



ALL SCOTLAND SHERIFF COURT CIVIL PRACTICE NOTE

PRACTICE NOTE NO 1 of 2026

APPLICATIONS UNDER THE ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000

The Sheriffs Principal, for the purpose of regulating practice in the sheriff court in each of their respective sheriffdoms, in pursuance of the powers conferred by section 27(2) and (4) of the Courts Reform (Scotland) Act 2014, and all common law powers enabling them on that behalf, Order and Direct as follows:-

1. This Practice Note applies to all applications made to the sheriff court under the Adults with Incapacity (Scotland) Act 2000 (“the 2000 Act”) on and after 13 July 2026, as well as to any other proceedings before the sheriff under said Act (including appeals and counter proposals for the appointment of guardians contained in answers) commenced after said date.
2. This Practice Note supersedes all prior Practice Notes dealing with applications made to the sheriff court under the 2000 Act, which are hereby revoked¹.

¹ The following Practice Notes are revoked by the following Sheriffs Principal:

- Practice Note No 3 of 2024 issued by Sheriff Principal Anwar on 25 July 2024 is revoked by Sheriff Principal Anwar;
- Practice Note No 1 of 2024 issued by Sheriff Principal Ross dated 8 January 2024 is revoked by Sheriff Principal Ross;
- Practice Note No 1 of 2024 issued by Sheriff Principal Dowdalls dated 24 January 2024 is revoked by Sheriff Principal Dowdalls;
- Practice Note No 1 of 2018 issued by Sheriff Principal Lewis dated 6 December 2017 is revoked by Sheriff Principal Wade;

3. In all proceedings under the 2000 Act:

- (a) All craves must accurately specify the adult's full name, as well as any other name by which the adult is known, together with the adult's current address and date of birth. All such details must also be accurately specified in any reports. Where directed to do so by the court, an extract birth certificate requires to be lodged. Where the adult is resident in an authorised establishment, as defined by section 35(2) of the 2000 Act, the full name and address of the authorised establishment must be specified in the application.
- (b) The application must include averments setting out (1) the full name, address, and relationship to the adult of the adult's nearest relative, as defined by section 87(1) of the 2000 Act and section 254 of the Mental Health (Care and Treatment) (Scotland) Act 2003 ("the 2003 Act"), (2) the full name, address and designation of the adult's primary carer, as defined in section 87(1) of the 2000 Act, (3) the full name, address and designation of the adult's named person (if any), as defined in section 87(1) of the 2000 Act and section 329 of the 2003 Act, (4) the full name, address and designation of any guardian, continuing attorney or welfare attorney of the adult who has any power relating to the application or proceedings (as required by rule 3.16.4(1)(e) of the Act of Sederunt (Summary Applications, Statutory Applications and Appeals Etc. Rules) 1999 (SI 1999/929) ("SAR"), (5) the full name, address and designation of any person appointed to a position equivalent to that of a guardian, continuing attorney or welfare attorney of the adult in any other jurisdiction; and (6) the full name, address and designation of any other person(s) who may

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- Part 3 of the Consolidated Practice Note issued by Sheriff Principal Murray dated 20 October 2017 is revoked by Temporary Sheriff Principal Mohan;
 - Practice Note No 1 of 2005 issued by Sheriff Principal Young on 4 April 2005 is revoked by Sheriff Principal Miller.

have an interest in the application and, if the adult has a number of children or siblings to be specified, specifying them in order of age starting with the oldest. If there is no known nearest relative and/or named person the application must contain averments to that effect and if the whereabouts of the nearest relative and/or any named person are not known and cannot reasonably be ascertained, the application must contain averments setting out the steps which have been taken to trace those concerned.

- (c) The application must include averments as to the present and past wishes and feelings of the adult about any order sought, insofar as they can be ascertained and, if it is not possible to ascertain them, the application must include averments as to (1) why this is not possible; and (2) any steps taken (including any assistance and / or support provided) with a view to ascertaining them.
- (d) A schedule, accurately setting out the names, addresses and designations of all those on whom intimation of the application is sought, must be lodged with the application and a copy of said schedule shall also be sent by email to the AWI clerk when the application is lodged, using the email address for the applicable sheriff court set out in Appendix 1 to this Practice Note.
- (e) The full name, address and designation of any proposed substitute guardian requires to be included in said schedule, as does the name and address of the manager of any authorised establishment in which the adult is resident.
- (f) When an application is lodged, to assist with the drafting of any order granted by the court, the crave(s) must also be emailed (in Word format) no later than two clear working days before the hearing assigned in respect of the application, to the email address for the applicable sheriff court as set out in Appendix 1. Immediately following any hearing at which the court grants powers which are different to those contained in the application, the amended

craves must be emailed to the same email address for inclusion in the order granted.

- (g) All averments in applications must be in proper form and are offers to prove the assertions made therein.
- (h) When applications which have been returned for correction are resubmitted to the court (1) the changes made to the original application must be highlighted in some way; (2) a copy of the amended application in Word format shall be provided to the court by email; and (c) confirmation must be provided by covering letter that, save for the highlighted changes, the application remains in its original form.
- (i) The proposed duration of any order sought should be dealt with in the application. In accordance with section 58(4) of the 2000 Act, applications may be granted by a sheriff for a period of 3 years or such other period, as, on cause shown, he may determine. If an order for a period more than 3 years is sought, the application must contain averments explaining why a longer period is sought. Applications for an indefinite period may contravene article 12.4 of the UN Convention on the Rights of Persons with Disabilities of 2006. If an order for an indefinite period is sought, the exceptional circumstances relied upon must be averred.
- (j) The application should contain averments as to whether the appointment of a safeguarder is sought and if not why not. Where the appointment of a safeguarder is sought, the averments must specify the proposed role and remit of the safeguarder and how the costs of the appointment will be met.
- (k) Where supporting medical reports relate to an examination of the adult which took place more than 30 days before the lodging of the application, the

applicant must be satisfied that the adult's condition has not changed and the application should contain averments to that effect.

- (l) Clear averments are required to support a crave for expenses. If the applicant has a legal aid certificate, this should be made clear in the application.
- (m) Pleas-in-law are not necessary.
- (n) In relation to the service of an application, a certificate of citation must be lodged no later than two clear working days prior to the hearing assigned in respect of the application.
- (o) In relation to the service of an application, or any other step in process, an interested party, or a solicitor acting on their behalf, may intimate acceptance of service thereof and/or agreement to dispense with any period of notice relative thereto.
- (p) Where service of an application, or intimation of any other step in process, is made by recorded delivery post, copies of the recorded delivery signatures from the Royal Mail website (otherwise known as the "track and trace reports") demonstrating receipt must be lodged no later than two clear working days before the relevant hearing.
- (q) If a safeguarder or a curator *ad litem* is appointed at any time, the applicant must send to the safeguarder or curator *ad litem* a copy of the application and relevant accompanying reports, any answers and a copy of the interlocutor of appointment no later than two working days following receipt by them of said interlocutor.

- (r) Applications should be specifically tailored to address the needs of the adult. Proforma, generic or standard form applications should not be used. If after an application has been lodged, medical or other reports are obtained, further information comes to light, or the powers sought in the original application require to be amended, applicants should lodge an amended summary application and should avoid seeking to amend applications at the bar.
- (s) When an application is lodged, to reduce the risk of it being returned without a warrant, the checklist appended to this Practice Note as Appendix 2 must be completed and submitted with the application.
- (t) Where an order sought might involve a deprivation of the adult's liberty, the applicant must make sufficient averments to allow the court to assess the type, duration, effects and manner of implementation of the orders sought and the adult's ability to understand and express a view on the order sought.
- (u) To assist with the efficient and accurate production of interlocutors, applicants who are represented are required to submit a complete draft interlocutor in word format by email to the relevant AWI clerk, using the email address for the applicable court set out in Appendix 1, by 12 noon on the day before the hearing. When changes to the craves have been suggested by the sheriff or safeguarder and accepted by the applicant, or where the court grants powers different from those contained in the draft interlocutor, an amended draft interlocutor must be submitted by the applicant.

4. In all proceedings under part 6 of the 2000 Act:

- (a) Where application is made for the grant of both welfare and financial powers, these must be grouped separately from each other in the craves and all proposed powers should be listed by numbers or letters.

- (b) If an application seeks the appointment of a substitute guardian, the crave should (1) specify whether the application is made due to the death, incapacity or resignation of the original guardian; and (2) set out in full the proposed powers sought to be conferred on the proposed substitute guardian in a separate crave or craves as appropriate.

- (c) Where application is being made for the appointment of joint guardians and/or substitute guardians, the application must contain averments which satisfy the requirements of section 62(2) of the 2000 Act in respect of each proposed guardian or enable the court to be so satisfied. Every application for the appointment of joint guardians must contain averments as to whether or not the applicants seek appointment jointly and severally or severally.

- (d) Where interim powers are sought, the application must contain averments specifying the reasons therefor. If a hearing on interim powers is sought prior to the principal hearing assigned, the applicant must make clear in a covering letter to the court which powers are sought *ad interim* and specify the basis for the urgency.

- (e) Except in cases where the application seeks appointment of the chief social work officer of a local authority, the application and accompanying reports must contain details as to the character, background and, where appropriate, any relevant financial or investment experience of any person whose appointment is sought as a guardian or as a substitute, additional or replacement guardian or intervener and the application requires to be accompanied by such letters of reference as may be considered appropriate or which may be required by the court, in order that the court can be satisfied as to suitability for appointment.

- (f) Except in cases where the application seeks appointment of the chief social work officer of a local authority, the application must contain averments as to whether any Disclosure Scotland or Protecting Vulnerable Groups check has been carried out for any purpose in respect of the proposed guardian (or any substitute, additional or replacement guardian or intervener) and, if such a check has been carried out, the result thereof. A copy of any certificate issued after such a check in respect of the proposed guardian (or any substitute, additional or replacement guardian or intervener) should be produced. Where no such check has been carried out the application must (i) contain averments in respect of any convictions for any criminal offence in Scotland or elsewhere applying to the proposed guardian (or any substitute, additional or replacement guardian or intervener); (ii) specify whether any proposed guardian (or any substitute, additional or replacement guardian or intervener) has, at any time, been barred from working with children or vulnerable adults; and (iii) be accompanied by a letter from each person whose appointment is sought as a guardian (or substitute, additional or replacement guardian or intervener) specifying whether or not they have, at any time, been (a) barred from working with vulnerable adults or (b) convicted of a criminal offence in Scotland or elsewhere and, if so, providing full details thereof for consideration by the court.
- (g) Where application is made for the grant of welfare or financial powers or for an intervention order, the application must contain averments as to the known existence or otherwise of any existing power of attorney granted by the adult.
- (h) Where application is made for the grant of financial powers, the application must contain details of the extent and value, insofar as is known, of all heritable and moveable property belonging to the adult.

- (i) Where an application seeks powers in relation to heritable property, a description of the heritable property shall be included in the crave. Such a description requires to include the full postal address of the heritable property (including the post code), together with either the Title Number of the property in the Land Register of Scotland or a full conveyancing description which is sufficient to identify the heritable property in the Register of Sasines.
- (j) Where the application is for the appointment of a solicitor as financial guardian (or as substitute or additional or replacement financial guardian or as intervener) the report as to the suitability of such solicitor and as to the general appropriateness of the order sought requires to be from a person who is not a partner, employer, consultant, associate, employee or fellow employee of such solicitor and said report shall include details of any findings of professional misconduct made by any regulatory or professional body in respect of the proposed financial guardian.
- (k) Where application is made for the grant of financial powers, the writ must contain averments as to whether or not any proposed financial guardian or substitute, additional or replacement financial guardian or intervener (1) is or has ever been sequestrated or been made subject to a bankruptcy restriction order; (2) has ever signed a trust deed for creditors; (3) is or has ever been subject to or applied for a debt payment programme; (4) is or has ever been subject to an order pursuant to the Company Directors Disqualification Act 1986; and (5) is or has ever been subject to an inhibition or arrestment or has ever been made subject to any similar order or had similar steps taken against them in Scotland or elsewhere and, if so, must include details thereof.
- (l) Where application is made for powers in relation to property and/or financial affairs, the issue of whether caution is to be found or is sought to be dispensed with and, if to be found, in what amount, should be dealt with in the application and a crave in appropriate terms included. Where the court

identifies any issues which may impact on the obtaining of caution, applicants may be required to take steps, prior to the hearing assigned by the court, to obtain confirmation that caution will be available in the event of the application being granted.

- (m) Where an application is made for powers in relation to property and/or financial affairs and request is made to dispense with the lodging of a Management Plan with the Office of the Public Guardian, the reason for seeking dispensation should be made clear in the application.
- (n) If the principal reason for submitting a guardianship application seeking financial powers is to enable the proposed guardian(s) to administer self-directed support or other similar direct payments, consideration should be given as to whether less extensive financial powers would amount to the least restrictive option in relation to the freedom of the adult, consistent with the purpose of the intervention, in terms of section 1(3) of the 2000 Act.
- (o) If a counter-proposal for the appointment of a different guardian is made in answers to an application, the court will order intimation of the answers to all parties named in the schedule annexed to the application.
- (p) All applications for variation are to be made by way of minute in the existing guardianship process and any such minute lodged in terms of section 74(4) of the 2000 Act shall nonetheless be made under section 57 of the 2000 Act.
- (q) The crave(s) in a minute for renewal require(s) to set out in full the powers which the applicant(s) seek to renew. Careful consideration should be given to the powers originally granted and to whether all of those powers require to be renewed.

- (r) If a renewal application requires to be returned for correction the original lodging date will be retained, provided that the corrected application is resubmitted to the court within 14 days of receipt by the applicant or their agents. However, if the corrected application is resubmitted outwith this period, the resubmission date will be treated as the first lodging date. If this date is after the expiry of the period of the original order then the application cannot proceed as a renewal.
- (s) Where the renewal of a guardianship order is sought without a hearing (in terms of section 60(4)(A) of the 2000 Act), the minute should be accompanied by a covering letter setting out an explanation as to why the minute is capable of being determined without a hearing. The sheriff will consider the explanation provided and determine whether a hearing is necessary.

AISHA Y ANWAR KC

Glasgow, 2 July 2026
Sheriff Principal of the
Sheriffdom of Glasgow &
Strathkelvin

ANDREW MILLER

Aberdeen, 2 July 2026
Sheriff Principal of the
Sheriffdom of Grampian,
Highlands and Islands

NIGEL ROSS

Edinburgh, 2 July 2026
Sheriff Principal of the
Sheriffdom of Lothian &
Borders

BRIAN A MOHAN

Paisley, 2 July 2026
Sheriffdom of North
Strathclyde

GILLIAN WADE KC

Perth, 2 July 2026
Sheriffdom of Tayside,
Central & Fife

CATHERINE

DOWDALLS KC
Hamilton, 2 July 2026
Sheriffdom of South
Strathclyde, Dumfries and
Galloway

APPENDIX 1

SHERIFF COURT EMAIL ADDRESSES

SHERIFF COURT	EMAIL ADDRESS
Aberdeen	aberdeencivilteam@scotcourts.gov.uk
Airdrie	airdriecivil@scotcourts.gov.uk
Alloa	alloacivil@scotcourts.gov.uk
Ayr	Ayrsc@scotcourts.gov.uk
Banff	banffcivil@scotcourts.gov.uk
Campbeltown	campbeltownsc@scotcourts.gov.uk
Dumbarton	dumbartoncivil@scotcourts.gov.uk
Dumfries	dumfriescivil@scotcourts.gov.uk
Dundee	dundeecivil@scotcourts.gov.uk
Dunfermline	Dunfermlinecivil@scotcourts.gov.uk
Dunoon	dunooncivil@scotcourts.gov.uk
Edinburgh	edinburghawi@scotcourts.gov.uk
Elgin	Elgin@scotcourts.gov.uk
Falkirk	falkirkcivil@scotcourts.gov.uk
Forfar	forfarcivil@scotcourts.gov.uk

Fort William	Fortwilliam@scotcourts.gov.uk
Glasgow	glasgowawi@scotcourts.gov.uk
Greenock	greenockcivil@scotcourts.gov.uk
Hamilton	hamiltoncivil@scotcourts.gov.uk
Inverness	Inverness@scotcourts.gov.uk
Jedburgh	jedburgh@scotcourts.gov.uk
Kilmarnock	kilmarnockcivil@scotcourts.gov.uk
Kirkcaldy	kirkcaldycivil@scotcourts.gov.uk
Kirkwall	Kirkwall@scotcourts.gov.uk
Lanark	Lanarkcivil@scotcourts.gov.uk
Lerwick	Lerwick@scotcourts.gov.uk
Livingston	livingstoncivil@scotcourts.gov.uk
Lochmaddy	Lochmaddy@scotcourts.gov.uk
Oban	obansc@scotcourts.gov.uk
Paisley	paisleycivil@scotcourts.gov.uk
Perth	PerthCivil@scotcourts.gov.uk
Peterhead	peterheadcivil@scotcourts.gov.uk
Portree	Portree@scotcourts.gov.uk

Selkirk	<u>selkirk@scotcourts.gov.uk</u>
Stirling	<u>stirlingcivil@scotcourts.gov.uk</u>
Stornoway	<u>Stornoway@scotcourts.gov.uk</u>
Stranraer	<u>stranraer@scotcourts.gov.uk</u>
Tain	<u>Tain@scotcourts.gov.uk</u>
Wick	<u>Wick@scotcourts.gov.uk</u>

APPENDIX 2

CHECKLIST FOR AWI APPLICATIONS

This checklist is designed to assist you in preparing your application. It is designed to reduce the number of applications returned without a warrant. It should be completed and sent to the court with the application.

The application contains:	Tick or N/A	Where in application?
1. The adult's full name (and any name by which known)		
2. The adult's current address		
3. The adult's date of birth		
4. The full name, address and relationship to adult of adult's nearest relative		
5. The full name, address and designation of adult's primary carer		
6. The full name, address and designation of adult's named person (if any)		
7. The full name, address and designation of any guardian, continuing or welfare attorney		
8. The full name, address and designation of any person appointed to position equivalent to guardian or attorney		
9. Full name, address and designation of any person who may have interest in application, including: (i) children of adult, listed by age starting with oldest (ii) siblings of adult, listed by age starting with oldest		

The application contains:	Tick or N/A	Where in application?
10. If there are no known relatives averments to that effect.		
11. If whereabouts of anyone with an interest is not known averments setting out steps taken to trace.		
12. If dispensation is sought re service on an individual: (a) averments giving reasons for this; (b) where that dispensation is sought in relation to the adult on the basis that intimation would likely pose a serious risk to the adult's health, averments explaining this and the application is accompanied by two medical certificates		
13. Averments representing present and past wishes of adult, or, steps taken to ascertain		
14. A schedule of intimation (to include any substitute guardian and manager of any authorised establishment where adult resides) and a word copy has been emailed to the clerk		
15. The duration of order sought and the justification for seeking an order for longer than 3 years		
16. If an order sought might involve a deprivation of the adult's liberty, averments to allow the court to assess the type, duration, effects and manner of implementation of the orders sought and the adult's ability to understand and express a view on the order sought		
17. Averments addressing how expenses are proposed to be dealt with and specifying if legal aid has been granted		
18. Averments dealing with whether the appointment of a safeguarder is sought, and if so, an explanation of the proposed role/remit of the safeguarder and addressing the liability for costs; if no appointment is sought, averments explaining why		

The application contains:	Tick or N/A	Where in application?
19. If interim powers are sought, averments containing reasons; details of those upon whom intimation of the hearing on interim powers should be made and if it proposed that no intimation on any party is sought, an explanation of why that is the case		
20. If the application is not seeking appointment of chief social worker the application contains: (i) Averments re applicant's criminal convictions, whether has been barred from working with children or vulnerable adults, whether Disclosure has been carried out and result of same (ii) Averments re character, background and, where appropriate, financial or investment experience of applicant.		
21. Letters from the applicant confirming details in 19(i) above accompany the application (barring letters)		
22. If financial powers are sought averments include: (i) Extent and value of heritable and moveable property of adult. (ii) Full postal address and either Title Number or Register of Sasines description of any heritable property. (iii) Whether proposed guardian even been sequestrated or subject to bankruptcy restriction order, or signed a trust deed, ever been subject to or applied for debt payment programme, ever been subject to order pursuant to the Company Directors' Disqualification Act 1986, ever subject to inhibition or arrestment. (iv) Crave dealing with caution and averments explaining any request to dispense with caution or a management plan.		

The application contains:	Tick or N/A	Where in application?
23. If a solicitor or individual is to be appointed as financial guardian only, there is a schedule 8 report accompanying the application.		
24. If seeking appointment of a substitute guardian the crave must specify what event would precipitate the substitute's powers, and, specify the proposed powers of the substitute.		
25. If seeking appointment of joint guardians aver whether to be jointly and severally or severally.		
26. If seeking renewal of financial powers, the application is accompanied by a report from the Public Guardian in terms of section 60(3)(c) of the 2000 Act.		
27. A word document containing the craves has been sent by email to the clerk.		
28. Application, if it seeks welfare powers either alone or with financial powers, accompany by 2 medical reports and 1 report from MHO. Check: (i) Reports are accurate re adult's name and date of birth and date of examination. (ii) The doctors examined the adult no more than 30 days before the lodging of the application. If the examination took place more than 30 days before lodging the application, you require to satisfy the court that the adult's condition has not changed.		

The application contains	Tick or N/A	Where in application?
29. Application for renewal which seeks welfare powers, either alone or with financial powers, accompanied by 1 doctor report and 1 MHO report ((i) and (2) above apply).		