

SCOTTISH CIVIL JUSTICE COUNCIL

ACCESS TO JUSTICE COMMITTEE

MINUTES

PARLIAMENT HOUSE, 4.15PM, MONDAY 10 MARCH 2014

Members present: Lady Wise (Chair)
Sheriff Arthurson (Edinburgh Sheriff Court)
Kenneth Forrest (SCJC member)
Ronnie Conway (Solicitor, Bonnar & Co.)
Catherine Molloy (Solicitor, East Lothian Council)
Employment Judge Joseph d'Inverno (SCJC member)
Prof. Frances Wasoff (SCJC member)
Lauren Wood (SCJC member)
Ian Maxwell (SCJC member)
Denise Swanson (Scottish Government representative)
Colin Lancaster (Scottish Legal Aid Board)

In attendance: Yvonne Anderson (Depute in Charge of Offices of Court, Court of Session)
Neil Christie (Office Manager, Dumbarton Sheriff Court)
Ondine Tennant (Deputy Secretary to the Scottish Civil Justice Council)
Graham Crombie (Deputy Legal Secretary to the Lord President)
Carmen Murray (SCJC Secretariat)
Graham Boyack (Director, Scottish Mediation Network) **Item 6.1**
David Preston (Vice-Chair, Board of Trustees, Scottish Mediation Network) **Item 6.1**

Item 1: Introduction, welcome, apologies and private papers

1. The Chair welcomed those present and noted that there were no apologies.
2. **The Committee agreed not to publish the following papers: 4.1, 5.1A-B, 5.2A-C and 6.1.**

Item 2: Previous Meeting

Item 2.1: Minutes of previous meeting [Paper 2.1]

- 3. The Committee approved the minutes of the previous meeting.**

Item 3: Proceedings

Item 3.1: Update on activity of the SCJC

4. Ondine Tennant provided an oral update on the activity of the Scottish Civil Justice Council (SCJC), including work relating to the Rules Rewrite Project and the Courts Reform (Scotland) Bill. The Committee were informed that Andrew Stewart Q.C. and Kenneth Forrest had been appointed as advocate members of the SCJC following the departure of James Wolffe Q.C. and Sarah Wolffe Q.C.

Item 3.2: Records Management Plan [Papers 3.2 and 3.2A]

- 5. Members noted the Records Management Plan contained in Paper 3.2A and in particular the responsibilities of Committee members outlined in paragraphs 29 and 30.**

Item 3.3 Membership

- 6. The Chair informed members that to fill the vacancy on the Committee occasioned by the resignation of James Wolffe Q.C., the SCJC had appointed Ruth Crawford Q.C. as an advocate member of the Access to Justice Committee.**

Item 4: Forward Work Programme

Item 4.1 Update from the Scottish Government [Paper 4.1]

7. Denise Swanson provided an oral update from the Scottish Government on legislative developments and initiatives of interest to the Committee, covering Sheriff Principal Taylor's Report and the EU Directive and Regulations relating to Alternative Dispute Resolution and Online Dispute Resolution.
- 8. It was agreed that, once available, the Department for Business, Innovation & Skills' consultation relating to the EU ADR Directive and Regulations would be circulated to members.**

Item 4.2: Update from the Scottish Legal Aid Board on Making Justice Work Project 3 [Paper 4.2]

9. Colin Lancaster provided an oral update from the Scottish Legal Aid Board on *Making Justice Work Project 3: Enabling Access to Justice*, and highlighted the work and progress of the various sub-projects of interest to the Committee.

Item 5: Access to Justice Literature Review

Item 5.1: Literature Review of Party Litigants [Papers 5.1 and 5.1A-C]

10. The Committee considered a working draft [**Paper 5.1A**] of the literature review covering party litigants, the information available to them, legal capability (public legal education) and the arrangements for lay representation and support. **It was considered that the introduction to the review should be amended and that it should also contain the Equal Treatment Bench Book and any statistics available in relation to party litigants in the civil courts.**
11. Colin Lancaster explained to members that SLAB is moving away from using the term ‘in-court advice’ services, as this does not accurately reflect the service provided. **It was agreed that this should be captured in the literature review.**
12. **Members noted that two papers [Papers 5.1B-C] on judicial mediation and case management in the employment tribunal would be incorporated into the next iteration of the review.**
13. **The Committee noted the progress of the draft literature review and the intention of the Secretariat to provide a finalised report incorporating feedback received from members for the Committee’s next meeting.**

Item 5.2: Literature Review of ADR methods [Papers 5.2 and 5.2A-B]

14. Members considered two papers provided by the Scottish Legal Aid Board. **Paper 5.2A** was a Scottish Government literature review of international approaches to ADR. **Paper 5.2B** was a scoping study conducted by the Board, into the range of existing ADR mechanisms available in Scotland and the issues raised.
15. **The Committee noted that a literature review on ADR, incorporating Papers 5.2A-B, would be prepared for the next meeting of the Committee.**

Item 6: Alternative Dispute Resolution

Item 6.1: Proposals on ADR [Papers 6.1 and 6.1A-B]

16. The Committee considered **Paper 6.1** which discussed submissions received from the Scottish Mediation Network [**Paper 6.1A**] and Scottish Arbitration Centre [**Paper 6.1B**] outlining how ADR might be built into the court process.
17. Graham Boyack and David Preston attended on behalf of the Scottish Mediation Network to provide members with a short presentation on **Paper 6.1A**.
18. **The Committee provided initial views on the proposals contained in the submissions, pending the further consideration to be given at its next meeting on the use of ADR generally.**

Item 7: Future business

Item 7.1: Dates of future meetings

19. **Members noted that the next meeting would be at 4.15pm on 12 May 2014. Thereafter, it was agreed that a meeting in early July would be preferable, failing which September. The secretariat was instructed to take this forward by correspondence.**

Item 8: A.O.C.B

20. There was no other business raised.

Scottish Civil Justice Council Secretariat

March 2014