

EXTRAORDINARY MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL

MONDAY 29 NOVEMBER 2021 AT 10.30AM

VIA WEBEX

MINUTES

Members Present: Lord President (Chair)

Brandon Malone
Colin Lancaster (SLAB)
Simon Stockwell (Scottish Government)
Employment Judge D'Inverno
Eric McQueen (SCTS)
Joel Conn
Lady Carmichael
Lynda Brabender QC
Sheriff Principal Murray
Jaqueline Harris
Sheriff Way
Thomas Docherty

In attendance: Diane Machin (Depute Principal Clerk of Session)
Cameron Stewart (SCTS)

Support: Graeme Welsh (Secretary, SCJC)
Craig McCorkindale (Director of Strategy, SCJC)
Kelly Jack (SCJC)
Paula Preston (SCJC)
Sinead Campbell (LPPO)
Clare Whyte (LPPO)

Item 1: Welcome, apologies and agreement of private paper

1. The Chair welcomed those present to the extraordinary meeting of the SCJC. Apologies were noted from Sheriff Hughes, Lord Boyd, Denise Swanson and Catherine Smith QC.

Item 2: Age of Criminal Responsibility (Scotland) Act 2019

2. The Chair summarised the rationale for the extraordinary meeting of the Council and the options as described in paper 2.1. The Council regarded the intention to commence the Act on 17 December 2021, whilst discussions were ongoing with the Scottish Government, as surprising. The Chair invited members' views on the papers and proposed rules instrument as tabled.
3. Members expressed their concerns and their reluctance to approve rules, which would introduce a process that may not be entirely beneficial for children under the age of 12. Points from members' discussions included:
 - That the present system which is based on the role of the Scottish Children's Reporter Association, works well, but that the implementation of this Act may be seen as interfering with the rights of children under 12 years of age;
 - That the lack of child friendly correspondence could be seen as an "alien" language to children and was not an acceptable approach;
 - Careful consideration was required on the potential impact on human rights and alignment with the United Nations Convention on the Rights of the Child; and
 - Effective monitoring and data collection would be vital to a review to be carried out soon after implementation.
4. Members noted the amended Sheriff Appeal Court provisions in the updated paper 2.1D. Further review of these provisions will be necessary within the first 3 months of implementation.
5. The Family Law Committee will continue working on improvements to the process and child friendly forms with a view to doing all that it can, within the parameters of the primary legislation.
6. The Council, with reluctance, approved the rules instrument subject to typographical and stylistic amendments. Thereafter, the Council instructed the following:
 - The matter will become a standing agenda item until such time as the Council are satisfied that provisions are in place which achieve the policy objectives;
 - Statistical information and data should be captured to assist with consideration of the matter at the next meeting of Council;

- The views of Sheriffs and Sheriff Clerks in respect of the operation of the rules should be captured;
- The work currently undertaken by the Family Law Committee will continue; and
- The published minutes will reflect the Council's reservations and concerns.

Item 3: Modes of Attendance Consultation

7. Members were invited to comment on paper 3.1, which gave an update on the consultation and an overview of the themes emerging from the eighty-two consultation responses received.
8. The proposed timescales and response to the consultation will be tabled at the SCJC meeting in January 2022. Members were invited to contribute any views for inclusion at the January meeting in advance.

Item 4: AOB

9. No items were raised

Item 5: Dates of future meetings

- Monday 31st January 2022
- Monday 25th April 2022
- Monday 18th July 2022
- Monday 24th October 2022

**Scottish Civil Justice Council Secretariat
November 2021**