interests of the child must be a primary consideration.
 - ii. Article 9 sets out that
 - a. Children should not be separated from their parents against their will, unless it is necessary for the child's best interests (e.g., due to abuse or neglect).

- b. When parents separate, children have the right to maintain regular contact with both parents, unless that is contrary to the child's best interests.
 - c. The child and both parents have the right to express their views and be heard in decisions about separation.
- 4.9 There are already reforms of Private Family Law currently being rolled out, but not fully implemented, most notable the Pathfinder Pilot. This uses a more investigative, problem-solving model to identify risk early, and aims to improve safety for children and parents experiencing domestic abuse. Whilst the early stages of the process seem to be yielding positive outcomes, changing the law in such a fundamental way so early in the development of the Pathfinder is likely to fundamentally reshape practice on the ground, risking the improvements being reported by those in pilot areas.
- 4.10 Starting from a position whereby a relationship with both parents is not in the best interests of children is likely to place the UK outside of the convention, which will not only harm the rights and protections of children, but is also likely to undermine the Convention itself which can only lead to diminishing the rights and protections of children in the UK.
- 5 Reframing the focus.**
- 5.1 Removing the presumption seems primarily focused on addressing the risks associated with the children having relationships with non-resident parents, rather than evaluating the potential consequences of denying children relationships.
- 5.2 The concept of a 'pro-contact culture' is anticipated to feature prominently in discussions regarding reform of the presumption. Notably, this term originated from organisations with particular and narrow objectives. There is a concern that the term may be misused by parents who do not act in the best interests of their children, potentially to restrict contact with non-resident parents as a punitive measure, resulting in adverse long-term emotional effects for their children.
- 5.3 The fact the removing the presumption is flows from the same people that could be accused of weaponising the term 'pro-contact culture' makes it a priority of adults, particularly those who are in positions whereby they are able to lobby government and members of parliament. However, the consequences most heavily impact on children and young people. Whilst it will always be the case that adults need to play a fundamental role in the protection of children; it is important that their voices are meaningfully included in any process.
- 5.4 As children become young people, understanding their identity becomes increasingly important, as a normative part of their development. Children's sense of identity, including who they are, where they belong, and how they understand themselves develops through their relationships, experiences, and the messages they receive from the adults who care for them. After parental separation, maintaining meaningful relationships with both parents can play a vital role in supporting that identity formation, provided it is safe and appropriate.

- 5.5 When a child does not have access to one parent, they often experience:
- a) Confusion about their origins
 - b) Feelings of rejection (“Why aren’t they here?”)
 - c) Idealisation or demonisation of the absent parent
 - d) Gaps in understanding their background, family, and heritage
- 5.6 To further complicate this issue, the presumption not only runs the risk of children not being able to spend time with one of their parents, but the impact of this flows across the wider family of the non-resident parent, meaning that children are not afforded opportunities to enjoy safe and loving relationships with effected aunts, uncles, cousins, grandparents and so on.
- 5.7 It is commonly accepted that children learn about their identities from the people around them, particularly wider family where they are afforded the opportunity to have relationships with them, and by removing the presumption of contact, it is likely that contact with all family members will be reduced.
- 5.8 In a paper published by the Nuffield Foundation C. Bryson et al (2017) wrote about a gap in research relating to the impact of parental separation in terms of wider family members, and it seems that little has changed since. However, they do note that family members (including wider family members) provide children with crucial emotional, social, and financial support in any family unit, but especially following separation.
- 5.9 Conversely, regular, positive contact helps children form a cohesive narrative about their life and identity, something strongly linked to emotional resilience.
- 5.10 When children grow up without meaningful contact with one of their parents, it affects their psychological, emotional, and social development in several interconnected ways. The impacts of this can be lifelong when left unsupported.
- 5.11 A review of 54 studies undertaken by Neilson (2017), found that children in shared-parenting families had better outcomes than children in sole physical custody families. The measures of well-being included: academic achievement, emotional health (anxiety, depression, self-esteem, life satisfaction), behavioural problems (delinquency, school misbehaviour, bullying, drugs, alcohol, smoking), physical health and stress-related illnesses, and relationships with parents, stepparents, and grandparents.
- 5.12 Evidence indicates that when fathers are supported, included, and acknowledged by services, their participation yields substantial positive outcomes for children's wellbeing, stability, development, and future prospects.
- 5.13 Research on Separated Fathers (Milius et al., 2025) show that the quality of father–child relationships and coparenting positively influences:
- a) Children’s emotional regulation
 - b) Behavioural outcomes

- c) Parental mental health (with joint-custody fathers reporting significantly lower depression than non-custodial fathers).

5.14 Nielsen (2018) reviewed 60 studies that have compared children in these two types of families during the past 25 years and found that shared parenting is best for children in separated and divorced families. Kids who share time between both parents' homes approximately equally have better outcomes related to:

- a) Academic achievement
- b) Drug, alcohol and cigarette use
- c) Mental and physical health
- d) Less early sexual activity and teen pregnancy
- e) Higher employment and earnings later in life
- f) Greater likelihood of family stability in their own adulthoods
- g) Better relationships with parents, stepparents and grandparents.

6 The wider impacts of changing the law.

6.1 Major legislative changes that impact vulnerable groups should undergo evaluation by impartial experts through a comprehensive assessment process, incorporating diverse perspectives, with particular attention given to the views of children and young people.

6.2 A well written impact assessment could help the government to envisage the way that the law will be implemented and what this will mean in a practical sense. Such a document would be well placed to consider the needs of children and their families and whether these needs would be met by the proposed changes.

6.3 To facilitate such change, it is essential to analyse existing research to ensure that government decision-making and planning are informed by current thinking and evidence-based knowledge.

6.4 Research could be well placed to review whether current plans are adequate in achieving the governments intended aims and whether safeguards in place will be adequate.

6.5 In the absence of thorough assessment and supporting research, there is a risk that new legislation may lack clarity, fail to achieve its intended objectives, harbour unintended loopholes, or be misinterpreted. This could inadvertently increase the vulnerability of children and require additional government intervention and resources for future revisions.

6.6 Most families never access the Private Family Law system, however changing the law in this regard is likely to have an impact far wider than those formally accessing the courts.

6.7 According to the Family Justice Council briefing paper (2021) written by Professor Rosemary Hunter, the best available evidence is that around 10% of separated families make use of the courts in arriving at child arrangements.

- 6.8 Of the remaining 90% of families, it is likely that a significant number of these may access earlier level support such as that provided by teachers, social workers, family hubs, children's centres or other similar professionals. Others may access informal family support, and the remainder are likely to be isolated from any reliable support.
- 6.9 The presumption as it currently stands is an effective way to ensure that the roles of both parents is valued, by families and professionals alike. Removing the presumption is likely to promote the roles of resident parents over those who are not living with the children. This is obviously problematic in terms of the increased barriers that non-resident parents face and runs the risk of being emotionally harmful to children.
- 6.10 According to statistics published by the Department for Work and Pensions (27.03.25) following separation children remain with their mothers 88% of the time, meaning that any potential change in the way that the law is currently written is going to disproportionately impact upon fathers, and their children's ability to have the experience of children experiencing positive male role models.
- 6.11 The basis of the support offered to these families is going to be based on understanding of the law, and research about what is best for children post separation. The current position that the law sets make clear that children have rights to relationships with both parents where this is safe and in their best interests. If the law were to set out a different position this is likely to complicate the understanding of these professionals and influence the support they can offer families.
- 6.12 The strain of being separated from children, prolonged conflict, and navigating the family courts is something which is likely to have a significant emotional toll on the parents that are trying to get to see their children. Conditions like depression and anxiety are likely to be particularly prevalent for those accessing such systems and it is reasonable to expect therefore that there is a genuine risk of this feeding into (male) suicide rates. Making the system increasingly complicated by removing something that many non-resident parents are likely to see as a safeguard is likely to further increase vulnerability in this regard.
- 6.13 Family breakdown is a significant life stressor and can have profound mental health consequences. Men are already disproportionately affected by suicide in the UK. Data from the Samaritans indicates that approximately three-quarters of suicide deaths in the UK occur among men.
- 6.14 Relationship breakdown, separation, and family conflict are frequently identified as major risk factors for male suicide. Research examining suicide deaths among middle-aged men in Britain has found that many of those who died were separated, divorced, or living alone. These findings highlight the role of relationship breakdown and social isolation in suicide risk. Surveys of separated fathers experiencing difficulties maintaining contact with their children have reported particularly high levels of psychological distress and suicidal ideation.

- 6.15 While safeguarding children must always take precedence, policymakers should recognise that legal frameworks affecting parental contact may have significant impacts on parental mental health.

7 Role of Presumption in Professional Practice

- 7.1 Professionals within the family justice system frequently rely on the presumption when working with separating parents. Family court advisers from CAFCASS, mediators, and social workers often use the principle of parental involvement as a framework for encouraging cooperative parenting.
- 7.2 In cases where one parent seeks to restrict the other parent's involvement without clear safeguarding concerns, the presumption provides a neutral reference point emphasising the child's need for relationships with both parents.
- 7.3 Removing the presumption may weaken the ability of professionals to challenge attempts to marginalise one parent.

8 Perverse Incentives and Alienating Behaviours

- 8.1 Legal frameworks influence behaviour. Removing the presumption risks creating unintended incentives within the family justice system. Where the law no longer clearly recognises the importance of both parents, it may become easier for one parent to attempt to exclude the other from the child's life.
- 8.2 In high-conflict separations, behaviours sometimes described as parental alienation / alienating behaviours or non-appropriate gatekeeping may occur. These behaviours can involve obstructing contact, undermining the child's relationship with the other parent, or discouraging communication. The current presumption signals that attempts to exclude a parent without legitimate safeguarding concerns are unlikely to succeed.
- 8.3 Removing this principle may alter incentives in ways that increase parental conflict and reduce cooperation.

9 Risks to the Family Courts

- 9.1 If there is no clear statutory starting point, courts may need longer hearings, gather more evidence, and face increased disputes between parties. There is limited information on what would take the presumption's place if it were removed, making it hard to predict government intentions and possible consequences. Any significant legal change should be carefully planned and clearly explained so impacted parties can prepare and understand the outcomes.
- 9.2 The law relies heavily on examples from Case Law, but after changes are made, courts will have few direct precedents showing how these rules are applied. This could lengthen proceedings and increase the risk of decisions being overturned on appeal.
- 9.3 Removing the presumption would likely result in greater workloads and longer delays in the family court system. Since the removal of Legal Aid courts face longer hearings,

increased backlogs, and additional strain on judicial time. It is argued that one of the reasons for this is that there are fewer professionals working with the courts because some families have no way of paying them, resulting in a higher percentage of Litigants in Person. This has been observed in local studies, such as the 2025 review in Basingstoke, which highlights “significant strain” on the family courts due to Litigants in Person.

- 9.4 The adversarial court process is known for escalating conflict that can persist over time. While court intervention will always be necessary for certain cases, prioritising out-of-court dispute resolution among parents may offer faster and more community-based solutions.
- 9.5 Strengthening the out of court pathways are also likely to reach a wider cohort of people, potentially improving safety for those families who never would have accessed court in the past, but may have needed support with child arrangements.
- 9.6 Without the presumption guiding negotiations, parents might be less motivated to resolve their disputes outside of court.
- 9.7 Delays in ongoing court proceedings are known to be harmful to children. The work of Pires and Martins (2021) found that the ongoing custody process was found to contribute to increased interparental conflict. Harsh parenting and interparental conflict were identified as predictors of poor early child adjustment.

10 Conclusion

- 10.1 In conclusion it is argued that removing the legal presumption that children benefit from involvement with both parents where this is safe and in their best interests, after separation could unintentionally harm children’s wellbeing.
- 10.2 Although a minority of non-resident parents may pose risks, the current law already provides safeguards allowing courts to restrict or deny contact where harm is established. Instead of abolishing the presumption, it is recommended that strengthening existing protections and ensuring reforms remain aligned with children’s rights.
- 10.3 Under the Children Act 1989, the child’s welfare is paramount. Section 1(2A) states that parental involvement furthers welfare unless evidence suggests otherwise, while the Welfare Checklist (s.1(3)) already requires courts to consider risks of harm, emotional needs, parental capability, and children’s wishes. Section 1(6) ensures the presumption only applies when safe. Additional layers of protection include Practice Direction 12J, which governs cases involving domestic abuse, and the Domestic Abuse Act 2021, which defines abuse and guides courts in identifying and responding to risk. The UK is also obligated under the UN Convention on the Rights of the Child (UNCRC) to uphold children’s rights to safety, meaningful parental relationships, and participation in decisions affecting them.

- 10.4 Removing the presumption could undermine national and international obligations and disrupt ongoing reforms such as the Pathfinder Pilot, which aims to improve safety and early risk identification through a problem-solving, investigative model. Early indications show positive outcomes, and a sudden legislative shift could destabilise progress.
- 10.5 The discussion around a “pro-contact culture” is highlighted as potentially misleading. Framing reform around this narrative risks centring adult agendas rather than children’s needs.
- 10.6 Children’s identity formation is significantly shaped by safe, meaningful relationships with both parents, and wider family interactions. The absence of one parent may lead to confusion, feelings of rejection, or identity gaps. Research consistently shows that shared parenting, when safe, supports better academic, emotional, behavioural, and physical outcomes (Neilson 2017; Nielsen 2018).
- 10.7 Evidence also shows benefits when fathers are supported and involved, including improved outcomes for children and reduced depression among jointly involved fathers (Milius et al., 2025).
- 10.8 Major legislative change should undergo robust, impartial impact assessments, ensuring reforms are evidence-based and child-centred. Without such scrutiny, unintended consequences may emerge, including confusing frontline professionals who support families outside the court system. Only around 10% of separated families use the courts, but a much wider group relies on teachers, social workers, and family support services whose guidance often reflects legal norms and expectations.
- 10.9 Removing the presumption may unintentionally elevate the status of resident parents, typically mothers (88% of cases per DWP, 2025), while marginalising non-resident parents, potentially harming children’s access to positive parental role models. It may also exacerbate emotional strain on non-resident parents who already face challenges with separation, conflict, and court processes, potentially heightening mental-health risks.
- 10.10 The family courts are already under considerable strain, particularly since the reduction of legal aid. Eliminating the presumption could lead to longer hearings, more evidence gathering, greater appeals, and fewer out-of-court resolutions, ultimately increasing delays that are known to be harmful to children.
- 10.11 A more balanced approach would be to retain the presumption while strengthening safeguarding measures and support services for families experiencing separation. Such an approach would better promote the welfare of children while addressing legitimate concerns about safety and abuse.

11. References

Bryson, C. et al. (2017). Understanding the lives of separating and separated families in the UK: what evidence do we need?. [Online]. BPSR - Bryson Purden Social Research. Last Updated: May 2017.

Available at:
<https://www.nuffieldfoundation.org/sites/default/files/files/Family%20Separation%20Scoping%20Study%2> [Accessed 10 March 2026].

Department for Work and Pensions. (2025). Separated families statistics: April 2014 to March 2024. [Online]. Gov.uk. Last Updated: 27.03.2025. Available at: <https://www.gov.uk/government/statistics/separated-families-statistics-april-2014-to-march-2024/separated-families-statistics-april-2014-to-march-2024> [Accessed 8 March 2026].

Find A McKenzie Friend. (2025). The Impact of Legal Aid Cuts – 15 Years Later in Basingstoke. [Online]. Last Updated: 06.06.25. Available at: <https://www.findamckenziefriend.com/articles/sakkeena-sultan/the-impact-of-legal-aid-cuts-%E2%80%93-15-years-later-in-basingstoke> [Accessed 8 March 2026].

Hunter, R (2021). *Statistics on Private Law Applications*. [Online]. Family Justice Council briefing paper. Last Updated: March 2021. Available at: <https://committees.parliament.uk/writtenevidence/110556/pdf/> [Accessed 7 March 2026].

Milius, H.L., Cho, B.O. & Klingman, A.M. Fatherhood After Separation: Implications for Parent and Child Outcomes. *J Child Fam Stud* 34, 1241–1258 (2025). <https://doi.org/10.1007/s10826-025-03064-5>. [Accessed 7 March 2026].

Neilson, L. (2017). 10 Surprising Findings on Shared Parenting After Divorce or Separation. [Online]. Institute for Family Studies. Last Updated: 20.06.2017. Available at: <https://ifstudies.org/blog/10-surprising-findings-on-shared-parenting-after-divorce-or-separation>. [Accessed 7 March 2026].

Nielsen, L (2018): *Joint versus sole physical custody: Outcomes for children independent of family income or parental conflict*, *Journal of Child Custody*. Available at: <https://static1.squarespace.com/static/5154a075e4b08f050dc20996/t/5a6a58370d9297962b6ef1fd/1516918840631/2018+Child+Custody+60+studies+.pdf>. [Accessed 7 March 2026].

Pires, M and Martins, M (2021): *Parenting Styles, Coparenting, and Early Child Adjustment in Separated Families with Child Physical Custody Processes Ongoing in Family Court*. Published in *Children* (Basel, Switzerland). Available at: <https://doi.org/10.3390/children8080629>. [Accessed 7 March 2026].

Uk Government. (1989). Children Act 1989. [Online]. Legislation.gov.uk. Last Updated: 08.03.2026. Available at: <https://www.legislation.gov.uk/ukpga/1989/41/contents> [Accessed 8 March 2026].

UK Government. (2014). Practice direction 12j – child arrangements & contact orders: domestic abuse and harm. [Online]. Justice.gov.uk. Last Updated: 28.04.2024. Available at: https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12j [Accessed 8 March 2026].

UK Government. (2021). Domestic Abuse Act 2021. [Online]. Legislation.gov.uk. Last Updated: 29.04.2021. Available at: <https://www.legislation.gov.uk/ukpga/2021/17/contents> [Accessed 8 March 2026].

United Nations. (1991). How we protect Children's rights with the UN Convention on the Rights of the Child. [Online]. UNICEF. Last Updated: 16.12.1991. Available at: https://www.unicef.org.uk/wp-content/uploads/2019/10/UNCRC_summary-1_1.pdf [Accessed 8 March 2026].

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