

Witness Name: Karen Sandra Wylie

Statement No.: 1

Dated: 17 July 2025

UK COVID-19 INQUIRY

WITNESS STATEMENT OF KAREN SANDRA WYLIE

I, Karen Sandra Wylie, will say as follows: -

- 1 My name is Karen Sandra Wylie. I am the Chair of the Family Law Association (FLA) of Scotland. I have held this position since November 2024 and have been a committee member of the FLA since around 2016. I was admitted as a solicitor on 9 September 2005. I have been employed with Morton Fraser MacRoberts since November 2022, albeit I was previously with the firm from 2006 to December 2021. I am a Legal Director in the family law team. I have worked primarily in family law for around 19 years, acting in a range of matters, including financial provision arising from the breakdown of personal relationships, and the arrangements which are made for children in those circumstances. I also act in matters concerning adoption, Permanence Orders and adults with incapacity.
- 2 I am accredited by the Law Society of Scotland as a specialist in the field of family law, child law and family mediation. In addition to my involvement with the FLA, I am a member of the mediation organisation CALM Scotland and on the committee of CALM Scotland. I also sit as a Scottish member on a working group considering the reform of the law in relation to the treatment of pets on divorce in England and Wales.

Overview and operation of the Family Law Association - background

- 3 The Family Law Association of Scotland (FLA) was established in 1989. There are approximately 300 members based throughout Scotland. Most of our members are practising family law solicitors. We also have, or have had, among our members trainee solicitors, paralegals, legal academics and other professionals who interact with the field of family law such as financial advisers. Members pay a yearly subscription fee. The FLA is independent from the Law Society of Scotland.

- 4 The FLA has the following aims and objectives, as follows:
- To promote Family Law as a branch of law in its own right, avoiding confrontation where possible, and challenging unacceptable behaviours where necessary.
 - To provide a point of reference for the public and for other organisations on family law issues. The FLA provides general information about family law in Scotland on its website and provides details of family lawyers through a search function to members of the public. The FLA does not provide legal advice directly to members of the public.
 - To monitor and promote the reform of family law which serves the needs and concerns of families.
 - To provide education and training in family law and in skills necessary for good practice; with opportunities for members to meet and exchange knowledge, views and ideas.
- 5 The Committee is made up of twelve members including the Chairperson, Vice Chairperson, Secretary and Treasurer. Everyone is a volunteer. The term of office is three years, which can be renewed. The Committee usually meets every four to six weeks. The meetings usually take place on Microsoft Teams (with one or two in-person meetings per year). Pre pandemic, all of our meetings were in-person, but the same frequency.

Impact of COVID-19 pandemic on FLA

- 6 The role of the FLA during the COVID-19 pandemic in Scotland did not change a great deal from pre-pandemic. The FLA have goals, which are to promote how our members conduct themselves in relation to matters in which they are acting on behalf of clients and towards each other.
- 7 The initial difficulty the FLA had was the training we offer, which is a major benefit for our members. Our Annual General Meeting (AGM) plays a large part in this, as it is the main occasion when our members get together, and it provides an important forum for practicing family lawyers. Ordinarily, this would be attended by between 100 to 160 members.
- 8 There was no AGM in 2020. In 2021 the AGM was held online, which was well received and offered to members for free. 123 delegates signed up to attend this, which is broadly in line with the number who attend the CPD element of the conference most years. The

feedback received from the event was positive. We returned to an in-person AGM in November 2022 and have continued to hold our AGM and CPD events in-person since then.

- 9 Pre-pandemic, the FLA did offer training seminars throughout the year for its members on a much smaller scale to the AGM. Numbers varied but these would normally have about 25 to 30 members in attendance. However, these were also impacted by the pandemic. We did not hold any of our usual training seminars between the start of the pandemic and 2023, when they resumed.
- 10 The impact of the pandemic on the FLA was probably limited to the training that we offered and how we conducted our business as a committee. In relation to everything else, the FLA committee still met and took part in consultations they were asked to participate in, such as those organised by the Scottish Law Commission. They were also involved in discussions with other bodies who had an interest in family law. The biggest impact was likely on the offerings to members with regards the lack of Continuous Professional Development (CPD) events and the AGM.

Challenges facing children and young people before the pandemic

- 11 The FLA considered to be the main challenges impacting children and young people in the family courts prior to the pandemic were (a) the emotional and psychological impact of prolonged conflict between their parents or caregivers (b) delays in resolving cases and for those requiring legal aid sometimes (c) difficulties in a parent obtaining access to legal representation. In addition, at times, having their views heard in the proceedings.
- 12 These challenges perhaps disproportionately affected children from low income homes and also children with additional needs who may find the transitions between parents and parental conflict particularly challenging.

Impact of the pandemic impact on children and young people

- 13 During the pandemic the changes that occurred to the practice of family law and the main challenges facing children and young people in the family courts during the Specified Period. Our members would find there was an increase in the number of parents who had concerns about children being unable to spend time with non-resident parents as a result of the pandemic. Sometimes as a result of unclear guidance, a parent or child requiring to shield or children/parents having positive covid tests when contact was due to take place. We would seek disputes between separated parents about matters related to the pandemic - about whether the other parent was appropriately complying with the relevant

guidance and rules (and this issue would be particularly difficult if a parent or family member was shielding as a result of underlying health conditions) etc.

- 14 We believe the pandemic did cause additional stress and anxiety to those parents who were involved in disputes concerning the care of their children. Initially, if they had a case in court there was the uncertainty as to what would happen with it or, if they wanted to raise an action, whether it would be deemed urgent enough to proceed. In relation to any arrangements that were already operating, parents were anxious about whether those could or should still operate, as I have said; whether the other parent was acting appropriately or putting their child at risk; and/ or whether the other parent might use the pandemic and the restrictions in place as a reason to stop the operation of contact.
- 15 We know that Women's Aid reported that domestic violence was believed to have worsened during covid and that as lockdown eased there was an increase in first time domestic abuse incidents being reported to the police.
- 16 While telephone and video calls are welcomed by our members and would have been part of the tools for communicating with client before the pandemic, there are times where face to face meetings are far more effective. It is felt that there are certain clients and cases where there is a real benefit to being able to sit down in a room and communicate advice which may be difficult for a client to accept, or even difficult for a lawyer to give. The reasons for that can be the emotion involved in the case for them, the sensitivity of the issues in the case, or the range of realistic outcomes and options in a case not matching their expectations or hopes. Often those discussions are better done sitting across a table than being conducted over a telephone. During COVID meeting clients online became much more prevalent and continues to be so. The ability to swear affidavits online and witness the execution of documents was a new (and useful) practice, which continues to this day.
- 17 Changes to the operation of the family courts, particularly the move from in-person court hearings to remote court hearings brought their own issues. Initially when only the most urgent cases could be brought before the courts, it was also difficult for lawyers to explain to their clients at the start of lockdown that they may not even be able to get their matter put in front of a court (due to the limited capacity as a result of lockdown) unless they were able to satisfy a Sheriff the case was sufficiently urgent. It was challenging for lawyers when cases were being conducted on the telephone. For example, pre-lockdown, if you were dealing with a child welfare hearing, you would likely have your client present with you to provide you with instructions. This was not always viable during lockdown, particularly for a hearing taking place by telephone. As a result, trying to feed back a

decision from the court, which the client had not participated in, which might be regulating how frequently they were going to be seeing their child over the next few months, was a difficult task to wrestle with. This would have been a hearing that before the pandemic a parent would have been entitled to attend and participate in, hear what was said and provide instructions to their solicitor about it, and hear any decision that the Sheriff made and the explanation given for it. Now that same parent might find out that a decision had been made that, for example, they wouldn't be able to see their child for the time being and would not have heard the submissions or the decision and any explanation for it themselves. They would be dependent on any summary that their solicitor could give them of those things. That could be difficult, particularly if the reasons given for the decision had been limited. Even where a hearing was taking place by video call, this could pose similar difficulties. For parents from low income families having the technology to participate could be an issue. It could be emotionally very difficult for parents to view hearings (such as perhaps Hague Convention cases or adoptions/permanence order cases) online with little support during the hearing or afterward.

- 18 In relation to changes to the delivery and or availability of services adjacent to family court proceedings affecting children and young people. We understand that for a time children in care were unable to have face to face contact with parents, despite a Compulsory Supervision Order allowing this due to the pandemic. Some families would have had contact by videocall but this was far from ideal and had limited use for very small children. Even when some face to face contact could take place there would be restrictions on the number of people in a room.
- 19 There was confusion at times about what the government advice meant and different advisors and organisations at times could apply the guidance differently. One of our committee members shared an example where he was involved in relating to child protection proceedings where an interim compulsory supervision order was made by a Sheriff which provided for contact arrangements between a child and their parents which would take place four times per week in the open air or at the parents' home supervised by the local authority's social work department. The local social work department were of the opinion they could not implement the contact arrangements and applied to the Court of Session to set aside that contact direction. That application was refused by the court. Due to this whole situation being unprecedented and unplanned for, there was obviously a degree of uncertainty around many areas regarding what clients could do and reasonably expect to be done, either in relation to the operation of contact or in order to comply with court orders. This can be significant for lawyers advising clients because if

there is an order in place and the client wilfully breaches it; there is a risk they could be held in contempt of court.

Lessons learned

20 In the event of a future pandemic or other civil emergency, we think that it is more likely that the courts would continue to largely operate given that they are better equipped to have online hearings etc and thus would be better able to better protect the interests of children and young people in the family courts.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Personal Data

Signed: _____

Dated: _____ 17 July 2025 _____