

AWI Working Group
Tuesday 12 May 2026 – 4.00pm

Present: Sheriff Kerr (Chair)
Sheriff Dowdalls
Sheriff Hanlon
Sheriff McCarron
Andrea Dyer – Head of Civil
Alec Anderson – Civil Officer Manager
Daryle Dickson
Lesley Govan
Nicola Guidi
Lesley Hurst
Shirley Rhynd
Kevin Redford

Absent: Sheriff Arrol
Sheriff McGinty

1. Welcome and apologies

Apologies received from Alison Hempsey, Frank Irvine, Dierdre Hanlon, Rachel Moon, OPG, SLAB.

2. Approved Minutes

Minutes approved.

3. Action Points

Mental Welfare Commission (MWC)

Sheriff Kerr raised the issue concerning Form 22 with the MWC. It was noted that the Mental Welfare Commission has now produced guidance for both care homes and hospitals in response to this. A draft copy was shared with the group

Scottish Legal Aid Board

Wendy Dalgleish confirmed to Sheriff Kerr that all points raised in previous meeting have been passed in form of Note to the Scottish Government Access to Justice Team.

The group noted that there have been no changes to the issues to date, and the same concerns remain outstanding.

AWI National Practice Note - Revised summary application

SP Anwar will discuss this with the Sheriffs Principal on 15 May 26 in relation to the with the hope that the relevant points will be incorporated into the practice note swiftly

4. Statistics

The group noted the success rate of applications being registered, screened, and returned.

It was noted that the return rate remains high, with 68% of applications in March being returned.

Further investigation has identified the primary reasons for returns:

- Clerks are frequently returning applications due to the absence of a completed checklist, despite this being required under the Practice Note.
- Sheriffs are most commonly returning applications due to issues with intimation. Agents must intimate to parents/ children/ siblings of adults, or, crave to dispense with intimation with clear reasons.
- Additional recurring issues include:
 - Missing disclosure certificates
 - Reports submitted outwith the required time limits
 - Absence of a Schedule 9 report
 - Failure to address the primary carer and named person, as required by the Practice Note
 - Jurisdictional issues
 - Failure to adequately address the views of the adult

The group noted that all the above requirements are clearly set out in both the Practice Note and the accompanying checklist.

It was agreed that there should be renewed emphasis to agents on the importance of accurately completing the checklist to ensure applications can be processed efficiently and hearings assigned as soon as possible.

It was discussed that a circulation list of agents be created to enable the distribution of meeting minutes. Notices have been displayed within the court inviting agents to express interest, noting that agents should provide their contact details to the Clerk. A further notice will also be displayed on the notice board in the waiting room.

A further proposal was made to share the minutes with the GBA and RFP, with efforts to extend circulation to as many agents as possible.

It was agreed that return statistics will be prepared and provided on a regular basis for ongoing monitoring and review.

Actions:

- Statistics to be prepared and provided on a regular basis for ongoing monitoring and review - **AD**
- Notice inviting agents to share contact details to be displayed on the notice board in the waiting room-**AA**
- Minutes to be shared with GBA and RFP – **AD**

5. Safeguarders

The group reviewed statistics regarding the appointment of Safeguarders. It was noted that between January to April 2025, Safeguarders were appointed in approximately 8% of cases; between January-April 2026, this figure increased to 27% of cases.

Sheriff Kerr advised she is now assigning Safeguarders in the majority of cases.

A discussion was held on the practical issues affecting Safeguarders, including challenges in managing workload, whether appointments are ever declined and the frequency with which hearings are delayed due to outstanding Safeguarder reports.

A query was raised regarding the time taken to produce reports following appointment. Concern was expressed about delays in the issuing of interlocutors, as Safeguarders are unable to commence work until the interlocutor is received due to Legal Aid Board requirements.

The current process carried out by clerks for appointing Safeguarders was explained and it was confirmed that a record is maintained of the number of cases allocated to each Safeguarder to ensure balanced distribution.

It was noted that Glasgow generally produces the necessary paperwork promptly. However, it was suggested that interlocutors should consistently include the specific points on which Sheriffs wish agents to comment. The inclusion of any additional relevant information would assist agents.

It was confirmed that there are currently 15 Safeguarders assigned to Glasgow Sheriff Court. Agents indicated that there is no perceived need to increase the number of Safeguarders at present.

Action: Sheriff Kerr to raise with the Sheriffs the possibility of introducing a more standardised approach to interlocutors.

Action: AA to ensure interlocutors available to safeguarders as quickly as possible

6. Process for dealing with Interim Powers

SH Kerr provided an example of a case in which interim powers were granted, but the placement was subsequently lost. This prompted discussion on how long placements are realistically held open and whether there is a need to consider alternative approaches to managing such cases.

It was noted that placement availability is often limited, with places typically only held for a matter of days unless they can be financially secured. Securing placements is particularly challenging, as interim powers cannot be sought

until a place has been identified, while at the same time placements may be lost quickly (for example, due to tenancy agreements requiring prompt signing).

Social Work are sometimes asked to cover costs to hold a placement open whilst interim powers are being sought; however, this is not always feasible, and in some cases, places cannot be held due to waiting lists.

It was noted that the Office of the Public Guardian generally provides a quick turnaround on certificates.

Sheriffs noted that applications for interim powers do not always clearly highlight the urgency or include sufficiently specific supporting information. It was suggested that requests for interim powers should be clearly identified, for example in the subject line or prominently at the beginning of the application, to ensure that both Clerks and Sheriffs are aware of the urgency. It was further noted that the reasons for urgency are not always adequately specified, and that clearer information would assist in ensuring a quicker turnaround.

It was noted that, at Edinburgh Sheriff Court, an interim hearing is fixed in such cases, with a verbal report provided at that hearing. This was discussed as a possible alternative approach

The possibility of arranging interim hearings, including by telephone, was discussed. Sheriffs agreed that this could be an appropriate option in certain circumstances. However, it was also noted that where all necessary information is provided within the application, interim powers can be granted without the need for a hearing (as observed by Sheriff Dowdalls).

Concern was raised regarding delayed discharges, with increasing pressure from hospitals and, in turn, from clients on agents to expedite applications, even where no placement has been identified.

It was noted that Social Work are under pressure due to Scottish Government monitoring of delayed discharge statistics.

It was the view of the group that this pressure should be challenged where appropriate, as it does not constitute sufficient justification in the absence of an identified placement.

It was agreed that:

- Agents should clearly indicate when interim powers are being sought, particularly within email correspondence, so that Clerks can prioritise the request and Sheriffs are immediately aware of its urgency.
- While interim hearings can be considered, they should not generally be necessary where applications are complete and contain all required information.

Sheriff Kerr suggested that where urgent applications are received late in the day, Clerks could, where appropriate, attend the Sheriff in chambers to expedite consideration, followed by prompt preparation of the interlocutor.

It was noted by Sheriffs that email notifications are not always issued to confirm that an interlocutor has been placed in the worklist and is ready for signing.

Action: AA to remind clerks to send email notifications to sheriffs when interlocutors are ready for signing.

Action: Sheriffs will meet to further discuss any changes to procedure for interim powers

7. Advocacy

The involvement of advocacy services was discussed. It was agreed that their input is extremely valuable, although their participation is currently limited.

It was noted that advocacy services do not tend to accept private applications, which may be due to funding constraints.

Action: SR to approach advocacy services to encourage greater involvement and invite attendance at court where appropriate.

Action: SH Kerr to formally contact advocacy services to clarify whether there is a policy regarding accepting private applications.

It was noted that advocacy services are often initially engaged by Mental Health Officers during the preparation of applications but may close the case until a hearing is assigned, resulting in cases potentially being lost. This may be linked to resourcing or staffing pressures.

It was further noted that advocacy workers may attend case conferences with the adult to encourage participation; however, it is not always clear from the paperwork whether the adult is actively engaging.

Action: Sheriff Kerr to contact relevant advocacy organisations, including the Advocacy Project (Tony Leith), Equal Say Advocacy (Wishaw), and potentially CEARTAS Advocacy (Kirkintilloch), to:

- Enquire about funding constraints
- Clarify the criteria for involvement
- Encourage increased participation in cases

8. Court timings

The group discussed the potential introduction of time slots to address long waiting times experienced by solicitors in the waiting room.

AD noted that time slots had been trialled previously but were not found to be productive, resulting in periods of downtime and underutilised court time. It was suggested that, where appropriate, the Sheriff could be approached to bring forward where the adult is in attendance.

The current door list was highlighted as a useful tool in providing a general indication of when cases are likely to be called.

AD confirmed openness to reconsidering time slots but noted that any implementation would require to be deferred until after June, as cases have already been assigned. AD will continue to monitor the position. An alternative approach, similar to the operation of referral courts, was discussed. Sheriff Kerr agreed that this could be a viable option; however, implementation would also require to take place after June and would be subject to approval from the Sheriff Principal.

Sheriff Dowdalls highlighted concerns regarding later court start times (e.g. 11:30am), noting that this would remove the opportunity for preparation time on the preceding day, which could be particularly problematic for complex cases.

Sheriff Kerr queried whether court loadings on such days could be reduced to allow adequate preparation time. AD agreed to review MIAT statistics to assess whether case loadings could be reduced, particularly on Wednesdays. It was noted that any reduction in Wednesday loadings may require an increase in listings on Tuesdays to balance capacity and any proposed changes would require approval from SP.

It was noted that court time slots to be trialled are 10:00am, 11:30am, and 2:00pm.

Action: AD to provide relevant statistics to SH Kerr in advance of discussions with SP.

9. Adult Participation

The group discussed the level of adult participation in hearings, noting that adults rarely attend. It was observed that attendance may be more likely where advocacy support is in place.

It was agreed that agents can play a role in encouraging attendance by liaising with Social Work and advocacy services to facilitate arrangements for the adult to attend court.

Consideration was given to whether adults would wish to attend hearings. It was noted that this is likely to vary on a case-by-case basis as prolonged waiting times at court may cause additional anxiety and act as a deterrent to attendance. To address this, SH Kerr suggested that where an adult is in attendance, agents may approach the Clerk to request that the case be called earlier to minimise waiting time.

The group discussed the particular challenges of encouraging participation from private applications. It was suggested that staff at the adult's residence could be approached to assist with arrangements for attendance, however, it was acknowledged that this can be more difficult in the absence of advocacy involvement.

Sheriffs confirmed that they are generally very open to adults attending hearings. It was noted that some agents may choose not to encourage attendance where a continuation is anticipated but will nonetheless outline the adult's options in their cover letter of service.

Sheriff Kerr noted the limitation that remote hearings are not currently functional in these cases, which may further impact opportunities for participation.

10. Powers frequently sought

The group discussed the frequency with which specific powers are sought in applications, in particular the inclusion of powers to raise or defend legal actions.

It was queried whether such powers are always necessary, given the existence of broader "catch-all" provisions within the AWI (Scotland) Act, and that some other bodies may not be fully aware of the practicalities of the Act and the inclusion of such powers.

Sheriff Kerr advised that it is helpful for Sheriffs to hear a clear justification for the inclusion of these powers at the hearing, and that agents should be prepared to speak to and defend their inclusion where appropriate.

Sheriff McCarron expressed concern regarding the potential for confusion arising from the granting of interim powers, particularly in cases where the scope and necessity of such powers are not clearly articulated.

Sheriff Kerr emphasised that agents should take a robust and practical approach when seeking powers, ensuring that requests are clearly justified and proportionate to the circumstances of the case.

Sheriff Hanlon suggested that, in certain situations, it may be beneficial to engage with the Office of the Public Guardian (OPG), particularly where reassurance is required for third parties such as banks.

Action: Sh Kerr to ask Fiona Brown whether she can comment on duplication of powers already provided for in section 64 to appease the banks when she talks to the group on 18 August.

11.AOCB

Fiona Brown will provide a general update from the Office of the Public Guardian (OPG) at the next meeting.

SH Kerr requested that Shirley Rhynd obtain an update from Glasgow City Council in relation to Mental Health Officer (MHO) matters, including current timescales and any ongoing training.

It was further requested that a similar update be obtained by Daryle Dickson from South Lanarkshire Council.

Agents were encouraged to raise any additional issues in advance of the August meeting, to allow these to be included on the agenda.

Actions:

Updates to be requested from councils in relation to MHOs

Next Meeting: 18 August 2026 at 4PM

Action Points

Action	Owner	Update
Return of applications statistics to be prepared and provided on a regular basis for ongoing monitoring and review	AD	
Notice inviting agents to share contact details to be displayed on the notice board in the waiting room	AA	
Minutes to be shared with GBA and RFP	AD	
Raise with the Sheriffs the possibility of introducing a more standardised approach to interlocutors	Sh Kerr	
Ensure interlocutors available to safeguarders as quickly as possible	AA	
Remind clerks to send email notifications to sheriffs when interlocutors are ready for signing	AA	
Sheriffs will meet to further discuss any changes to procedure for interim powers	Sh Kerr	
Approach advocacy services to encourage greater involvement and invite attendance at court where appropriate	SR	
Formally contact advocacy services to clarify whether there is a policy	Sh Kerr	

regarding accepting private applications		
Review MIAT statistics to assess whether case loadings could be reduced and provide to Sh Kerr	AD	
Liaise with Fiona Brown (OPG) ahead of next meeting to provide notice of topics raised	Sh Kerr	
Updates to be requested from local councils in relation to MHOs	SR & DD	