

**MEETING OF THE ACCESS TO JUSTICE COMMITTEE
MONDAY 2 JUNE 2025 – 16:30
JUDGES CONFERENCE ROOM, PARLIAMENT HOUSE, EDINBURGH**

MINUTES

Present:	Lady Carmichael (Chair) Joel Conn Employment Judge d’Inverno Sheriff Martin-Brown
In attendance:	Kirsty Hyslop (SCTS) Alison Dillon (SCTS) Gary White (SCTS) Eleanor Brown (SCTS) Susan Young (Observer, Scottish Government)
Support:	Jessica Flynn (SCJC) Sarah Jane McNicol (SCJC) Graeme Welsh (SCJC)

Item 1: Welcome and apologies

1. The Chair welcomed those present and noted apologies from Sheriff Principal Wade, Thomas Docherty, Fiona Drysdale KC and Chris Fyffe, Denise Swanson, Hazel Thoms and Dean Purdie.

Item 2: items by Correspondence

2. The Chair introduced paper 2.1, which set out two items by correspondence both of which related to minutes from previous meetings.

Members noted the two items by correspondence

Item 3: Work Programme

Item 3.1 Update of Simple Procedure Special Claims

3. The Committee noted that rules and forms were at a relatively advanced stage but due to resourcing constraints, these would not return to the Committee until later this year.

Members noted the update

Item 3.2 Mandatory Civil Online

4. The Chair introduced this item and reminded members about the need for a post implementation review for mandatory civil online. She drew attention to the matters recorded in the minute of the Council meeting of 18 October 2021. It was observed that the available data did not provide sufficient information to determine:
 - reasons for paper based applications (and who submitted them – party litigant or solicitor);
 - volume of claim forms that are rejected and the reason for this, plus whether the rejections relate to party litigants or solicitors;
 - volume of other documents which are rejected and the reasons for this, plus whether the rejections relate from party litigants or solicitors;
 - split between bulk submission and non-bulk submission applications made via Civil Online; and
 - breakdown on the method for submission for all other documents types in simple procedure.
 - service methods relied upon (email, postal or SMASO).
5. The Committee noted that recall procedure is not recorded as a separate procedure on ICMS as the recall request is done via email. No data is available on this yet.
6. Members discussed the importance of accurate records to be kept by the courts on the numbers of paper based applications, rejections and the reasons for the rejection. Furthermore, members were concerned that it is unknown how many applicants just walked away after being rejected, or if they then went to a solicitor or gave up entirely. It was agreed that this information would be difficult to determine but was important in understanding the barriers for access to justice. It was agreed that further discussion is required with SCTS to determine the best way for this information to be captured and reported on.
7. The Committee noted the importance of an assisted digital strategy and recognised that such a strategy in England and Wales involved telephone or web chat support to help those who experience problems with transacting electronically with the courts. Members noted that SCTS has prepared a draft assisted digital strategy. It was agreed that the strategy will be tabled with the Committee at a later meeting and include discussion from key personnel who contributed to its development.

8. It was agreed that the secretariat would make further enquiries into the assisted digital strategy available in England and Wales.
9. Gary White agreed to investigate what further data can currently be made available, and the institution of systems to capture further data, including the inclusion of markers on ICMS relevant to the capture of further data, and to correspond with SCJC officials regarding those matters.

Members noted that additional data will be provided at a future meeting

Item 3.3 Modes of Attendance

10. The Chair introduced paper 3.3 and reiterated the importance of court proceedings being open to the public whether that be in person or conducted virtually. Members noted that justice is not a matter which should be conducted behind closed doors and there is a risk that virtual hearings, which may be done for administrative convenience, are inimical to the principle of open justice, if provision is not made for easy public access.
11. The Chair drew attention to paragraph 16 of paper 3.3 which recorded that telephone hearings relating to case management hearings in commercial cases were not accessible to the public. The paper indicated that public access to other telephone hearings might be available on request. The Chair expressed her understanding, and Sheriff Martin-Brown confirmed, that the system for telephone hearings involved the sheriff personally dialling the numbers of those who had asked to be admitted to the hearing. Sheriff Martin-Brown explained that telephone hearings were a feature of practice in Glasgow Sheriff Court.
12. Members discussed the benefits and drawbacks of virtual hearings, this included:
 - remote areas of the country have access to a wider choice of legal representation, especially where legal aid is concerned;
 - those persons who require access to advice and guidance and who could access it within the court building, do not have that ability to do so when attending virtually.
 - telephone hearings may have a place in some circumstances but as a default, this approach clearly limits public access;
 - the scheduling of virtual hearings by telephone can sometimes mean that a sheriff can conduct a hearing without a clerk present.
 - That it can be challenging where there are many different people attending virtually to control the hearing. It was suggested that additional training may be helpful for this.

13. Members noted that hybrid hearings were more prevalent in the Court of Session but had mixed views on the quality of the hearings depending on how they were set up.

14. The Committee discussed the need for further specification in the rules to define what is procedural and what is not. Members agreed that there was insufficient data to support this decision at this stage, and often it was not that straight forward with many factors influencing whether a hearing would be held in person or virtually. Furthermore, it is likely that there will be considerable variations across different courts.

15. It was proposed that a further meeting of the Committee would be convened soon to discuss this matter in more detail.

Members agreed that a further meeting would be arranged to hear views from absent members

A.O.B

16. Two items of AOB were raised:

- A question arose on the matter of the case of Cabot Financial (UK) Ltd v Jordan Walls recently heard by the Sheriff Appeal Court. It was confirmed that the case is subject to onward appeal to the Inner House.
- Members were reminded that the Committee meetings can be attended on a hybrid bases to ensure that as many members as possible can participate.

**Scottish Civil Justice Council Secretariat
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