

**AWI Working Group
Tuesday 18 August 2026 – 4.00pm**

Present: Sheriff Hanlon (Chair)
Sheriff Dowdalls
Sheriff McCarron
Sheriff Glancy
Sheriff McGinty
Lynsay Sinclair – Acting Head of Civil
Alec Anderson – Civil Officer Manager
Myles Clunie – AWI Clerk
Fiona Brown – OPG
Daryle Dickson
Lesley Govan
Nicola Guidi
Lesley Hurst
Shirley Rhynd
Rachel Moon
Lucia Petrescu

1. Welcome and apologies

Apologies received from Frank Irvine

2. Approved Minutes

Minutes approved.

3. Update from previous meeting

Advocacy

Sheriff Hanlon contacted advocacy groups to clarify whether there is a policy regarding accepting private applications. It was confirmed that there is no formal policy, as local authorities are generally aware of the service. They prioritise cases where legislative intervention is required and will always provide representation where there has been a local authority referral or a dispute. Confirmed there is no specific timescale for when advocacy services become involved in a case; however, earlier involvement is preferable. In relation to funding, cases are prioritised according to urgency.

It was highlighted that advocacy groups will submit reports directly to the court but not to the safeguarder, resulting in delays. Reminder to be sent advocacy groups of the requirement to intimate reports to Social Work.

It was suggested that clerks ask advocacy groups whether reports have been intimated when documents are submitted, as a prompt to ensure compliance.

Action Point: Upon receipt of advocacy report, Clerk's office to advise submitting party that the report should be intimated to parties.

Action Point: Sheriff Hanlon to reiterate to advocacy groups the importance of reports being intimated and extend invitation to attend future meetings.

Court timings

LS gathered and circulated two months of data on hearing start and finish times, including attendance by adults. Following analysis of the data, it was agreed that there is insufficient evidence to support changes to the current court roll arrangements at this time. The position will remain under review, particularly as adults are being encouraged to attend hearings. The group agreed that current arrangements should remain unchanged.

Safeguarders

The group discussed whether safeguarders are receiving papers in sufficient time. It was noted that the Practice Note is still bedding in, and the position will be reviewed again at the next meeting.

Action Point: Clerk's office to provide the Safeguarder with agents' emails when appointment is confirmed.

MHOs – To be reviewed at next meeting.

4. Fiona Brown, Public Guardian – Update on OPG issues

FB confirmed she will provide a written update for each meeting and will attend when able.

Are Specific Powers Necessary Where Section 64 Applies?

OPG advised that, in principle, a general catch-all power should be sufficient to enable a financial guardian to act on behalf of the adult. However, many organisations continue to seek specific powers to provide clarity and reduce perceived risk. For example, banks often prefer explicit authority to open, close and operate accounts. It was noted that organisational risk aversion and high staff turnover can make ongoing AWI training challenging, contributing to reliance on specific powers.

Renewal Applications and Interim Powers

OPG acknowledged ongoing issues with guardianship renewals, particularly where banks are either unaware that powers continue where a renewal application has been lodged before expiry or are unable to verify that a renewal application has been submitted. This has contributed to an increase in requests for interim powers in renewal applications. OPG advised that, where contacted by financial institutions, they will confirm the position if a renewal has been intimated to them. However, guardians are generally advised to provide a solicitor's letter or a copy of the court warrant to the institution.

Sheriff Hanlon queried whether interlocutors could state that existing powers remain in place pending renewal. While this may assist, it was noted that banks may still challenge such arrangements. OPG advised that a national group has been established to address issues with financial institutions.

OPG further noted that, where a renewal application is not intimated before expiry, the guardianship case is closed on their system and final accounts are requested. In such circumstances, any subsequent application should be treated as a new application rather than a renewal.

Concerns were noted that delays in obtaining warrants can result in orders expiring despite applications being lodged on time. OPG agreed to liaise with the relevant teams and SCTS regarding this issue.

Appointment of Guardians Where English Is Not a First Language

OPG highlighted difficulties arising in cases where appointed guardians have limited English language skills. Challenges can arise in understanding obligations and completing required documentation, including inventories, management plans and accounts. OPG asked that courts consider a proposed guardian's ability to fulfil the practical and ongoing responsibilities of the role, including record-keeping and accounting requirements.

Self-Directed Support (SDS) Cases

OPG noted differing views among practitioners and local authorities regarding the need for financial powers where a guardian's role is limited to administering SDS payments. OPG's understanding, based on advice received from the Scottish Government, is that both welfare and financial powers are required. Where only SDS administration is involved, OPG recommends seeking a single, specific power. In such cases, caution is not required, whereas additional financial powers bring full financial guardianship responsibilities and accounting requirements.

Intervention Orders and Guardianship Orders

OPG observed that intervention orders are frequently sought alongside financial guardianship orders, even where the matter could be addressed within the guardianship powers themselves. OPG considered that intervention orders are generally only necessary in limited circumstances, such as where a guardianship relates solely to SDS and a specific additional action is required. Concern was also expressed about intervention orders being used in place of guardianship orders, as intervention orders are intended for one-off actions and do not provide ongoing supervision.

OPG Observations Process

OPG advised that it is reviewing its observations process, noting that providing observations is not a statutory duty and requires significant resources. Feedback from stakeholders has been mixed. Future options may include discontinuing observations altogether or replacing them with a more concise checklist-style format. OPG will circulate the outcome of the review once completed.

4JN Conference

Members were advised that the next 4JN Conference will take place in Dublin on 24-25 September and that places remain available. Interested parties should contact OPG directly.

5. Statistics

AWI returns were notably high in July. It was noted that a common issue is the checklist being marked as "N/A" where completion is required, resulting in applications being returned. Clerks confirmed this as a recurring concern.

Members were reminded of the importance of ensuring the checklist is completed correctly when submitting applications. It was suggested that repeat errors should be reviewed after the practice note has had further time to bed in.

6. Warranting and court preparation issues

AA raised concerns that Certificates of Intimation are not always clearly identified, making it difficult to determine which certificate relates to which party/Royal Mail tracking information.

The group discussed responsibility for verifying tracking details. It was confirmed that responsibility rests with the person serving the documents, rather than the court. The practice note confirms that evidence of intimation should be attached and lodged no later than two clear working days before the hearing.

Action Point: Clerks to be advised that verification of tracking details is not their responsibility.

7. Legal Developments

A Reference by the Attorney General for Northern Ireland [2026] UKSC 16

Sheriff Hanlon led a discussion on the above and invited views from the group on its potential implications.

Concerns were raised that the decision may lead to a return to the use of section 13ZA. Members also highlighted the risk that, without the appointment of a safeguarder, the views of certain adults, particularly those who are non-verbal, may not be adequately obtained or represented.

FB advised that she would provide an update from the relevant working group in due course.

The group discussed whether the number of safeguarder appointments has changed in recent years.

Action Point: The court to review safeguarder appointment figures and provide an update at the next meeting.

All Scotland AWI Practice Note and changes (Draft interlocutors, need for submissions on safeguarder etc)

Sheriff Hanlon highlighted the key points of the Practice Note for the group's attention.

Sheriff McGinty raised Article 37 of the UNCRC and the representation of young people under 18 in legal proceedings. Concerns were raised regarding those aged 16 to 18 and whether the appointment of a safeguarder should be considered to ensure their rights and views are properly represented.

Sheriff Dowdalls advised that she would routinely appoint a safeguarder for a young person. It was further noted that, at Hamilton Sheriff Court, safeguarders are regularly appointed in cases involving individuals under 18.

It was suggested that applications should include averments addressing whether a safeguarder is required and identifying the issues to be considered.

The introduction of draft interlocutors was discussed, and it was agreed that their impact would be monitored.

Action Point: Feedback on effectiveness of draft interlocutors to be provided at next meeting.

The group also noted that applicants should identify the need for a safeguarder as early as possible in proceedings.

A future discussion on encouraging the use of mediation was proposed. It was noted that there is currently a gap in accreditation pathways between family mediators and AWI mediators.

8. AOCB

SR to raise issue at next meeting regarding interim powers.

Next Meeting: 24 November 2026 at 4PM

Action Points

Action	Owner
Upon receipt of advocacy report, Clerk's office to advise submitting party that the report should be intimated to parties.	AA
Sheriff Hanlon to reiterate to advocacy groups the importance of reports being intimated extend invitation to attend future meetings.	SH Hanlon
Clerk's office to provide the Safeguarder with agents' emails when appointment is confirmed.	AA
Clerks to be advised that verification of tracking details of Certs of Intimation is not their responsibility.	AA
The court to review safeguarder appointment figures and provide an update at the next meeting.	LS
Feedback on effectiveness of draft interlocutors to be provided at next meeting	LS