

**SCOTTISH CIVIL JUSTICE COUNCIL
FAMILY LAW COMMITTEE**

MINUTES

PARLIAMENT HOUSE, MONDAY 22 JUNE 2015

Members present: Lord Brailsford, Chair
Sheriff McCulloch
Sheriff Tait
Lynda Brabender, Advocate
Clair McLachlan, Solicitor
Stephen Brand, Solicitor
Ian Maxwell, Families Need Fathers, SCJC member
Catriona Whyte, Solicitor, Scottish Legal Aid Board
Simon Stockwell, Head of Family and Property Law,
Scottish Government

In attendance: Gillian Prentice, Deputy Principal Clerk of Session
Nicola Anderson, Policy and Legislation Branch,
Scottish Courts and Tribunals Service
Craig McCorkindale, Director for Civil Courts Reform,
Scottish Courts and Tribunals Service
John Thomson, Deputy Legal Secretary to the Lord
President
Inez Manson, Deputy Legal Secretary to the Lord
President
Anne Hampson, Policy Officer, Scottish Civil Justice
Council

Apologies: Professor Margaret Ross, Head of the College of Arts
and Social Sciences, Aberdeen University
Morag Driscoll, Director, Scottish Law Centre

Item 1: Introduction, welcome, private papers and apologies

1. The Chair welcomed those present and noted apologies.

2. The Chair introduced and welcomed:

- Ian Maxwell, Families Need Fathers, who was attending his first meeting of the Family Law Committee (FLC) having been appointed to sit as a member by the Scottish Civil Justice Council (SCJC) at its 11 May 2015 meeting. Ian also sits as a member of the SCJC;
- Craig McCorkindale, SCTS Director for Civil Courts Reform who is leading on the development of the new Integrated Case Management system was attending the meeting to speak to Agenda Item 4; and
- Inez Manson who is taking over from John Thomson as Deputy Legal Secretary to the Committee as John will be providing support to the Costs and Funding Committee.

3. The Chair thanked John for his legal support to the FLC and wished him well for the future.

4. **The Committee agreed not to publish the following papers: Papers 3.1, 3.2, 5.1, 5.1A, 5.2, 5.2A and 5.2B.**

Item 2: Minutes of Meetings [Paper 2.1]

5. **The Committee approved, with minor amendments to paragraph 16d, the minutes of the previous meeting.**

Item 3: Forward work programme

Item 3.1 Work Tracker [Paper 3.1]

6. **The Committee noted the work tracker.**

Item 3.2 Forward Work Programme table [Paper 3.2]

7. There was discussion around how some of the issues noted in the table fitted into the remit of the Committee. Simon advised that the Scottish Government was considering setting up a Family Justice Modernisation Strategy project. The aim of the project would be to reflect work which is already underway e.g. child welfare reporters, children's hearings, courts reform and to seek views from stakeholders on what could be done to improve procedures and processes in particular.

8. The Chair advised that the Committee needed to be careful not to stray beyond its remit and that it was ultimately for the SCJC to approve Committee remits. **It was suggested that Secretariat and LPPO consider a revised form of wording for the FLC remit for discussion at the next meeting.**

Item 4: Integrated Case Management System

Item 4.1 Integrated Case Management System

9. Members advised at the 13 April 2015 meeting that they would welcome further information on the project which is developing a new Integrated Case Management system at the next FLC meeting.
10. Craig provided the Committee with an oral update on the current position of the SCTS to replace the Civil Case Management System (CMS). He explained that Kainos was appointed, through a six month procurement exercise, to take this work forward. The work began on 9 March 2015 and five SCTS staff were seconded to work alongside Kainos.
11. The development of the new system is being taken forward using an 'agile' methodology approach which involves the work in progress being tested at frequent intervals as it is being developed. In relation to the case management system, Kainos are carrying out the 'alpha' stage between now and July 2015 and expect to have initial working prototypes of the software by then. They will begin the 'beta' stage in July and will continue to have ongoing stakeholder engagement. As part of that, Kainos will be seeking views and feedback from the SCJC and its committees.
12. Members were interested in whether the new system would be able to provide better statistical information. Craig advised that this will be an important part of the system although there will be limitations to what it gathers. The key philosophy is that the system should be intuitive in taking people through the legal process and stakeholder engagement means that it will be built in a way that makes sense to them. It is not intended that the use of the new online system will be mandatory and people will still be able to submit documents on paper if that is their preference.
13. **The Committee agreed that the update was helpful and that Craig should be invited to its 19 October meeting to go through the available prototypes.**

Item 5: Secondary Legislation

Item 5.1 –Child Welfare Reporters [Papers 5.1 and 5.1A-B]

14. A revised illustrative draft instrument was considered at the Committee's 13 April 2015 meeting. Members agreed that a number of the difficulties identified would be avoided if rules were to provide for a distinct category of appointment under which the remit of the Reporter was restricted to obtaining the views of the child and reporting those views to the court.
15. John Thomson spoke to the content of **Papers 5.1 and 5.1A** and invited the Committee to consider the revised draft rules which now make provision for two entirely distinct categories of appointment. A reporter can be appointed either to seek the views of the child on specified issues, and to report any such views to the court, or to conduct enquiries and to prepare a report for the court on specified issues. The draft rules set out the distinct duties imposed on the reporter under each type of appointment, and the pro-forma annex to the interlocutor had been revised to reflect the two types of appointment.
16. John also indicated that the tick-list that was proposed in the original policy paper had already been adapted with a view to achieving greater consistency and precision but that there had not been much discussion of its terms. He invited members to offer views on the content of the checklist.
17. Ian Maxwell advised that he considered that the intention of the Child Welfare Reporters Working Group (CWRWG) was to also fully integrate into the rules who was to be responsible for providing the guide to litigants and the instructions to reporters. **Members indicated that the Committee had not been asked to consider this and that they were not convinced that it was a matter for rules.** Simon Stockwell advised that he would provide a paper to the Committee on the wider work of the CWRWG and would discuss with SCTS how information and guidance could best be disseminated.

18. Members agreed that the checklist was excellent and that it solved the problems previously identified. They also indicated that they were content that the draft Act of Sederunt be submitted to the SCJC for consideration. The Committee extended its thanks to Secretariat and LPPO for their attentiveness in taking this work forward.

Item 5.2 – Child Support Fees [Paper 5.2 and 5.2A-B]

19. Members agreed at the 23 February 2015 FLC meeting that amended forms to the 1993 Rules be submitted for consideration at the next FLC meeting. At the 13 April meeting members were advised that as there remained a number of unresolved issues LPPO were not yet in a position to invite the FLC to consider a draft Act of Sederunt but hoped to do so at the next meeting.

20. John Thomson spoke to this item and explained that, having conducted a detailed review of the existing forms, and having met with and corresponded with the agents representing the Department for Work and Pensions (DWP), LPPO were of the view that the extent of changes called for make it easier to replace the Schedule to the rules in its entirety, rather than effecting multiple textual changes to the individual forms. The draft Act of Sederunt therefore adopted this approach.

21. John advised that the DWP were happy with most of the proposed changes and that their only remaining reservation concerned one of the proposed changes to Form 2. DWP had been given the opportunity to make representations to the Committee on the subject but had not done so.

22. Following discussion, members indicated that, subject to minor amendments, they were content that the draft Act of Sederunt be submitted to the SCJC for consideration.

Item 6: Research Project

Item 6.1 Case Management in Family Actions – Research Proposal

23. Members agreed at the FLC 23 February 2015 meeting that the administration of questionnaires to sheriffs throughout Scotland seeking views on their experiences of case management hearing should be a primary phase of the research. At the FLC meeting on 13 April 2015 Members agreed, that subject to amendments suggested at the meeting, the revised questionnaire should be submitted to SCJC for sign-off.

24. Anne Hampson advised that the Lord President had indicated (before he retired) that he was content for the questionnaire to be issued to sheriffs and copied for information to Scottish Civil Justice Council members and had replied to the Chair advising him to proceed with the research as proposed. Anne also indicated that research access letters had been issued to Sheriffs Principal, some positive replies had been received but that one outstanding reply was anticipated and it was hoped that the questionnaire would be issued shortly. **The Committee noted the update.**

Item 7: A.O.C.B.

25. The Chair informed members that Lady Morag Wise was to be appointed as an additional Family Law Judge.

Item 8: Date of next meeting

- **The date of the next meeting is Monday 19 October 2015.**