

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL**

**WORKING GROUP**

**MONDAY 9 MAY 2016 AT 2 PM**

**PARLIAMENT HOUSE, EDINBURGH**

**MINUTES**

**Members Present:** Sheriff Principal Abercrombie, (SCJC member and Chair)

Sheriff T Hughes (SCJC member)

Sheriff Liddle

Jane MacDonald (SCTS)

Marie-Louise Fox (SLAB)

Hamish Goodall (Scottish Government)

Elizabeth Ross (COPFS)

Jillian Martin-Brown (Advocate)

Rona Jamieson (Solicitor)

Alan McCloskey (Victim Support Scotland)

**Support:** Karen Stewart (Business and Policy Manager, Scottish Civil Justice Council)

Kenny Htet-khin (Head of Rules Rewrite Drafting Team)

Caroline Mair (Deputy Legal Secretary, Rules Rewrite Drafting Team)

Luke McBratney (Deputy Legal Secretary, Rules Rewrite Drafting Team)

**Apologies:** none

## **Item 1: Welcome, apologies and agreement of private papers**

1. The Chairman welcomed those present and invited all members to introduce themselves to the group.
2. **Members agreed not to publish the following papers: 2.2, 2.3, 2.3A, 3.2**

## **Item 2: Work Programme**

### *Item 2.1 – The Scottish Civil Justice Council (Paper 2.1)*

3. **Members noted Paper 2.1** which provided a summary of the background to and membership of the Scottish Civil Justice Council including its Committee structures, its standing orders and the code of conduct for members.

### *Item 2.2– Background to the 2016 Act (Paper 2.2)*

4. Caroline Mair spoke to this paper which provided a summary of the background to and content of, the 2016 Act, including the key changes brought about by the Act. **Members noted the paper.**

### *Item 2.3 Policy Discussion Paper - Implementation Timetable and Consultation (Papers 2.3, 2.3A)*

5. The members discussed the issues arising in relation to the implementation timetable and agreed the importance of consultation with the council during the course of the policy development of the inquiry procedure rules. The members agreed the proposed implementation timetable set out in paper 2.3A including the points of consultation with the Council on policy development and the proposals for stakeholder engagement when draft inquiry rules are available.
6. The members noted that where possible, a shorter time-frame may be achievable by agreeing some matters by correspondence.

## **Item 3: Proposals for Rules**

### *Item 3.1 – Rules Rewrite Project Overview (Oral)*

7. Luke McBratney provided an overview of the rules rewrite project methodology and in particular explained:
  - the parliamentary procedures applicable in relation to Scottish Statutory Instruments containing rules made by the Court of Session;

- the support which the rules rewrite drafting team are currently providing to the Council including the rules rewrite project, simple procedure and implementation of the 2016 Act; and
- the role of the drafters in assisting the working group with matters such as best practice in drafting.

*Item 3.2 Inquiry Procedure Rules – overview and vires (Paper 3.2)*

8. Caroline Mair spoke to this paper. Members discussed a range of matters arising including the problems with current practice and procedure in inquiry proceedings and how they could be overcome; how the process might be improved generally; how many of the applicable Ordinary Cause Rules are rarely used in practice and what we might do about that; and the desirability of including an overriding statement of principle in the rules.

9. **The members instructed Caroline Mair to prepare a paper on the matter of including a statement of principle in the rules for consideration at the next meeting.**

10. **The members agreed that Sheriff Liddle, Elizabeth Ross, Jillian Martin-Brown and Caroline Mair should meet to discuss the Ordinary Cause Rules with a view to identifying which rules are engaged at an FAI, and which rules will be required to be replicated in the FAI rules. Caroline Mair will then present the findings to the group at the next meeting.**

**Item 4: AOB**

11. There were no matters arising

**Item 5: Dates of future meetings**

12. Members noted the dates of future meetings:

- 20 July 2016 at 2.00pm
- 14 September 2016 at 2.00pm
- 8 November 2016 at 2.00pm
- 6 December 2016 at 2.00pm
- January 2017 – date tbc if required

- February 2017 – date tbc if required

**Scottish Civil Justice Council Secretariat**

**May 2016**