MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL

FAMILY LAW COMMITTEE (FLC)

TUESDAY 21ST APRIL 2026

Judges' Conference Room, Parliament House,

Edinburgh

MINUTES

Present: Lady Wise *(Chair)*
Lynda Brabender KC
Sheriff Principal Dowdalls KC
Rachael Kelsey
Alison Reid
Marie-Louise Fox *(SLAB)*
Saira Kapasi *(Scottish Government)*
Wendy Georgeson *(Scottish Government)*

Support: Craig McCorkindale *(SCJC)*
Sarah-Jane McNicol *(SCJC)*
Paula Preston *(SCJC)*

Apologies: Sheriff McCartney

In attendance: Chris Fyffe (*SCTS*)
Nicola Marchant (*SCTS*)
Megan Anderson *(LPPO)*
Gillian Stewart *(LIT)*
Eleanor Horne *(Scottish Government)*
Nicholas Duffy *(Scottish Government)*

Item 1 - Welcome, apologies and agreement of private papers

1. The Chair welcomed all those attending and noted the apologies received from Sheriff McCartney.
2. Members agreed there were no private papers. All papers have been marked “public” and can be accessed from the webpage for this meeting.

Item 2 - Items by correspondence

2.1 Items by correspondence *(**Paper 2.1**)*

- **Item 2025.14** was issued on 15 October 2025 and invited members to approve the draft minutes of the Committee meeting on 29 September 2025. Responses were invited by close of business on 22 October 2025. One response was received. The approved minutes were published on the Council website.

3. The Chair referred to the item considered by correspondence and members agreed the minutes of the last meeting.

Item 3 - Work Programme

3.1 Update from the Scottish Government *(Oral update)*

4. Saira Kapasi and Wendy Georgeson provided a comprehensive update that covered:

Bills before the Scottish Parliament:

Children (Care, Care Experience and Services Planning) (S) Bill

Bills recently passed by the Scottish Parliament:

Victims, Witnesses and Justice Reform (S) Act

Criminal Justice Modernisation & Abusive Domestic Behaviour Reviews (S) Act

Scottish Government Consultations

Family Law Consultation – Closed on 21 April 2026. SG will update Committee at next meeting on progress of the analysis of responses.

Secure Care Consultation – Closed on 16 April 2026.

Suggested areas for Committee consideration

SG have highlighted that work is ongoing in relation to Criminal/ Civil interface and early disclosure of domestic abuse in civil court processes.

SG have also highlighted that recognition of Scottish divorces overseas could be a potential area for the Committee to focus on in the near future.

5. **Members noted the update provided.**

3.2 FGM Protection Orders and SG Rules Request ***(Papers 3.2 &3.2A)***

6. The Chair invited Eleanor Horne and Nicholas Duffy to address members on Paper 3.2A and asked for any comments or feedback. They informed members that the proposed implementation date was on track and asked for any comments.
7. The Chair asked for the comments submitted by Sheriff McCartney to be distributed to members for consideration.
8. Members highlighted possible issues with regards to the orders only being available in the Sheriff Court, how the process would work when remitting from the Court of Session to the Sheriff Court if required, enforcement outwith Scotland and how the court can fulfil the obligations under UNCRC[1].
9. Members also noted that any court rules would need to be very specific in nature given the small number of expected applications. The specifics must include jurisdiction and how the views of the child can be obtained. Further thought must also be given to the expenses of the application and who would be liable for them.

[1] UN Convention on the Rights of the Child

10. SG were also asked to consider the meaning of “safeguarder” and what that position will mean in relation to the Act and these orders. Members agree that these orders are important and urgent in nature and as such the court rules must be extremely clear.

11. **SG noted members comments and will provide an update at the next meeting.**

3.2 Mental Capacity ***(Papers 3.3)***

12. Members noted the paper and agreed that mental capacity in relation to civil proceedings has considerable impact and merits further scrutiny by the Committee.

13. **Members agreed this would feed into the Council’s remit to keep the civil justice system under review and merits further consideration by the Committee.**

Item 4 - A.O.B

Membership

Fiona Campbell retired in March 2026. The Chair acknowledged her contribution to the wide range of work members have progressed over the period of her tenure and wished her well in her retirement.

The Chair also informed members that this would be her last meeting as Chair. Lady Wise thanked members for their dedication, enthusiasm and for their valuable contributions to the Committee. A new Chair will be appointed in due course.