

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL ACCESS TO JUSTICE
COMMITTEE**

MONDAY 23 APRIL 2018 AT 3PM

JUDGES CONFERENCE ROOM, PARLIAMENT HOUSE, EDINBURGH

MINUTES

- Members present:**
- Lady Wise (Chair)
 - Anne Dickson (Scottish Legal Aid Board)
 - Denise Swanson (Scottish Government)
 - Sheriff Principal Turnbull
 - Summary Sheriff Jillian Martin-Brown
 - Employment Judge Joseph d’Inverno (SCJC member)
 - Ruth Crawford QC
 - Dean Purdie (Solicitor)
 - Ian Maxwell (Families Need Fathers, SCJC member)
 - Jane Williams (Queen Margaret University, SCJC member)
 - Rachel Smith (Gordon Rural Action)
- In attendance:**
- Mark Kubeczka (Legislation Implementation Team, SCTS)
 - Christina Bardsley (Offices of Court of Session)
 - Esther Robertson (for item 4.1)
 - Hazel Dalgard (Scottish Government) (for item 4.1)

Support: Andrew Campbell (Deputy Legal Secretary, LPPO)

Lauren Keillor (Policy Officer, SCJC)

Apologies: Lord Arthurson

Professor Frances Wasoff

Item 1 - Welcome, apologies and agreement of private papers

1. The Chair welcomed those present and in particular welcomed Esther Robertson and Hazel Dalgard, who had kindly agreed to attend the Committee meeting to discuss Esther's ongoing review of the regulation of legal services in Scotland at agenda item 4.1.
2. Apologies were noted from Lord Arthurson and Professor Frances Wasoff.
3. **The Committee agreed not to publish the following papers: 2.2, 4.2, 4.2A, 4.3, 4.3A, 4.3C, 4.3D, 4.3E, 4.3F.**

Item 2 - Previous meeting

Item 2.1 – Minutes of previous meeting (Paper 2.1)

4. **The Committee approved the minutes of the previous meeting.**

Item 2.2 – Progress of actions from previous meetings (Paper 2.2)

5. **The Committee noted the progress that has been made on actions since the last meeting.**

Item 3 - Work Programme

Item 3.1 - Update from the Scottish Government on legislative developments (Oral)

6. Denise Swanson provided an update from the Scottish Government on legislative developments since the last meeting. She advised the Committee that the Civil Litigation (Expenses and Group Proceedings) (Scotland) Bill is due to progress to stage three on Thursday 26th April 2018.
7. Denise also advised that the Financial Guidance and Claims Bill is progressing through the UK Parliament and that this bill will transfer the regulation of claims management companies from the Ministry of Justice to the Financial Conduct Authority.

8. The Committee noted this update.

Item 4 - Research and Consultations

Item 4.1 – Independent Review of Regulation of Legal Services in Scotland – Esther Robertson (Paper 4.1 – 4.1A-B)

9. Following the Committee's expression of interest in the ongoing Independent Review of Legal Services in Scotland at a previous meeting and, in particular, the research being undertaken to investigate the structure of the legal services market in Scotland, the review Chair Esther Robertson kindly agreed to attend this Committee meeting with a member of the review's Secretariat, Hazel Dalgard, to discuss the review.
10. The Committee noted that Scottish Ministers announced the Independent Review of the Regulation of Legal Services in April 2017, chaired by Esther and supported by an independent panel. Members noted that the remit of the review is to consider what changes may be needed to the statutory framework for the regulation of legal services to protect consumer interests and promote a flourishing legal sector.
11. The panel has been meeting regularly since May 2017 and has undertaken to ensure extensive stakeholder engagement on its work, including a now closed call for evidence. Esther discussed the different ongoing strands of research being undertaken as part of the review, including market and consumer research. She mentioned the intention of the Scottish Government to establish a new Consumer Body in Scotland and broadly discussed what role any such body may play in terms of a consumer angle on the legal services provision.
12. **The Committee noted this update and expressed their thanks to Esther and Hazel for attending the meeting and providing the Committee with an overview of the ongoing review.**

Item 4.2 - Lay representation and lay support (Papers 4.2 – 4.2A)

13. The Committee considered **Papers 4.2 and 4.2A** which invited the Committee to consider and, if content, approve a draft report setting out its recommendations from its review of lay representation and lay support in the Scottish courts.
14. The Committee noted that an earlier draft of the report shown at **Paper 4.2A** was considered by the Committee on 05 February 2018, where some final matters were agreed and the Committee agreed that the Secretariat should circulate a

completed draft report for consideration before the recommendations are made to Council. However, given that the next Committee meeting falls before the report is scheduled to be considered by the Council, the Committee was invited to consider this matter at this meeting.

15. **The Committee agreed that the language in recommendation 7 should be amended to better reflect the policy intention of this recommendation. Subject to this change, the Committee approved the draft report at Paper 4.2A setting out its recommendations from its review of lay representation and lay support in the Scottish courts.**

Item 4.3 - Public Interest Interventions in the Scottish Courts (Papers 4.3 – 4.3A-F)

16. The Committee considered **Papers 4.3 and 4.3A-F** which invited members to further consider the matter of Public Interest Interventions (PIIs) in the Court of Session.
17. The Committee noted that it had first considered PIIs at its meeting in October 2016, when it considered correspondence from Anna Poole QC requesting a review of the rules provisions for PIIs to enable them to work more effectively. At the October 2016 meeting, the Committee agreed some matters and instructed LPPO to prepare a comprehensive discussion paper for consideration at a future meeting.
18. At a meeting in August 2017 the Committee agreed to postpone further consideration of this item until a future meeting to allow Ruth Crawford QC, who had tendered her apologies, to contribute to the discussion. It was also agreed at the August 2017 meeting that Ms Crawford would be asked to prepare a short analysis of Anna Poole QC's paper for consideration, which she has kindly done. The Committee also noted that CLAN Childlaw have written to the Secretariat in support of PIIs in Scotland
19. The Committee discussed the issues raised in Anna and Ruth's papers and in particular the possibility of extending PIIs to other types of cases.
20. **The Committee agreed that whilst it broadly supported the extension of PIIs to other types of cases, and in particular the idea that competency of an application to intervene should be determined by the issue in question and not the type of case, it was conscious that changes in this regard may have wide ranging implications.**
21. **The Committee agreed that LPPO and the Secretariat should consider the matter of extending PIIs to other types of cases further and, in particular,**

should consider the potential policy implications of such a change before the matter is reconsidered by the Committee at a future meeting.

Item 5 - A.O.C.B

22. No business was raised.

Item 6 - Date of next meeting

23. **The Committee noted that the next meeting date will be fixed shortly and communicated to members via email.**

**Scottish Civil Justice Council Secretariat
April 2018**