



## FAMILY AND CIVIL LAW AND BREXIT

### QUESTIONS IN LETTER DATED 23 JULY 2018

You are welcome to reply to some or all of the questions.

It would be helpful to have responses by 16 August 2018 but we would consider points made after then.

Please reply to Simon Stockwell, Family and Property Law, GW15, St Andrew's House, Regent Road, Edinburgh, EH1 3DG (phone: 0131 244 3322) or by email to [family.law@gov.scot](mailto:family.law@gov.scot)

When replying, it would be helpful if you could use "Family and civil law and Brexit" as the heading in your email and letter.

In the interests of transparency, the Scottish Government would intend to publish the responses to the letter. If you do not wish your response to be published, please let us know and we will treat your response as confidential. However, the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 (FOISA) and might need to release information under FOISA.

Question 1. Should EU provisions on family law continue to apply after the proposed transition period?

Yes/.

Please give reasons for your answer.

These provisions have been arrived at by long process of reflection. The simplistic yes/no vote at the referendum cannot offer any such sensitivity. It would be dangerous to immediately dismantle these frameworks merely because of brexit.

Question 2. Should Scotland recognise family law judgments from EU Member States, even if the UK leaves the EU without a negotiated settlement?

Yes/.

Please give reasons for your answer.

This is basic humanity: to do otherwise would impose an intolerable burden on those families whose members span nations and nationalities.

Question 3. If the UK leaves the EU without a negotiated settlement, should jurisdiction of the courts in family cases revert to the position before EU provision was introduced in this area?

NO

Please give reasons for your answer.

This would create appalling confusion and instability.

Question 4. Would the Hague Conventions and the Lugano Convention adequately replace the European instruments discussed in paragraphs 27-28 for family and civil international law?

no.

Please give reasons for your answer.

Question 5. If there was a time lag between the Maintenance Regulation and Brussels 1A ceasing to apply and the UK rejoining the 2007 and 2005 Hague Conventions and the Lugano Convention, what would the impact of this time lag be for families?

Confusion and uncertainty: adding to the stress of any given situation.

Question 6. Are there any other points about the impact on Scots family law of Brexit which you wish to make?

Yes

Transnational families, having already been maliciously disenfranchised by the referendum regulations, are indeed already experiencing considerable stress as to their future. Everything should be done to minimise this, and reassure them of their right to a peaceful family life in Scotland.

Question 7. Are there any other points about the impact on civil law of Brexit which you wish to make?

Yes

If yes, please outline your points.

This should not be taken as an opportunity for a 'power-grab' by the Westminster government.

**Family and Property Law  
Justice Directorate  
Scottish Government  
July 2018**