

Equalities, Human Rights and Civil Justice Committee
Thursday 24 September 2026
5th Meeting, 2026 (Session 7)

Equalities, Human Rights and Civil Justice: Ministerial evidence

Overview

1. At its meeting on 25 June the Committee agreed to start the autumn term by holding three separate roundtable evidence sessions covering the three parts of its remit. It also agreed to follow these up by taking oral evidence from Scottish Government ministers.
2. The purpose of these sessions is to provide members with an overview of key issues for stakeholders and to help inform discussions around future work programme priorities.
3. At its [meeting on 3 September](#), the Committee held its first roundtable discussion which considered matters relating to civil justice. It then held a further [roundtable discussion on 10 September](#) considering equalities issues followed by a further [discussion on 17 September](#) which focussed on human rights.
4. The purpose of this paper is to provide information to inform the final evidence sessions taking place as part of this workstream in which the Committee will explore issues raised in all three roundtable sessions with:
 - The Minister for Equalities and International Development;followed by:
 - The Minister for Victims and Community Safety.
5. The first of these sessions will cover issues relating to equalities and human rights whilst the second will focus on matters relating to civil justice.
6. Further information on key themes expected to arise in both discussions can be found in the SPICe briefings which are attached as annexes.
7. The Committee also received three pieces of correspondence from stakeholders following its roundtable discussion on civil justice on 3 September. Members may wish to consider these letters in taking evidence from the Minister for Victims and Community Safety:
 - [Letter from Scottish Legal Complaints Commission re. Regulation of Legal Services \(Scotland\) Act 2025](#) (9 September 2026)
 - [Letter from Letter from Law Society of Scotland re. Regulation of Legal Services \(Scotland\) Act 2025](#) (15 September 2026)
 - [Letter from Scottish Courts and Tribunals Service re. Registration of](#)

[Powers of Attorney and the Expedited Process](#) (15 September 2026)

8. The Committee also received one piece of follow-up correspondence after its roundtable discussion on equalities on 10 September:

- [Letter from Inspiring Scotland further to equalities roundtable on 10 September](#) (17 September 2026)

Next steps

9. Following these evidence sessions the Committee will consider the key issues raised when developing its work programme.

Conclusion

10. The Committee is invited to consider the information provided in this paper in its evidence sessions with Scottish Government ministers.

Clerks to the Committee
September 2026

Annexe A



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Equalities and Human Rights priorities

The purpose of this session is to hear from the Scottish Government about its priorities for equalities and human rights.

This paper identifies potential themes for the Committee to raise with the Scottish Government. It sets out the policy and evidence context; draws on stakeholder evidence; and highlights cross-cutting issues that Members may wish to explore further.

The Committee will hear from:

- Simita Kumar MSP, Minister for Equalities and International Development

The Minister's [responsibilities include](#):

- refugees, asylum seekers and displaced peoples
- New Scots strategy
- diversity, inclusion and equalities (including disability, older people, women, gender, LGBTI, religion, race, Gypsy Traveller community)
- faith and belief
- tackling Violence against Women and Girls (VAWG) and Equally Safe strategy
- social isolation and loneliness strategy

The Minister will be supported by:

- Cat McMeeken, Deputy Director for Equalities, Scottish Government
- Kavita Chetty, Deputy Director for Human Rights, Scottish Government
- Rob Priestley, Head of Mainstreaming and Strategy Unit, Scottish Government

During the second panel, the Committee will hear from Kirsten Oswald MSP, the Minister for Victims and Community Safety, and the Committee may wish to explore some of the issues raised during the first panel. The Minister's [responsibilities include](#):

- anti-sectarianism
- community safety
- hate crime

- human trafficking
- violence against women - justice system.

The Minister will be supported by Denise Swanson and Ryan McRobert, both of whom are Deputy Directors for Civil Law with the Scottish Government.

Key issues for Session 7

In recent weeks the Committee has heard from equality and human rights stakeholders about their priorities for Session 7.

SPICe identified key issues based on the Committee's [legacy report](#) from session 6, [key issues identified by SPICe for session 7](#), and Scottish Government policy commitments in its previous [Programme for Government 2025-26](#). The key issues were:

- Operation of the Public Sector Equality Duty
- EHRC Code of Practice on Services, Public Functions and Associations
- Conversion Practices legislation
- Human Rights Bill
- Asylum Seekers
- Racism
- Neurodivergence/LDAN
- Violence against women and girls (VAWG)

Other specific themes in which members have expressed an interest include: addressing online abuse of women and girls; racism and community safety; disability rights; and human rights scrutiny.

Cross-cutting themes which are relevant to this committee but will also be of relevance to all committees: hostile public rhetoric towards certain groups; loss of confidence in delivery by Parliament and government; the need for meaningful involvement of lived experience; equality evidence and data gaps; funding pressures across the equality and human rights sector.

Broad themes from the [equality roundtable on 10 September](#) included:

- Equality data gaps across a range of areas, including bullying in schools and violence against women and girls.
- “Women’s poverty creates child poverty” (Susan from SWC) – suggestions that the Committee could focus on women’s poverty through a gender budgeting lens.

- The gap between legal or policy commitments and actual delivery, with specific reference to the PSED, the Human Rights Bill and the LDAN Bill.
- Community cohesion, misinformation, racism, hate crime and polarisation were seen as major cross-cutting issues for Session 7.
- The Committee's role in mainstreaming equality, using lived experience, and the potential for cross-committee scrutiny.

Broad themes from the [human rights roundtable on 17 September](#) included:

- The Human Rights Bill – witnesses welcomed the commitment to introduce the Bill in year 2 of Session 7, albeit some expressed frustration at the timetable for introduction. There were suggestions that lessons could be learned from the implementation of the PSED and the UNCRC Act.
- Implementation and accountability – a sense that lived experience does not match up with legislative and policy commitments.
- Public service reform – viewed by some witnesses as an opportunity to embed human rights across the public sector. It was argued that poverty is a human rights issue and, given the plans to incorporate social, economic and cultural rights under the Human Rights Bill, there is an opportunity to consider public service reform through a human rights lens.
- PSED – it was argued that PSED implementation and compliance could help inform provisions in the Human Rights Bill, particularly in relation to the proposed incorporation of 'group' treaties on women, disability and race ([CEDAW](#), [CRPD](#) and [CERD](#)).
- Data and evidence gaps – a broad agreement that equality and human rights data remain weak. In addition to better intersectional data, there were calls for competence and capacity to analyse data, and a recognition that community engagement can produce important qualitative evidence.
- VAWG was seen as a major priority, especially in terms of the prevention approach. It was argued that such an approach should go beyond education and include, for example, housing, transport, social media and online regulation. Members raised the importance of engaging with men and boys, which witnesses supported, and Together Scotland stressed the need to hear directly from children.
- Community cohesion – witnesses expressed concern about hostility, hate crime, misinformation, racism and polarisation. Community work, leadership and cross-parliamentary engagement were presented as important responses. It was argued that funding cuts to community work are damaging to community cohesion.
- Gypsy/Traveller rights and the [Tinker Experiment](#) – while the Scottish Government's apology for the Tinker Experiment had been welcomed, there are still serious concerns around accommodation, substandard sites and

accountability for the [accommodation fund](#). Witnesses discussed the need for redress and continued scrutiny from the Committee.

Suggested themes for discussion with the Minister

This session provides an opportunity to explore how the Scottish Government's priorities for Session 7 respond to the issues raised by equality and human rights stakeholders.

1. **Priorities for Session 7:** stakeholders have raised a range of issues as priorities for this session, including: the Human Rights Bill, the Public Sector Equality Duty, action to prevent violence against women and girls, action to address racism and promote community cohesion, and rights for specific equality groups. The Committee may wish to explore how the Scottish Government is prioritising these issues.
2. **Implementation and accountability:** the gap between legal or policy commitments and people's lived experience, and how delivery should be monitored. The Committee may wish to explore what lessons the Scottish Government has learned from:
 - the implementation of existing duties, for example, under the UNCRC Act and the PSED.
 - the delay, pause or cancellation of proposed legislation, for example, the Human Rights Bill, the LDAN Bill, the Ending Conversion Practices Bill, the Misogyny Bill.
 - the non-implementation of legislation, as highlighted in the Committee's [Session 6 legacy report](#):
 - Female Genital Mutilation (Protection and Guidance) (Scotland) Act 2020
 - The Children (Scotland) Act 2020
 - Domestic Abuse Protection (Scotland) Act 2021.
3. **Funding and organisational capacity:** the sustainability, independence and adequacy of funding for equality and human rights organisations, especially where they are expected to support policy development and scrutinise delivery. The Scottish Government's [Equality and Human Rights Fund](#) supports a portfolio of 47 organisations delivering work focused on tackling inequality and discrimination, furthering equality, and advancing the realisation of human rights in Scotland. The fund is [administered by Inspiring Scotland](#). The Committee may wish to explore the Scottish Government's plans for funding the equality and human rights sector over this parliamentary session and whether it could be more transparent on how allocations are made.

4. **Evidence, data and intersectionality:** gaps in data and analysis, particularly where people experience discrimination based on more than one protected characteristic. The Scottish Government's [Equality Evidence Strategy 2023-25](#), set out 45 actions to strengthen the evidence base. An [evaluation](#) was published in June 2026, with plans for a further strategy to be consulted on later in 2026. The Committee may wish to explore how the Scottish Government's equality evidence work is addressing these gaps.
5. **Public attitudes and social cohesion:** this is in terms of concerns about discrimination, hate crime, misinformation and polarisation. Noting that the Scottish Government has [announced increased funding for community projects as well as a Ministerial Taskforce on Community Cohesion](#) (17 September 2026), the Committee may wish to explore how the Scottish Government intends to promote community cohesion and respond to hostility towards certain groups.
6. **Contested rights and legal clarity:** areas where stakeholders may hold different views, and where guidance or further evidence may be needed. The Committee may wish to explore what the Scottish Government's role is when there are contested rights or where stakeholders hold different views.
7. **Stakeholder engagement:** how lived experience can inform the Scottish Government's work. The Committee may wish to explore how such engagement can meaningfully inform policy and influence decisions, and how this is balanced with engaging with other stakeholders who have expert knowledge.
8. **Mainstreaming equalities and human rights** - how equality and human rights duties are being embedded across public services, including service design, budgets, decision-making and outcomes, and across Scottish Government portfolios. The Scottish Government published a [suite of mainstreaming products in December 2025](#) to provide the public sector broader support on mainstreaming equalities and human rights. The Committee may wish to explore how the Scottish Government is mainstreaming across its portfolios, particularly in relation to cross-cutting issues such as poverty, public service reform, violence against women and girls, and community cohesion, and how progress and impact will be monitored.

Programme for Government

The [First Minister set out his Programme for Government](#) (PfG) on 1 September 2026. It is a five-year PfG with a focus on:

- Eradicating child poverty
- Growing the economy
- Tackling the climate emergency
- Delivering high quality and sustainable public services.

Notably, it also says that Scotland faces many challenges from the behaviour of populists:

“Our country has not been immune from the threats of populism promoted by opportunistic and bad faith actors who aim to stoke division, hatred, and harm - often directed squarely at the most marginalised groups and falsely claiming to protect women and girls.”

To “stand up to the divisive behaviour of populists” it argues that three issues must be addressed:

- tackling the cost-of-living crisis
- tackle violence against women and girls
- promote community cohesion.

Given the Committee’s remit, action to tackle VAWG and promote community cohesion are likely to be of interest. Tackling the “cost of living crisis” is likely to be a running theme for many committees.

Commitments for 2026-27 to tackle VAWG include:

- **Implement and embed the Equally Safe primary prevention framework** tackling VAWG as a public health issue.
- **Develop a sustained multi-year public health campaign to address attitudes** towards misogyny and VAWG.
- **Invest in targeted interventions to challenge and change problematic misogynistic attitudes and behaviour in boys and young men** so they understand harmful influences and behaviour, before it escalates and women and girls are harmed.
- **Ensure effective legal and justice responses that hold perpetrators to account** and improve victims’ experiences of the justice system, bringing forward a **Misogyny Bill** to ensure harassment and abuse based on misogyny is outlawed, **consulting on implementing Domestic Abuse Protection Orders**, and engaging with Police Scotland on training needs on domestic abuse.
- **Develop an approach to technology facilitated VAWG.** This will include conducting research on survivors’ experiences of tech-enabled abuse in daily life.
- Work is also underway to **create a blueprint for a Scottish Centre for Gender Equality in Social Attitudes** to develop and test robust and evidence-led approaches to changing public attitudes towards women and girls and towards gender equality.

Commitments for 2026-27 to promote community cohesion include:

- Establish a **Ministerial Taskforce on Community Cohesion** to strengthen preventative action.
- **Increase investment in the Community Cohesion Fund to £500,000**, supporting grassroots community initiatives across Scotland to address shared challenges such as social isolation, the cost-of-living crisis, inclusion, employment and housing support and community dialogue.
- **Continue to address interpersonal and institutional racism in education** through the Anti-Racism in Education Programme.
- Through the Gender Equality Taskforce in Education and Learning, the National Approach to LGBTQI+ Inclusive Education and the Digital Discourse Initiative, **continue to build an education system that promotes belonging, mutual respect and understanding, in line with the rights and principles of the UNCRC.**
- **Publish a refreshed New Scots Delivery Plan** to ensure the actions of the Scottish Government and its partners remain relevant to the challenges being faced by refugees and people seeking asylum.
- **Continue its work to end conversion practices in Scotland** in partnership with the Welsh and UK Governments and states that “Should the UK Government fail to deliver we will not hesitate to bring forward Scottish legislation.”

There is a **commitment to introduce a Human Rights Bill in year 2 of the session**, aimed at protecting and enhancing the rights of everyone.

The PfG also states that the Scottish Government will **take action to address discrimination and inequality experienced by LGBTQI+ people through legislation, policy and partnership working**. It will also invest £3.5m each year in the **Disability Equality Plan**.

The PfG does not refer to the **Learning Disabilities, Autism and Neurodivergence (LDAN) Bill**. In a [letter to the Convener](#) (1 September 2026), Maree Todd MSP, the Minister for Mental Wellbeing, Public Health, Sport, Alcohol and Drugs, said that Ministers have concluded that progress is needed through policy reform, service improvement and targeted investments. This will be the focus for now, while retaining the option of future legislation. The PfG does include commitments to reflect this approach including:

- improving neurodevelopmental support so people can access the right support at the right time
- expanding Learning Disability Annual Health Checks
- delivering the Coming Home Action Plan.

On 9 September 2026, the [Scottish Government announced funding of £7.6 million](#) to strengthen and expand local neurodevelopmental support, for children, young people and their families.

Scottish Social Attitudes 2025: attitudes to discrimination and positive action

The [2025 Scottish Social Attitudes survey](#) (SSA), undertaken by [NatCen](#) (National Centre for Social Research), explores current attitudes towards discrimination and positive action in Scotland. It has been tracking views and opinions since 1999 on a range of topics.

NatCen reports the [key findings](#) as follows:

- General attitudes to prejudice and diversity
 - In 2025, 65% of people said that ‘Scotland should do everything it can to get rid of all kinds of prejudice’ – a slight decrease from 2015 (69%), and a similar level to 2006 (65%) and 2010 (66%).
 - Around one in three (31%) said that ‘Sometimes there is good reason for people to be prejudiced against certain groups’ which is higher than in 2015 (22%).
 - Nearly half (45%) of people said they would prefer to live in an area ‘with lots of different kinds of people’, while 31% said they would prefer to live in an area ‘where most people are similar to you’.
- Equity and participation in the labour market
 - Most respondents thought that both mothers (95%) and fathers (92%) of children under five definitely or probably should be entitled to take up to five days paid leave to look after their child when they are ill. A higher proportion thought that mothers ‘definitely should’ be entitled to this (75%) compared with fathers (68%).
 - A quarter (26%) of people said that older people should be made to retire to make way for younger age groups, and 72% said it is wrong to make people retire just because they have reached a certain age.
- Promoting equality and positive action
 - Four in ten (40%) thought that attempts to give equal opportunities for women had ‘not gone far enough’, compared with 32% thinking this about Black and Asian people and lesbian, gay and bisexual people.
 - One in ten (10%) thought that attempts to give equal opportunities for women had ‘gone too far’, compared with 23% thinking this about Black and Asian people and 26% think this about lesbian, gay and bisexual people.

Four groups were identified as being at **particular risk of discrimination in 2025: trans people, Gypsy/Travellers, people with severe and enduring mental illness, and older people.**

Muslims, Jewish people, people who experience depression, and gay, lesbian or bisexual people were all facing less direct discrimination than in 2010, however, fewer people in Scotland were happy that a close family member married or formed a long-term relationship with each of these groups in 2025 than they were in 2010.

Three distinct groups in Scotland can be identified in terms of the extent to which they hold discriminatory attitudes:

- Those who have discriminatory attitudes towards a range of different minorities. They tend to prefer to live in areas with people similar to themselves and have a negative view of the impact of immigration. They are more likely to be male, older, heterosexual, and have a religious identity.
- Those who hold very few discriminatory attitudes, are largely in favour of immigration and positive action in the workplace, like to live in diverse areas, and would be happy to be related to all sorts of people or have someone from a minority group teaching their children. They are more likely to be younger, female, not religious and gay, lesbian or bisexual.
- The majority who demonstrate some discriminatory attitudes, have concerns in specific situations or about specific groups, but these are not deep-rooted. Many of these people agree that Scotland should do all it can to eliminate prejudice, hence they may be willing to adjust their own behaviour and attitudes.

Hate Crime in Scotland

Latest data on [hate crime in Scotland, 2025-26](#), from the Crown Office and Procurator Fiscal (COPFS) shows that:

“... the total number of charges reported containing at least one element of hate crime was 7,115, an increase of 17% compared to 2024-25. This is the highest number reported over the period since 2003-04 when figures first became available. The number of charges reported increased in most categories of hate crime.”

The number of charges reported in 2025-26, by hate crime category were:

- 3,990 - race
- 2,062 - sexual orientation
- 1,370 - disability
- 537 - religion
- 104 - trans identity
- 44 - age
- 6 - variations in sex characteristics.

Annexe B



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Evidence session with the Minister for Victims and Community Safety

Purpose of this paper

The purpose of this paper is to highlight issues which could be discussed with Kirsten Oswald MSP, Minister for Victims and Community Safety. Themes are drawn from the stakeholder evidence session on 3 September as well as developments since then.

Key issues

Family law

Scottish Government consultation

Between December 2025 and April 2026, [the Scottish Government consulted on family law reform in three areas](#):

1. Raising the minimum age for marriage or civil partnership from 16 to 18, [following equivalent changes made in England and Wales in 2022](#).
2. Reforming how a couple's property and finances are handled when cohabiting relationships end, following a [2022 report](#) by the [Scottish Law Commission](#) recommending changes.
3. Extending [the simplified 'do-it-yourself' divorce or civil partnership dissolution procedure](#) to couples with children under 16; currently, this procedure is limited to childless couples who agree on their post-separation finances.

Individual responses, or an analysis of consultation responses, is not yet published by the Scottish Government. The [SNP 2026 manifesto](#) committed to legislation on points 2 (cohabitants' rights) and 3 (simplified divorce/dissolution).

On point 3, relating to the simplified divorce/dissolution procedure, [the Scottish Government is anticipating legal aid savings from its proposal](#). However, Scottish Women's Aid, for example, [is concerned about the impact of the simplified procedure on families affected by domestic abuse](#) (p 14).

For further background on the existing law, see the 2024 SPICe briefing, [The law applying at the end of adult relationships](#).

The Children (Scotland) Act 2020

Separate from current law reform proposals, several important pieces of legislation from Session 5 of the Scottish Parliament remain wholly or partly unimplemented.

In family law, these include key parts of the [Children \(Scotland\) Act 2020](#) ('the 2020 Act'). Implementation of the 2020 Act's handful of child protection and children's hearings provisions is more advanced. However, the picture is quite different for the provisions governing parental disputes concerning children, which make up most of the Act. Their implementation has been described by one committee witness as "very patchy" (Rachael Kelsey, SKO Family Law Specialists, OR col 4).

For example, the 2020 Act contained provisions to enable better regulation of child welfare reporters (section 9), who play a significant role in parental dispute cases by [writing reports for the courts](#) on a child's views and what is in their best interests. [Despite a consultation on the necessary regulations in 2021](#), the regulations have yet to be made.

Further reforms relating to disputes between parents

Separately, the Committee may, at some point, hear arguments for reforms that go beyond the changes introduced by the 2020 Act. A key challenge for policymakers in this context is designing laws and processes that work across a wide range of family circumstances, from cases where both parents' involvement wholly benefits the child to those where a parent poses a serious risk to the child and/or the other parent. The legal framework applied must be robust enough to support both situations.

The 2024 SPICe briefing, [Parental responsibilities and rights](#), provides more information on the existing law and the changes intended via the 2020 Act.

Domestic abuse

Another important example of unimplemented legislation is Part 1 of the [Domestic Abuse \(Protection\) \(Scotland\) Act 2021](#), which - once commenced - will introduce new short-term emergency civil measures to remove a perpetrator from the family home or prevent their return.

Part 1 of the 2021 Act has not yet been commenced [following practical implementation difficulties](#). [The Scottish Government has confirmed that legislative changes will now be required to Part 1](#), but the timings otherwise remain unknown.

Separately, note that the [Scottish Law Commission](#), the independent statutory law reform body, [is currently reviewing civil law remedies for domestic abuse](#) aimed at longer term protection of vulnerable individuals and their families. A final report with recommendations for the Scottish Government is expected to be published in 2027.

[A SPICe briefing on the civil law on domestic abuse](#) provides further detail on these and related issues.

Family law and LGBTQI families

[At the Committee's roundtable on 3 September](#), the current legal framework relating to parenthood as it applies LGBTQI families was discussed, including user experiences.

For example, one witness said that, while some legislative gaps and practical issues remain, the position has improved significantly over the past twenty years (Rachael Kelsey, SKO Family Law Specialists, 3 September, OR 42-43). Another witness at the roundtable on 3 September said:

“This comment is from my personal experience as a family solicitor. One of the barriers that I see is that there is still a lot of prejudice in the judicial system against LGBTQ couples and individuals. It can be quite blatant from solicitors and I have seen it from sheriffs as well. Further education in that sphere would be helpful.” (Jamie Speir, Scottish Child Law Centre, 3 September, OR, col 43)

For additional background, this section summarises the key parts of family law in this area.

Whatever form a family takes – including what is sometimes referred to as the 'nuclear family' model – family law has always made a distinction between acquiring: (a) legal parenthood; and (b) 'parental responsibilities and rights' (PRRs). Legal parenthood creates financial responsibilities for a child while also establishing inheritance rights. PRRs allow a person to take decisions related to the child's welfare and upbringing day-to-day. Crucially, not all legal parents have PRRs and, conversely, people who are not parents can acquire PRRs (via a court process).

Routes to becoming a legal parent following assisted reproduction, including in the context of surrogacy, are set out in the [Human Fertilisation and Embryology Act 2008](#) ('the 2008 Act'). The conditions under which a 'second female parent' acquires legal parenthood following assisted reproduction differ depending on whether they are married to, or in a civil partnership with, the child's mother. Legal parenthood for the second female parent is automatic in a marriage/civil partnership; in other cases, it depends on the second female parent giving the necessary consent to parenthood.

Although the Scotland Act 1998, [on reserved matters](#), refers to predecessor legislation rather than the 2008 Act, it is generally thought that the routes to legal parenthood under the 2008 Act are reserved to the UK Parliament/Government.

Birth registration, one of the first official acts of parenthood, and one with a range of legal consequences, is a devolved matter. Under the current birth registration system, the available designations on the birth certificate are 'mother' and 'father/other parent.'

On PRRs, under the [Children \(Scotland\) Act 1995](#) ('the 1995 Act'), a mother automatically has PRRs (unless later removed by the court). Routes to PRRs for a father or second female parent depend on whether they: (a) have, at any point since the child's conception, been married to or in a civil partnership with the child's mother; or (b) have never been married to or in a civil partnership with her.

Where (a) applies, PRRs are automatic; where (b) applies, joint birth registration (with the mother's consent) is the most common route to PRRs, although PRRs may also be acquired by court order.

Adoption, another route to parenthood, is a devolved matter and is covered by the [Adoption and Children \(Scotland\) Act 2007](#). An adoption order from a court confers both legal parenthood and PRRs, with a streamlined procedure available for stepparent adoption.

In some LGBTQI families, a person may play a significant caregiving role without being either a legal parent or having PRRs. Where the family wishes that person to acquire PRRs, a court application under the 1995 Act is currently required.

With any type of court action mentioned in this section, there may be practical barriers, such as legal costs (if not fully met out of the legal aid budget).

Powers of Attorney

The [Adults with Incapacity \(Scotland\) Act 2000](#) ('the 2000 Act') contains a system that enables various interventions to safeguard the affairs of an [adult with incapacity](#).

One approach found in the 2000 Act allows an adult to nominate an **attorney** to manage their affairs while they still have capacity. This is done through the signing of a legal document known as a **power of attorney**. Attorneys will have a list of agreed finance, property and welfare powers over the adult's affairs.

The [Office of the Public Guardian \(Scotland\)](#) ('the Public Guardian'), [for which the Scottish Courts and Tribunal Service \(SCTS\) is responsible](#), maintains the public register of powers of attorney.

[Powers of attorney cannot take effect until they have been registered](#). An [expedite service](#) is available for urgent cases.

[There was a discussion of registration delays at the Committee's civil justice roundtable on 3 September](#) (cols 14-16), where SCTS said there was a need for investment in registration systems to resolve delays.

The Committee received a [follow-up letter from SCTS](#), dated 15 September 2026. The letter confirmed that the current average waiting time for registration, from the point the application is submitted to the Public Guardian, is approximately **11.5 months** reduced from 12 months.

The SCTS also highlighted in its letter that it believes that demand for powers of attorney in Scotland continues to increase, and that, in its view, further investment will be required to support the long-term sustainability of the registration service. It commented:

"We are currently seeking to work with colleagues from the Scottish Government Health Directorate and the Justice Directorate to develop a clear and robust business case for a sustainable model, that recognises the significant impact on health outcomes that delays can have. This is a challenge that will need to be addressed collectively."

Separately, note that the Scottish Government considered substantial and wide-ranging reforms to the 2000 Act during Session 6 of the Scottish Parliament, although, ultimately, it did not bring forward any relevant legislative proposals.

For further background on powers of attorney and the 2000 Act, [including policy developments in Session 6](#), see the 2024 SPICe briefing, [Adults with Incapacity](#).

The regulation of legal services in Scotland

The Regulation of Legal Services (Scotland) Act 2025 updates the way in which legal services (such those provided by solicitors and advocates) are regulated, including the way in which complaints can be made against legal professionals.

The Bill became caught up in controversy with the judiciary and the legal profession when introduced. One of the main concerns was that the Scottish Ministers would have too many powers over regulation (see the SPICe blogpost "[The Regulation of Legal Services \(Scotland\) Bill – what happened at Stage 1 and Stage 2?](#)")

The Ministerial powers were ultimately removed and were replaced with an enhanced role in the regulatory framework for the Lord President (along with a continuing regulatory role for the Law Society of Scotland and Faculty of Advocates among others).

Other changes include:

- A reformed complaints and [regulatory oversight](#) system involving the Scottish Legal Complaints Commission ("SLCC"), which, as a regulatory authority, is required to exercise its regulatory functions in a manner compatible with the [regulatory objectives](#) in the 2025 Act.
- The ability of the Law Society to regulate firms ("Authorised Legal Businesses") not just individual solicitors.
- A new criminal offence on the use of the title "lawyer".
- Changes to the rules on licensed legal services providers (LLSPs) otherwise known as [Alternative Business Structures](#) (legal practices co-owned with non-legal professionals), in particular a reduction in the stake which solicitors need to hold from 51% to zero. These are regulated by the Law Society.

Framework legislation with phased implementation

Most of the Act has, however, yet to come into force as the legislation is being implemented in phases by the Scottish Government in consultation with regulatory bodies.

The Regulation of Legal Services (Scotland) Act 2025 (Commencement No. 1) Regulations 2026 brought certain provisions into force on 5 March 2026 with some others commencing on 1 July 2026. These include:

- Section 48 which requires the Law Society to prepare rules for regulating Authorised Legal Businesses (firms) within a period of up to three years.
- Section 80 which expands the functions of [the SLCC Consumer Panel](#).
- Section 89 which removes barriers for third sector organisations to employ solicitors directly and offer certain legal services.
- Section 95 which allows the Lord President to make rules relating to how his/her functions under the Act will be exercised.

A [letter from the then Minister for Victims and Community Safety to the previous EHRCJ Committee](#) provides a summary of the changes.

Various elements of work are ongoing. [The SLCC is currently consulting on various new policies](#) including [consultation on its new regulatory oversight powers](#) and has [recently closed a consultation on its regulatory objectives](#). [The Faculty of Advocates is consulting on new disciplinary rules](#). [The Law Society is, amongst other things, prioritising ALB regulation and improvements to the complaints system. The Law Society has deferred work on regulating LLSPs until 2027.](#)

Current issues – timeframes for implementation and funding

The fact that the Law Society has deferred work on regulating LLSPs has led to negative reactions from certain solicitors who see this as an unnecessary delay, particularly since the Legal Services (Scotland) Act 2010 put in place provisions to allow for alternative business structures which were never set up (see the article [“ABS in Scotland is being delayed by myths”](#) by Brian Inkster).

On 17 September the Lord President published the inaugural [Annual Regulatory Report 2025-2026](#) which summarises highlights from 2025/26 and the implementation of regulation reform generally.

The report stresses that it is the interests of consumers, as well as members of the profession, for the 2025 Act to be commenced in reasonable timescales.

It also notes that, up to now, the Lord President has only received half of the funding requested from the Scottish Government to implement and administer the new legislation. It argues that more funding will be needed from the Scottish Government noting that:

“15 ... If the Lord President’s office does not receive the second half of the funding requested for implementation, work on these significant substantive workstreams would stall and it would be highly unlikely that these powers could be commenced in the near future.”

Digital processes and AI in civil justice

In the past, civil justice processes were paper based, in-person ones. In recent years there have been moves to digitise some of these processes. For example, the Scottish Courts and Tribunals Service (SCTS) has introduced “[Civil Online](#)”, an online digital portal for certain court procedures (see its [Digital Strategy 2018-2023](#)). [The SCTS is now developing a new digital strategy including a proposed approach to AI](#).

As discussed during the committee’s civil justice roundtable on 3 September 2026, some of the bigger policy questions in this area include whether new technologies are being introduced quickly enough, but also whether new procedures are sufficiently robust, transparent and focused on the needs of users (e.g. in relation to digital exclusion or the need for in-person hearings).

In addition, there are broader strategic and moral questions about the future use of AI by litigants and by the civil justice system itself (e.g. in relation to the writing of judgments or parts of judgments using AI).

Legal aid

Policy context

There have been mounting concerns about access to legal aid, especially for civil justice issues. The Session 6 Equalities, Human Rights and Civil Justice Committee carried out an [inquiry on Civil Legal Assistance](#). Key recommendations included:

- that “legal aid deserts” were severely compromising people’s ability to exercise their legal rights
- that bureaucratic processes around authorisation of work and agreeing payment were damaging relationships between solicitors and the Scottish Legal Aid Board. Addressing these issues could result in financial savings in the short to medium term
- that financial thresholds, particularly for accessing Advice and Assistance¹, should be increased
- that financial eligibility tests for cases involving civil protection orders² and homelessness due to breach of a statutory duty³ should be removed

¹ Advice and Assistance is one type of civil legal assistance. It funds advice, but not representation, from a solicitor. The other type of civil legal assistance is Civil Legal Aid. Financial thresholds for Advice and Assistance are considerably lower than for Civil Legal Aid.

² These are orders, pursued in the civil courts at the victim’s own expense, which protect victims of domestic abuse by, for example, excluding the abuser from the home.

³ These are cases where someone is homeless because a local authority has failed to meet the requirements of homelessness legislation – e.g. by failing to provide temporary accommodation.

- that “Regulation 15”⁴ – which acts as a barrier to receiving legal aid for individuals taking collective action – should be revisited.

Most of the changes required to implement these recommendations would require subordinate, rather than primary, legislation. They could therefore be implemented in the short to medium term while wider reform of the legal aid system was being developed.

Scottish Government consultation

The Scottish Government published a [consultation on legal aid reform](#) on 21 July. The most recent Programme for Government confirmed that legislation is planned for this parliamentary year.

Proposals in the consultation are fairly high level. However, they confirm an approach which is likely to result in simplified eligibility criteria (potentially resulting in less flexibility), more planning powers to the Scottish Legal Aid Board and a wider range of delivery options (such as contracting or commissioning services).

Reforms in progress

At the end of the last Session of the Scottish Parliament, the Scottish Government laid regulations which would make significant changes to the current legal aid system. Reforms to Children’s Legal Aid (for Children’s Hearings) came into force in June 2026. Fee increases came into force at the beginning of September. Reforms to Criminal Legal Aid are due to come into force in December 2026.

None of the reforms specifically address civil legal assistance or the recommendations of the Session 6 Equalities Committee.

Solicitors’ fees

A key sticking point between the profession and the Scottish Government/Scottish Legal Aid Board are legal aid fees. Solicitors argue that fees are too low for it to be economical for them to offer legal aid, creating the current shortages. The Scottish Government and Scottish Legal Aid Board argue that more planning powers and delivery options are the solution to a lack of access to legal aid.

A 13% increase to most legal aid fees – including an across the board increase to civil legal assistance fees – came into force at the beginning of this month. This has been welcomed by the profession.

Separately, the Scottish Government has established a “Fee Review Mechanism Group” featuring representation from stakeholders. This is the latest attempt to establish an agreed mechanism by which legal aid fees can be uprated on a regular basis. It is hoped that such an approach will remove some of the tensions created by disputes between the profession and the Scottish Government on this issue.

⁴ Of the Civil Legal Aid (Scotland) Regulations 2002.

There does not appear to be any information in the public domain about the progress of this group.

Tribunal delays

Tribunals are specialist judicial bodies which are aimed at resolving disputes outside of formal court structures. They are meant to be more accessible and quicker than courts and are designed to be used without legal representation.

One of the big issues at the moment is an increase in tribunal caseloads and the resulting delays this can cause in dealing with cases.

Scottish Tribunals

[The Scottish Tribunals](#) have jurisdiction over a wide range of devolved issues (see below). Most tribunals deal with disputes between individuals and the state (i.e. “administrative appeals”) although some also deal with disputes between individuals/businesses (e.g. housing matters).

The Scottish Tribunals are supported administratively by the Scottish Courts and Tribunals Service (SCTS). The Lord President is the head of the Scottish Tribunals and has delegated various functions to the President of the Scottish Tribunals, Lady Wise.

[The Tribunals \(Scotland\) Act 2014 set up a new framework for tribunals in Scotland](#) creating two new tribunals, the First-tier Tribunal for Scotland and the Upper Tribunal for Scotland (which deals with appeals from the First-tier Tribunal).

The First-tier Tribunal is organised into a series of chambers with specialist jurisdictions:

- [General Regulatory Chamber](#) (charity, transport and police appeals)
- [Health and Education Chamber](#) (Additional Support Needs appeals)
- [Housing and Property Chamber](#)
- [Local Taxation Chamber](#)
- [Social Security Chamber](#) (appeals Social Security Scotland decisions)
- [Tax Chamber](#)

The following Tribunals are also administered by the SCTS: [Mental Health Tribunal for Scotland](#); [Pensions Appeals Tribunal](#); [Lands Tribunal for Scotland](#).

Increasing caseloads and backlogs

Caseloads have been increasing across the Scottish Tribunals. A similar development seems to exist in England and Wales and among reserved tribunals (see the Institute for Fiscal Studies’ Report “[What is driving increases in tribunal backlogs?](#)”).

In the [most recent Scottish Tribunals Annual Report \(2024-2025\)](#), the President of Scottish Tribunals, Lady Wise stated that:

“It has been another incredibly busy year for the devolved Tribunals, with case volumes rising exponentially. The case load figures listed in the reports from each Chamber illustrate the scale of the increase. These levels of business present significant challenges to all those in the system, who already work tirelessly to dispense effective justice.”

[The SCTS Corporate Plan 2026-29](#) makes a similar point noting that the SCTS will advocate on behalf of the tribunals with the Scottish Government for:

“... sufficient resource to address the widening gap between the demands on the tribunals system and its capacity to meet those demands.”

In some cases, increased caseloads seem to be leading to backlogs. The [most recent Scottish Tribunals Annual Report \(2024-2025\)](#) states that more applications to the First-Tier Tribunal for Scotland (Housing & Property Chamber) are being carried forward into following years than in the past. It notes that:

“A total of 4773 applications were closed during the year, 8% more than in 2023-24. Despite this - perhaps unsurprisingly, given the higher volume of applications received - 32% more applications (3988) were carried forward into 2025-26 than in the previous year.”

[There are suggestions from landlords, for example, that a backlog of cases is one factor which has led to eviction cases taking longer to resolve.](#)

The issue of delays in housing tribunals was raised during the meeting of the Social Justice, Housing and Local Government Committee on 16 September 2026. The Cabinet Secretary for Social Justice and Housing, Shirley-Anne Somerville, stated that she or the SCTS would respond to the committee on that point ([see column 29 of the Official Report for the meeting of the Social Justice, Housing and Local Government Committee on 16 September 2026](#)).

Civil Litigation Act

The Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018

There can be significant costs and risks attached to taking court action. This is an important strategic factor in how the justice system works and can act as a barrier to access to justice.

The Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 made a number of changes designed to reduce the costs and risks of court action, with the intention of supporting access to justice. Changes included allowing solicitors to take a share of a compensation award when operating under a no win, no fee basis and removing a pursuer's liability for the other side's legal expenses if they lose in personal injury cases.

The 2018 Act requires that the Scottish Government undertake a review of the impact of reforms within five years of them coming into force or becoming operational. The deadline for these reviews has passed and there is no clear timescale from the Scottish Government for them to be undertaken.

Group proceedings

The 2018 Act also enabled rules to be made for group proceedings. These allow people with similar legal claims to join together to bring one court action. This shares the costs and risks involved.

Opt-in group proceedings (where pursuers choose to join joint legal action) have been available since 2020.

Opt-out group proceedings (where a claim is brought for a class of pursuers, and anyone not wanting to be covered has to opt out) are not currently available. However, the [Scottish Civil Justice Council consulted recently on developing rules in this area](#). There is much interest in the likely impact of opt out group proceedings among civil justice stakeholders but no clear timescale for development.

Proposed Damages (Scotland) Bill

The Scottish Government, [following an initial announcement in a parliamentary debate on 25 June 2026](#), confirmed in its recent [Programme for Government](#) that it will introduce a new bill in Year 1 of the Scottish Parliament on the law of damages for personal injury.

Damages are court-ordered financial compensation for physical or psychological injuries available at the conclusion of a successful negligence action.

The proposed legislation would implement the [Scottish Law Commission's 2024 Report on Damages for Personal Injury](#). The Commission's report contains reforms designed to remove existing areas of unfairness and inconsistency, including for the sufferers of certain asbestos-related conditions.

Not much detail is yet available on how closely the Scottish Government intends to adhere to the Commission's proposals, as there has been no specific Scottish Government consultation following [the Law Commission's 2022 consultation](#).

Further background on damages under negligence law, [including the recommendations in the Commission's 2024 report](#), can be found in the SPICe briefing, [Negligence: the law in Scotland \(updated August 2026\)](#).

Suggested themes for discussion with the Minister

1. **Children (Scotland) Act 2020:** whether the Minister can commit to a timetable for full implementation of the Children (Scotland) Act 2020 or at least provide a target date for the child welfare reporter regime to become operational.
2. **Further reforms on parenting disputes:** whether the Minister considers that the revised legal framework of the Children (Scotland) Act 2020 is sufficient to protect families affected by domestic abuse in family court actions, or whether further reforms in this area are necessary.
3. **Simplified divorce/dissolution procedure:** whether the Scottish Government remains committed to extending the simplified divorce and civil partnership dissolution procedure to couples with children under 16 and, if so, what safeguards it would put in place for people affected by domestic abuse or other significant power imbalances.
4. **Domestic Abuse Act:** whether the Scottish Government remains committed to the policy aims of Part 1 of the Domestic Abuse (Protection) (Scotland) Act 2021; what changes would be needed to bring Part 1 into force; and whether the Minister can provide a timetable for implementation.
5. **LGBTQI families:** whether the Scottish Government considers the current family law framework to meet the needs of LGBTQI families and, if not, whether it has any plans, within the limits of its devolved competence, to reform the law.
6. **Powers of Attorney:** whether the Minister thinks the current registration delays affecting powers of attorney are desirable in policy terms and whether the Scottish Government has plans to offer additional financial investment to help address delays.
7. **Regulation of legal services:** whether the Minister can indicate when the Regulation of Legal Services (Scotland) Act 2025 is likely to be brought fully into force and whether the Scottish Government is planning to provide the Lord President with increased funding to implement and administer the new legislation.
8. **Digital processes and AI in civil justice:** what the Minister's views are on potential benefits and disadvantages on the use of AI and digital processes in the civil justice system and what the future plans are.
9. **Legal aid:** whether there are options for short term reform which could improve access to civil legal assistance while longer term reform is undertaken and what the progress is being made in delivering sustainable legal aid fees.
10. **Tribunal delays:** what the Minister's view are on the reasons are for delays in tribunal cases and what the Scottish Government is doing to address this.
11. **Civil Litigation Act:** what the impact of reforms to address the costs of civil litigation have been and whether further reforms are needed.
12. **Damages Bill:** whether the Minister can update the Committee on when the Damages (Scotland) Bill will be introduced and, given that the Government has

not consulted separately on the proposals, provide more detail on how closely it intends to adhere to the Scottish Law Commission's 2024 recommendations.

SPICe Briefings
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