**Tim Loughton:** With the greatest respect to the hon. Lady, I think that she is wrong. She is factually wrong on the first count because the Constitutional Affairs Committee report on the Bill was published in the last Parliament and the vote that her colleagues declined to join us on at the last minute happened during this Parliament in July, when all the information was out there. Her colleagues spoke in favour of this principle and strongly indicated that they would back amendments on it. She and I went merrily through the Lobby together during the Report stage of the Bill that became the Children Act 2004 in support of the principle that we are putting forward again today. I was surprised and delighted that she joined me on that occasion, although I suppose that I should not have been surprised that when it came to the crunch, her colleagues in another place did not have the courage of their convictions. However, we shall see what the Liberal Democrats do in the later stages of this Bill.

**Mr. Kidney:** I will help the hon. Gentleman to move on from that little spat. I am attracted to much of what he has just said and interested in pursuing the point about cases that will go to court because of the intractable attitude of one parent. It will take some time to get a decision from the court. What is his view of the practicality of starting court proceedings on contact?

**Tim Loughton:** If I may, I will come on to contact—where it all starts—and mediation later in my speech.

**Vera Baird** *rose—*

**Tim Loughton:** I want to make some progress, but will come back to the hon. and learned Lady, too.

Our proposals have widespread support among a multitude of family and parenting groups, but I fully acknowledge that many professionals in the judiciary and some voluntary organisations do not share our view. We have engaged them in constructive debate and perfectly respect the position that they have argued reasonably, even if we do not agree with their conclusions.

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It pains me to have to single out one organisation that has behaved reprehensibly on this issue. I would be the first to acknowledge that the National Society for the Prevention of Cruelty to Children has done a lot of good work in raising awareness of child abuse and campaigning against it, promoting good practice by engaging children, and raising substantial funds for services for vulnerable children. Many members of my party in my constituency enthusiastically raise money for the NSPCC, as I have in the past. However, during the proceedings on the Bill in the Lords, the NSPCC put out a briefing note that attacked our amendments as a threat to the safety of children, yet produced no evidence to support its claim.

In its latest briefing note, for our scrutiny of the Bill, the NSPCC has made the following claim:

> "NSPCC believes that any proposals to introduce into the Bill a legislative presumption of contact will be interpreted and put into practice by the courts in a way which is detrimental to the welfare of the child and could ultimately threaten the safety of the child."

In effect, it is saying that if a non-resident parent—predominantly a father—benefits from a presumption of contact, he is more likely to do harm to his own child.

**The Parliamentary Under-Secretary of State for Education and Skills (Maria Eagle):** Will the hon. Gentleman give way?

**Tim Loughton:** Let me finish and I certainly will.

In support of its claim, the NSPCC cites the fact that 29 children were killed over the past 10 years

during contact visits to non-resident parents. That is an appalling figure. However, it ignores its own research, which shows that over the same period some 800 children have died at the hands of resident parents or carers, and the 2000 publication "Child Maltreatment in the UK", which showed that violent treatment was more likely to be meted out by female carers than male ones.

The briefing is alarmist, sensationalist, misleading, empirically flawed, completely irresponsible and highly reprehensible. It is not worthy of an organisation such as the NSPCC, which claims to stand up for our children. I hope that our deliberations on the amendments will be based on balanced, rational and well-informed debate, rather than the arrant nonsense that I am sure will shock many dedicated and hard-working NSPCC supporters around the country.

**Maria Eagle:** I have no torch to bear for various elements of the lobby, including the NSPCC, but my interpretation of its comments is that paramountcy is incredibly important and might be comprised by the kind of presumption that the hon. Gentleman suggests.

**Tim Loughton:** The NSPCC has said quite clearly—it has not minced its words—that if our amendments about a presumption of contact, in which many other people believe, were accepted, the safety of children would be compromised at the hands of their non-resident parents, but has not offered any evidence for that. That is not a helpful addition to the constructive debate that we are trying to have in the interests of children.

**Peter Bottomley (Worthing, West) (Con):** The NSPCC will have to find another forum to explain why

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it said what it did, but the Minister has the chance to explain why she cannot trust the courts. A non-resident parent should not be denied contact unless the case has been put to a court. If a court decides that contact should be denied, that is fair enough, but if that does not happen, the situation proposed in our amendments is right and should be supported by the Government.

**Tim Loughton:** My hon. Friend is right. We should not automatically consider a non-resident parent in some way to be inferior to that same parent when he or she was part of a married couple or a couple together, or inferior to the parent with whom custody resides. It is being strongly suggested by the briefing that the NSPCC has insisted on putting out again, and in stronger terms, that in some way non-resident parents are a threat to the safety of their own children. That is disgraceful and insulting to many thousands of parents who are not able to live with their children.

**Vera Baird:** I will not tangle with the hon. Gentleman about what the NSPCC says. I can see that he has become riled by it. Underlying the courts' position—I hope that he accepts that historically this has always been the case—there has always been a presumption that there will be joint contact, continuing contact, where that is at all possible. That is not something that CAFCASS or the Courts Service conjured up for the report. That has always been the principle for many years. Child charities worry that if the paramountcy principle is ousted so that the safety of the child stops being the first criterion and we introduce parental rights, too much emphasis is given to the need to guarantee what the hon. Gentleman calls the child's right to see the parent. There must, of course, be a two-way right. Too much precedence is given to that right and not enough is given to safety. Where domestic violence is raised, that consideration is undervalued.

**Tim Loughton:** The hon. and learned Lady is misinterpreting what I have said. I have not talked about parental rights. I have been clear in saying where I am coming from on this issue. We are constantly told that there is a presumption of equal contact that pervades in the courts, but that does not appear to be working. Why, therefore, is the NSPCC not complaining about the status quo? What harm will we

do by putting explicitly in the Bill—something from which everybody starts—that there is that presumption? It will then be possible for everyone to argue why that should not be so in individual cases.

**Beverley Hughes:** It is for the NSPCC to explain its interpretation of what it has put out in its briefing. The position that we are taking does not imply a qualitative different judgment about the safety or otherwise of the non-resident parent. We must trust the courts to make individual decisions. It is important to understand—I wonder whether the hon. Gentleman does—that a statutory presumption in law is something that the courts must follow in all but exceptional circumstances. Therefore, a statutory presumption starts to fetter the discretion of the courts and makes a fundamentally different model that would compromise in law the principle of paramountcy.

**Tim Loughton:** The right hon. Lady needs to speak to her colleague in the upper House, Baroness Scotland,

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because, on 16 November, the day after consideration of Report in that House, she said in response to one of my noble Friends that a presumption "is only a presumption." That answers the Ministers question. That does not fetter the courts. The issue is up for interpretation and a presumption is only a presumption.

The system that we are talking about is best served if we can avoid reaching a certain stage by means of prevention. The best solution to acrimonious legal disputes is to prevent them coming to court in the first place. We favour concentrating more on preventive action, which keeps families together. We need to see much more work undertaken by properly resourced professionally trained social workers, who spend more time not fire fighting if something goes wrong, but more time on preventive action to keep families together in the first place rather than pulling them apart. For example, Kent has done some excellent work in that regard. That is one reason why the number of children in care in Kent has fallen dramatically.

We need also to achieve an agreed settlement earlier. As my noble. Friend Earl Howe said in the other Chamber, there is a simple truth associated with contact disputes: if both parties to the dispute are content with the amount of contact that they have with the child, there is no longer any dispute. We must also agree to some form of mediation. We will have further debates about the extent to which that mediation should be imposed on, or agreed with, the parties.

The Government initiated the promising form of mediation in what was called the early interventions project in the autumn of 2003. It was a successful and imaginative project. The prototype was due to be up and running by 2004, with a national roll-out by 2005. The aim was to defuse parental battles and dramatically to reduce the number of court cases. The project was mysteriously abandoned and replaced with the ill-thought-through family resolutions pilot project, which has been mentioned, having been scuppered by the Department of Education and Skills. Perhaps the Minister can give us more detail on that, though that happened under her predecessor.

The family resolutions project, which ran for one year from September 2004 to 2005, with three pilots in London, Birmingham and Brighton, cost more than £300,000. Thousands of couples were expected to come through the process but only 47 couples started the process and only 23 of them finished it. We have already heard about that independent evaluation.

As *The Guardian* put it, that project was a waste of time. That was a great shame because it replaced something that was rather more worth while. We need to set up an expectation that mediation will be used to try to get things sorted before they come to court. We think that it should be close to mandatory

for parents to embark on mediation processes before they come to court, and that if they refuse to take up the offer, that should go on their record. Hence my intervention earlier about differentiating between a partner who is perfectly happy to go along with the mediation process and the other party who decides that they will not have anything to do with it, with the result that both parties are subjected to court proceedings. Surely that must count against somebody who had refused unreasonably the mediation process and count more favourably to the person who was prepared to go along with it.



We want the early interventions project to be restored—it should be given a fair chance. That confidential mediation process would be privileged and could not be cited in subsequent court proceedings. However, there are question marks over the limited financial incentives for divorcing parents in opting for mediation. We are also concerned about the availability of people who are skilled in mediation within the Courts Service. There are many examples of where a more compelled mediation service has brought about dramatic results, particularly in Virginia where mediation has shown that after 12 years 30 per cent. of parents who had attended mediation were in weekly contact with their children as against only 7 per cent. who had been through litigation and had shunned mediation. This shows that mediation does work.