



January 2021

## Happy New Year

Welcome to the first edition of Morton Fraser's Family Law Bulletin.

It's hard to believe that we've all been working from our homes or largely-empty offices for almost a year. Strange and trying times for us all, but also testament to people's ability adapt to whatever is thrown at them! The media focus has been on COVID-19 for so long that it was easy to almost forget about Brexit, but in 2021, we suddenly find ourselves in a Brave New World in which the basis of jurisdiction in family law has literally changed overnight. We hope that you enjoy this selection of articles contributed by various members of our family law team and if you have questions or comments on them, we'll be delighted to hear from you. Hopefully this year will witness a gradual return to life as we know it!

[Rhona Adams](#)



## Reflections on Remote Mediation

Author [Rhona Adams](#)

The lockdown has represented something of mixed blessing to proponents of mediation. On the one hand, stasis in the court system has presented an opportunity for all remote forms of ADR. On the other hand, the prospect of getting to grips with the technology was a pretty daunting one for those of us who struggled even to turn on a microphone at the beginning of last year! Ten months down the line, as we find ourselves back in lockdown, this seems a good point at which reflect on the experience of conducting remote family mediations.

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## Jurisdiction issues were a part of our lives long before Brexit

Author [Savita Sharma](#)

The applicable law on divorce jurisdiction as between England/Wales, and Scotland (which has not significantly changed post December 2020) can be found in the Domicile and Matrimonial Proceedings Act 1973, where precedence is given to the last place the couple lived together as long as one party still resides in that place. However, it has become more important than ever for Scots lawyers to appreciate the differences between Scots and English Family Law. The difference is more than mere terminology and in some cases can make a dramatic difference to outcomes in financial provision cases. This article will not detail every intra-UK difference but will highlight some of the major differences between Scotland, and England/Wales in relation to divorce and financial proceedings.

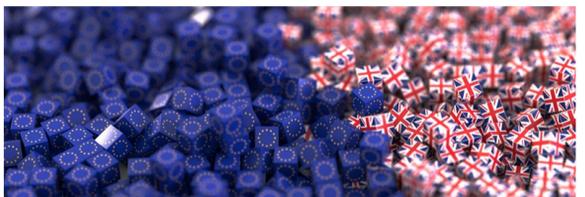
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## Brexit - Child law consequences

Author [Marissa Cullen](#)

There is no getting round the fact that a post-Brexit era for Family Law began on 1 January 2021. I am going to briefly consider how we deal with jurisdiction, types of orders and recognition/enforcement of those orders for Parental Rights and Parental Responsibility cases ("PR & R") between the UK and EU27 now.

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## Brexit traps for the unwary Scottish family lawyer

Author [Lucia Clark](#)

The end of the transition period for Brexit has now past, ending at 11pm on 31 December 2020. At the last gasp, we also have a trade deal in place with the EU, which covers a multitude of matters, but appears to have no direct reference to family law. Many aspects of family law have nevertheless changed, including for cases just involving Scottish couples. This article will set out, in brief, what we need to know about these changes, and highlight the main traps to avoid.

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