

*Mr G.A.Cavadino*  
*31 Green Walk, Timperley, Cheshire, WA15 6JN*  
*07964 014 314*

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**OPEN LETTER**

United Nations Special Rapporteur  
Professor Philip Alston

Sent by email:  
philip.alston@nyu.edu  
[srextremepoverty@ohchr.org](mailto:srextremepoverty@ohchr.org)

Dear Mr Alston,

I understand you will undertake an official visit to the United Kingdom of Great Britain and Northern Ireland in November 2018 at the invitation of the UK Government and your visit will focus, in accordance with your mandate, on the interlinkages between poverty and the realisation of human rights in the United Kingdom. This is a very welcome visit and I trust you will recommend suitable outcomes following your visit.

I am a Chartered Accountant working in Financial Services. I am now campaigning for children, parents and family rights in the UK with a number of groups with the help and support of leading experts. It is clear that UK Law is breaching a number of European and United Nations Human Rights in relation to children without recourse following separation.

In the UK, an organisation called Cafcass (Children and Family Court Advisory and Support Service) has a broad remit in relation to the recommendation to courts and judges of children's care post separation. These recommendations are made following a case worker spending minimal time with each parent and the children and they then apply their 'professional opinion' in many cases. The success or failure of these outcomes is not tracked once a court case is closed which results in 1 in 3 cases return to court; this implies that the Cafcass recommendations are not effective and are not working. In 87% of cases, Cafcass recommends Single Parent Custody (SPC) and this is nearly always with the mother.

The downstream impacts of these recommendations, in many cases, are causing poverty and conflict for many children and families. This results in a strain on second families due to excessive maintenance payments, the welfare state, mental health of children and parents, and sadly in some cases, parents taking their own lives due to

the continued strain. There is also evidence of higher crime rates in children who have no father figure or limited time with him.

Alongside the judicial process are families that cannot afford court hearings and agree, in some form, what the child arrangements will be. These arrangements are not fully captured in statistics.

I am campaigning for **shared care** in the UK to be enshrined in law. This follows my extensive research on this subject that has proved that this provides the best outcome in nearly all scenarios, including conflict. Cafcass and the UK Government have so far refused to acknowledge this research. I liken it to the legacy of smoking, asbestos and thalidomide revelations and that this will soon highlight the failings of our Government's. The world is changing and many States in America are changing legislation.

The downstream impacts are positive in respect of child poverty. Theresa May, at a recent Prime Ministers Questions (5<sup>th</sup> Sept 2018) said that "three quarters of children move out of poverty when their parents go into full time work" yet we have discrimination in separation where one parent is 'allowed' to work reduced hours and be reliant on the other parent and/or the state. Shared care not only is in the best interests of the children concerned, but it allows both parents the freedom of independence to seek full (or near to) employment. It also alleviates and reduces the burden and reliance on the State which is estimated at £48Bn per year. <sup>[1]</sup>

I have attached a summary of my written submission below and I respectfully request this is considered as part of your remit. I look forward to hearing from you in due course.

Yours sincerely,

**Greg Cavadino**

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<sup>1</sup> <http://www.relationshipsfoundation.org/wp-content/uploads/2016/02/Counting-the-Cost-of-Family-Failure-2016-Update.pdf>

## APPENDIX

### United Nations Convention on the Rights of the Child

#### Article 3

Best interests  
of the child

**The best interests of the child must be a top priority in all decisions and actions that affect children.**

In the UK, 87% of cases result in a Sole Person Custody arrangement, and these are nearly all with the mother.

Extensive Research undertaken by leading researchers including Dr Richard Warshak and Dr Linda Neilson demonstrate that shared care of children post separation provides the best outcome for children in most situations, even in high conflict.

Children and Family Court Advisory and Support Service (Cafcass) was set up in 2001 and claims to “Build Stronger Families” and puts “children and young people first in the family courts”. This agency recommends outcomes for children for the courts after a round of brief interviews.

Judges are bound by a Cafcass recommendation unless there is other evidence available so therefore they sanction the recommendation.

Where there are genuine cases of domestic abuse and/or violence, it is only right that an arrangement reflects this. Where there is no safeguarding or concerns, Cafcass generally use ‘conflict’ as a reason for not recommending shared care therefore one parent, generally the father, is reduced to seeing his children alternate weekends. There is little in the way of evidence provided to support their recommendation and there is no support to remediate this issue. This combined with the long court process and delays are depriving children of a meaningful relationship with both parents and favour one

parent over the other.

These unfavourable outcomes mean that 1 in 3 cases return to court on multiple occasions resulting in further conflict created by the court system. This could mean that Cafcass resource are not suitably trained or do not have the knowledge or experience to make the correct recommendation which is a breach of this article.

Since the removal of Legal Aid in April 2013, including divorce and child contact, many parents cannot challenge these flawed decisions and children are left seeing one parent infrequently.

It is well researched that children of single parents can be disadvantaged versus their peers. There is evidence to suggest they are more prone to education problems, mental health issues in childhood and as adults and are at a higher risk of turning to crime. This affects their well-being which is a breach of this article.

Furthermore, the 'resident parent' is left at detriment through the inability to gain suitable employment through childcare commitments and a reliance on the ever burgeoning welfare budget (Article 18).

Shared care, when practical and possible and where there are no safeguarding concerns could significantly reduce the likelihood of these downstream impacts.

**Article 4**  
Implementation  
of  
the Convention

**Governments must do all they can to make sure every child can enjoy their rights by creating systems and passing laws that promote and protect children's rights.**

The incumbent UK Government, and its predecessors, has failed

for several decades to promote and protect children's rights across society and in legislation. The Children Act 1989 is not being used in full in recommendations. The 2014 Act was severely criticised for not introducing shared care and using flawed, out-dated and irrelevant research.

The current UK laws are ineffective and fall far short of meeting children's basic rights across the UNCRC.

#### **Article 5**

Parental  
guidance and a  
child's evolving  
capacities

**Governments must respect the rights and responsibilities of parents and carers to provide guidance and direction to their child as they grow up, so that they fully enjoy their rights. This must be done in a way that recognises the child's increasing capacity to make their own choices.**

No respect is given to either parents or extended family in respect of their responsibilities and rights as parents.

Cafcass has recently acknowledged Parental Alienation as an issue in society. This phenomenon, although not acknowledged across the world, has caused generations of children to lose contact with one parent and that side of their family and has the potential for that child to be raised in poverty in some cases.

The legislation in the UK does not encourage the parental guidance of both parents and the evolving capacities of children.

## Article 9

Separation  
from parents

**Children must not be separated from their parents against their will unless it is in their best interests (for example, if a parent is hurting or neglecting a child). Children whose parents have separated have the right to stay in contact with both parents, unless this could cause them harm.**

Children are being separated from at least one parent against their will in many cases. The article is clear that the exception is when “*competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary*”. There are concerns that Cafcass are not competent in their recommendations.

The common recommendation by Cafcass is alternate weekends and dinner once a week. This is not, following research, maintaining personal and meaningful relations on a regular basis and appears to be a default legacy arrangement.

## Article 12

Respect for the  
views of the  
child

**Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child’s day-to-day home life.**

Children’s wishes and feelings are being ignored by Cafcass in their recommendations. This failing has resulted in an 118,000 signed petition <sup>[2]</sup> (at the time of writing) for Parliament to debate how Cafcass derive their decisions, especially when children voice their wishes and feelings.

There are many written examples that have been shared with several MP’s that support these claims yet nothing is being done to remediate these failings.

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<sup>2</sup> <https://www.change.org/p/theresa-may-mp-stop-domestic-abuse-through-the-family-courts>

**Article 18**

Parental responsibilities and state assistance

**Both parents share responsibility for bringing up their child and should always consider what is best for the child. Governments must support parents by creating support services for children and giving parents the help they need to raise their children.**

Both parents should have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern. In nearly all cases, SPC leaves one parent out of touch and in some cases being alienated from the children.

*“States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities”.* When conflict alone is cited as a barrier to shared care by Cafcass, the government does nothing to remediate or assist parents this and is breach of the Convention. Appropriate assistance should be provided in nearly all cases to work towards shared care when practical and possible.

Shared care is not being promoted by Cafcass and other government agencies. Both parents have common responsibilities for the upbringing and development of the child yet this is being breached by the UK government.

**Article 37**

Inhumane treatment and detention

**Children must not be tortured, sentenced to the death penalty or suffer other cruel or degrading treatment or punishment. Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible. They must be treated with respect and care, and be able to keep in contact with their family. Children must not be put in prison with adults.**

As part of Cafcass' 'wishes and feelings' process, interviews are held with children unsupervised and unrecorded. It is not clear what children are asked or subjected to during this process but what is clear is that a number of children have felt uncomfortable, nervous and anxious before and after the event.

Adult interviews by police or any other agency are recorded in accordance with legislation yet children's comments could be misunderstood or interpreted incorrectly by the interviewing social worker with no record of the event.