



By email only: Gael.Scott@parliament.scot

Date: 20 January 2020

Dear Ms Scott,

Thank you for your e-mail of 20 December 2019 inviting a representative of the SCJC Family Law Committee to give oral evidence on the Children (Scotland) Bill.

The Family Law Committee's current work programme has been focused on the delivery of other priorities such as a review on the case management of family and civil partnership actions and changes to Chapter 49 of the Rules of the Court of Session. I regret therefore that the Family Law Committee must respectfully decline the Justice Committee's invitation on this occasion, though we are grateful for the opportunity. Given the focus of the Family Law Committee on other business in the family law field, we do not think a representative from the Family Law Committee would be best placed to answer questions posed about the Bill.

I can however provide some information in respect of the ongoing work of the Family Law Committee which I hope may be of assistance to the Justice Committee.

Ensuring effective case management of family and civil partnership actions has been one of the Family Law Committee's main priorities since inception in 2013, with particular regard to the need to prevent undue delay in proceedings relating to the welfare of children. The Committee is currently considering amendments to the operation of Chapters 33, 33A and 33AA of the Ordinary Cause Rules which provide for Family and Civil Partnership Actions in the Sheriff Courts. At its meeting of 08 July 2019, the committee considered and provided views on amendments the rules, agreeing a number of points including but not limited to:

- The Options hearing will be replaced with an Initial Case Management Hearing
- The time period between hearings will be set out in court rules
- The provision for a Full Case Management Hearing
- The sheriff will retain the option to send cases to proof (a hearing at which evidence is heard) at an early stage;
- The creation of a checklist of matters to be considered at both the Initial Case Management Hearing and the Full Case Management Hearing
- Sists will be for a specific period of time in order to prevent drift and delay

The purpose of these proposed changes is to provide the Sheriff with sufficient information to secure the progress of a cause by ascertaining all matters in dispute at an early stage,

whilst also giving the Sheriff a degree of flexibility in which to manage the case. Furthermore, having certain stages prescribed in rules will provide a clear structure which will allow agents to advise their clients on what to expect. The Committee considered its first set of draft rules on this subject in November 2019, and will consider a further draft at its next meeting on 27 January 2020.

The Family Justice Modernisation Strategy produced by the Scottish Government made certain commitments to provide papers to the Family Law Committee on the following:

- the implications of the Children (Scotland) Bill in relation to matters such as rules of court (paragraph 2.29 of the Family Justice Modernisation strategy)
- ensuring that the civil courts are provided within information on domestic abuse in actions under section 11 of the 1995 Act (paragraph 4.27)
- simplifying and clarifying the language used in family courts (paragraph 6.24)
- the implications of extending Ordinary Cause Rule 33.22 in relation to mediation to all family and civil partnership actions (paragraph 7.20)

These papers are yet to be lodged for the Committee's consideration and they look forward to receiving them in due course.

I am sorry that I cannot be of more assistance at this time. I will be the Policy Holder for the Children (Scotland) Bill on behalf of the Scottish Civil Justice Council going forward, please do not hesitate to contact me should you wish to discuss any part of this letter.

Yours sincerely,



Kelly Jack
Policy Officer
Scottish Civil Justice Council Secretariat