

# SCOTTISH CIVIL JUSTICE COUNCIL

## ACCESS TO JUSTICE COMMITTEE

### MINUTES

PARLIAMENT HOUSE, 3.00PM, MONDAY 7 SEPTEMBER 2015

- Members present:** Lady Wise (Chair)  
Sheriff Arthurson (Edinburgh Sheriff Court)  
Ruth Crawford QC (Advocate)  
Ronald Conway (Solicitor Advocate)  
Employment Judge Joseph d'Inverno (SCJC member)  
Professor Frances Wasoff (Edinburgh University, SCJC member)  
Lauren Bruce (Citizens Advice Scotland, SCJC member)
- Ian Dickson (Scottish Legal Aid Board)
- In attendance:** Jane MacDonald (Head of Policy and Legislation Branch, SCTS)
- Secretariat:** Kiera Dargie (Deputy Legal Secretary, LPPO)  
Neil Deacon (Deputy Legal Secretary, LPPO)  
Kenny Htet-Khin (Head of the Rules Rewrite Drafting Team)  
Luke McBratney (Deputy Legal Secretary, RRDT)  
Bridget Lee (SCJC Secretariat)
- Apologies:** Kenneth Forrest (Advocate, SCJC member)  
Paul Reid (Solicitor, SCJC member)  
Catherine Molloy (Solicitor)  
Ian Maxwell (Families Need Fathers, SCJC member)  
Denise Swanson (Scottish Government)  
Colin Lancaster (Scottish Legal Aid Board)
- Yvonne Anderson (Depute in Charge of Offices of Court)  
Nicola Anderson (Policy and Legislation Branch, SCTS)

## **Item 1: Introduction, welcome, apologies and private papers**

1. The Chair welcomed Ian Dickson, Scottish Legal Aid Board, who was attending for Colin Lancaster, and all those present to the meeting. The Chair noted that the meeting would be focusing, once again, on the Simple Procedure rules.
2. The Chair thanked Judge d’Inverno for his excellent presentation at the SCJC Information Event in Parliament House on 2<sup>nd</sup> July. Members noted that they found the event informative and useful.
3. Apologies were noted.
4. **Members agreed not to publish Papers 2.2, 5.1, 5.1A-C and 7.1.**

## **Item 2: Previous Meeting**

### *Item 2.1: Minutes of previous meeting [Paper 2.1]*

5. **Members agreed the minutes from the previous meeting.**
6. The Chair advised the Committee that Judge d’Inverno’s papers on reconsideration of judgments, case management and judicial mediation in the Employment Tribunal were considered by the Council at its meeting on 06 July 2015. The Council submitted the papers on case management and judicial mediation to the Family Law Committee for further consideration. The paper on reconsideration of judgments will be reconsidered by the Council in 12 to 18 months’ time in view of the timed deadlines to which the Rules Rewrite Team is working over the next year.

### *Item 2.2: Progress of actions from previous meetings [Paper 2.2]*

7. The Committee noted the progress of actions from previous meetings.

## **Item 3: Proceedings**

### *Item 3.1: Update on activity of the SCJC*

8. Bridget Lee provided an update on the activities of the SCJC and its Committees.

## **Item 4: Forward Work Planner**

### *Item 4.1: Update from the Scottish Government on legislative developments [ORAL]*

9. Denise Swanson was unable to attend and had provided a brief update, that the Programme for Government does not include a legislative slot for the Taylor Bill, which was delivered by the Chair.

10. *Item 4.2: Update from the Scottish Legal Aid Board on Making Justice Work Project 3: Enabling Access to Justice [ORAL]*

11. Ian Dickson provided an oral update from the Scottish Legal Aid Board on *Making Justice Work Project 3: Enabling Access to Justice*. While this project has come to a close, various strands are continuing, and planning and coordination is on going. The funders' framework will be discussed at a meeting in October. The grant funding work is attracting attention and an announcement will be made later this year about extending funding. An independent researcher has been appointed for the ADR project and work on this is underway.

*Item 4.3: Rules Rewrite: Update [ORAL]*

12. Luke McBratney provided an update on the work of the Rules Rewrite team since the last meeting. The first big wave of Courts Reform changes will come into force on 22<sup>nd</sup> September and they are: judicial review, all-Scotland personal injury court, exclusive competence and Sheriff Appeal Court (Criminal). The rules were made in June and the RRDT have been working to increase awareness of the changes. The new simple procedure rules and Sheriff Appeal Court (Civil) rules are currently being worked on.

*Item 4.4: Lay representation: update from CAS on the discussion event and final report on Lay Representation in Scotland's Civil Courts [Paper 4.4] [ORAL]*

13. Lauren Bruce provided an oral update. The Committee had previously seen the CAS/Shelter report *Lay Representation in Scotland's Civil Courts* in draft. The final report provided a baseline to move forward from. The discussion event on 2<sup>nd</sup> July was attended by some 30 lay representatives from all over Scotland and for many it was the first time they had met others carrying out the same role.

14. It was noted that the model for lay representation is different in England and Wales where lay representatives can be paid for their services by those they are representing whereas in Scotland they cannot, although many lay representatives are salaried employees of local authorities and advice bodies.

15. Ian Maxwell had tabled a discussion paper about lay representation under AOCB [Paper 7.1]. However, as he was not able to attend the meeting, consideration of this paper was postponed to the next meeting in order that Mr Maxwell could speak to his paper.

#### **Item 5: Simple Procedure**

##### *Item 5.1: Rules for a Simple Procedure [Papers 5.1 and 5.1A-D]*

16. The Committee considered **Paper 5.1**, an overview of the current position on the draft simple procedure rules, **Paper 5.1A**, the revised draft of the simple procedure rules including forms and orders and **Paper 5.1B** which set out the main changes that had been made to the draft rules since the last meeting.

17. **The Committee discussed various amendments to the draft provisions and approaches that could be taken to those areas yet to be drafted. It was noted that a further draft will be available for the next meeting in November.**

18. Members were asked to email the Secretariat if they had any further comments on the draft rules or on **Paper 5.1D**.

#### **Item 6: Future Business**

##### *Item 6.1: Dates of meetings*

19. **Members noted that the next meeting would be:**

- **Monday 2nd November 2015 at 2.30pm**

#### **Item 7: A.O.C.B**

20. As noted at Item 4.4, Ian Maxwell tabled a paper under AOCB [Paper 7.1].

**Scottish Civil Justice Council Secretariat**

**September 2015**