

INTRODUCTION

Thank you to Eric for the introduction. I am a member of the Faculty of Advocates and for the 10 years I have been at the Bar, I practise in Family Law and all aspects of Child Law. I have been a member of the Family Law Committee since November 2013 and I am delighted to have been invited to speak to you today on behalf of the Committee.

The Committee is very ably chaired by Lord Brailsford. The remit of the committee is - "to consider the procedures to be followed in family actions and children's referrals, with a view to ensuring that such actions are dealt with as expediently as possible." This remit is consistent with the Scottish Civil Justice Council's guiding principal - "the civil justice system should be fair, accessible and efficient".

Today I will take you on a tour, though I cannot promise that it will be a magical mystery tour, of the work of the Committee over the past year and how we envisage our journey unfolding over the coming year.

WHAT HAS THE COMMITTEE ACHIEVED?

Implementation of Legislation

Over the past year the work of the Committee has, in the main, been necessarily reactive in the development of rules to help implement legislation. I will give you a brief insight into some of the main areas of work the Committee has taken forward.

Marriage and Civil Partnership (Scotland) Act 2014

An important area of legislation which required changes to rules of court was the Marriage and Civil Partnership (Scotland) Act 2014. The Committee considered a Scottish Government paper outlining proposal for rules and identified certain areas where amendments to court rules would be required - replacing non gender-neutral references in the rules and forms - making amendments relating to recognition of foreign decrees – making amendments relating to the Gender Recognition Act 2004.

The Committee worked closely with the Scottish Government and the development of the draft rules was co-ordinated with the Government's implementation plan.

Following careful consideration of a draft Act of Sederunt, members suggested some revisals and agreed that it should go forward to the Council for consideration. All of this work was successfully completed and the first same sex marriage ceremonies took place in Scotland on Hogmanay 2014.

Sheriff Court Adoption Rules 2009

Members also considered and agreed a policy request for an amendment to the Sheriff Court Adoption Rules 2009 to be made in conjunction with a proposed Scottish Government amendment to Rule 77 of the Children's Hearings Rules.

The effect of these two amendments is to ensure that, when the court receives a report that is the subject of a non-disclosure determination, the court should be required to decide if any person who has received a redacted copy of the report from the children's hearing, should also receive a redacted copy from the court.

Child Support Fees

The Committee considered proposals for amendments to the forms at the Schedule to the Act of Sederunt (Child Support Rules) 1993.

Members agreed that the forms should be amended to take account of the Child Support Fees Regulations 2014 which introduce two new categories of fees payable by, and recoverable from, an absent parent.

Members also agreed that the opportunity should be taken to carry out a review of all of the forms in the Schedule in order to identify respects in which they had not kept pace with legislative changes. A draft Act of Sederunt has recently been agreed and will be submitted to a meeting of the Council for consideration.

Other Policy Initiatives

The matter of developing rules for the appointment of Child Welfare Reporters (currently called Bar Reporters) has certainly exercised the minds of Committee members for the best part of a year.

The Scottish Government set up a Working Group on Bar Reporters to consider the appointment, role and function of reporters in cases where orders are being sought in terms of section 11 of the Children's (Scotland) Act 1995.

In October 2013 the Group agreed to establish a sub-committee to consider the contents of bar reports in greater detail. A policy proposal containing a substantial number of suggested changes was received from the Group's sub-committee in July 2014 and was initially considered by the Committee at its September meeting.

We have worked closely with the Group in progressing this work and were able to share a draft set of rules with them towards the end of last year.

While developing rules in this area has presented a challenge, considerable progress has been made and members recently considered revised rules and agreed that they should be submitted for consideration to a meeting of the Council.

Research

We have also considered proposals for undertaking research on the operation of Chapter 33AA Ordinary Cause Rules and the operation of case management in sheriff court family actions more generally with a view to informing the review and overhaul of these rules as part of the forthcoming rules re-write project.

Members supported a two phased approach and agreed that the development of a questionnaire to sheriffs throughout Scotland should be the primary phase of the research.

WHAT WILL THE COMMITTEE DO NEXT?

General

Looking to the future, the aim of the Committee is to be as proactive as it can be, given that the implementation of legislation will continue to be required.

Members are acutely aware that involvement in family law actions can be a very daunting experience for the individuals concerned. We therefore propose to consider what improvements can be made to existing rules of court in relation to

family law which will improve the process for those involved and, most importantly, for the children who are the subject of the actions.

Research

The Committee has agreed the research questionnaire I previously mentioned and it will be issued to sheriffs in the near future. We anticipate that a Report on the responses will be submitted to the Committee towards the end of the year.

Consideration of the Report may in turn lead to a second phase of research being commissioned to explore the views and experiences of family law practitioners.

Other Policy Initiatives

On receipt of policy proposals from the Scottish Government, the Committee also hopes to progress work in relation to the voice of the child in family cases. The Committee are aware of the requirement in family law cases to listen to the views of the child concerned and the Committee is likely to consider how the obtaining of those views can be improved.

CONCLUSION

Thank you very much for your attention and I hope you have enjoyed this quick voyage through the work of the Family Law Committee.

I am looking forward to continuing to work with the other dedicated Committee members whose expertise was central to ensuring the undoubted success of the Committee over the past year.

Craig McCorkindale will now provide you with an overview of the work of the Information and Communication Technology Committee.