

Discussion Paper - Civil Criminal Interface

Purpose

1. To provide members with the opportunity to discuss the Scottish Government's draft policy paper on a criminal court / civil court interface.

Background

2. The Scottish Parliament recently passed the Victims, Witness and Justice Reform (Scotland) Act 2025. During the Parliament stages, the Scottish Government published a paper for the Council's consideration¹ (Paper 3.1a). In relation to a proposed interface between criminal and civil courts, the paper discusses:
 - At the start of a civil court action, a party who has been convicted of a domestic abuse or sexual offence against another party; or is subject to bail conditions; or is subject to a civil protection order to protect another party to the case should disclose that to the civil courts.
 - Changes to existing court rules on the case management of family and civil partnership actions (such as child contact cases) so that parties are specifically asked in case management hearings about allegations of domestic abuse between the parties and about any relevant parallel criminal proceedings where one party is the accused and another party the complainer. (The policy paper also suggests a survey be carried out on how the existing case management rules, which came into force on 25th September 2023, are working in practice).
 - Rules so that when a safeguarding concern is raised in an action under section 11 of the Children (Scotland) Act 1995 (on matters such as child contact and residence), relevant papers are intimated to Police Scotland and the local social work department. Police Scotland and the local social work department could be invited to make representations to the court.
3. An initial discussion was held at the Family Law Committee meeting on 29 September. It was noted that the paper is marked as draft to assist in finalising policy positions, and that a formal rules request will be lodged in due course.
4. A response from the Law Society for Scotland has been lodged with the Scottish Government expressing their views on the proposed changes.²

¹ [Court rules on domestic abuse information sharing: proposals - gov.scot](#)

² [Law Society of Scotland response to draft paper on the Civil Criminal Interface Oct 2025.pdf](#)

5. The policy paper draws readers' attention to the Scottish Law Commission's discussion paper on Civil Remedies for Domestic Abuse³. This paper was published in October 2024 with a subsequent consultation closed in February 2025. A report and draft Bill are anticipated to follow in 2027.

Next Steps

6. Subject to views of members, it is proposed that this is a matter put on the agenda for the next SCJC strategy day. This will allow for the Scottish Government to lodge a formal rules request once it has considered any feedback on its draft policy paper.

Recommendation

7. It is recommended that members:
- **Consider the Scottish Government's draft paper and provide any views for a formal response; and**
 - **Agree that this will be discussed further at the SCJC strategy day in March 2026.**

SCJC Secretariat

November 2025

³ [Discussion Paper on Civil Remedies for Domestic Abuse \(DP No. 178\)](#)