

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL
ACCESS TO JUSTICE COMMITTEE
TUESDAY 19 APRIL 2016 AT 4 PM
JUDGES CONFERENCE ROOM, PARLIAMENT HOUSE**

MINUTES

Members present: Lady Wise (Chair)
Sheriff Arthurson
Ruth Crawford QC (Advocate)
Paul Reid (Solicitor, SCJC member)
Catherine Molloy (Solicitor)
Employment Judge Joseph d'Inverno (SCJC member)
Prof. Frances Wasoff (Edinburgh University, SCJC member)
Lauren Bruce (Consumer Representative, SCJC member)
Ian Maxwell (Families Need Fathers, SCJC member)
Denise Swanson (Scottish Government)
Colin Lancaster (Scottish Legal Aid Board)

In attendance: Jane Macdonald (Policy and Legislation Branch, SCTS)

Support: Luke McBratney (Deputy Legal Secretary, RRDT)
Neil Deacon (Deputy Legal Secretary, LPPO)
Kenny Htet-Khin (Head of the Rules Rewrite Drafting Team)
Bridget Lee (SCJC Secretariat)

Apologies: 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 Catherine Molloy on her return from maternity leave and all those present, and went on to thank Sheriff Arthurson for having chaired the previous two meetings. Apologies were noted. The Chair said that the main focus of the meeting would be consideration of the simple procedure rules which had been revised in the light of the responses to consultation.
2. **The Committee agreed not to publish Papers 2.2, 2.3, 2.3A, 4.1 and 4.1 A-J.**

Item 2: Previous meeting

Item 2.1 – Minutes of previous meeting (Paper 2.1)

3. **The Committee agreed the minutes from the previous meeting subject to a minor amendment to the drafting of paragraph 17 proposed by the Secretariat.**

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

4. **The Committee noted the progress of actions since the last meeting.**

Item 2.3 – Items by correspondence (Paper 2.3 & 2.3A)

5. **The Committee noted Papers 2.3 and 2.3A which stated that one item, the draft paper for the Personal Injury Committee about pre-action protocols, had been considered by correspondence 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 on legislative developments in the Scottish Government. The draft Limitation (Childhood Abuse) (Scotland) Bill, which would lift the three-year time bar on civil actions in cases of historical childhood abuse has been published and is likely to be introduced in the next parliamentary session. Scottish Government will be circulating papers about the Auditor of Court points in the Gill Review and the proposals for multi-party actions to this Committee and the Rules Rewrite Committee.

Item 3.2 - Update from the Scottish Legal Aid Board on in-court advice projects developed under Making Justice Work Project 3 and ADR research project (Oral)

7. Colin Lancaster provided an oral update. The report on the ADR research project should be finalised for publication soon and will be circulated to the Committee. There may be a seminar to discuss the findings.

8. **It was suggested that there should be a link to the report on the Council website and the Secretariat will explore this.**

Item 3.3 - Rules Rewrite Update (Oral)

9. Luke McBratney provided an update on the work of the Rules Rewrite team since the last meeting. Work is continuing on the principles and broad approach to be taken to the Rules Rewrite Project. There has been some tidying-up work on the Sheriff Appeal Court rules and papers are being drawn up for the new Working Group on Inquiries into Fatal Accidents and Sudden Deaths.

Item 4: Justice system reform: Rules rewrite

Item 4.1 – Simple Procedure Rules (Papers 4.1 and 4.1A-J)

10. The Committee considered the draft Act of Sederunt (**Papers 4.1B-E and G-I**) that would create the new simple procedure provided for under section 72 of the Courts Reform (Scotland) Act 2014. The draft instrument incorporates the simple procedure rules, forms and standard orders, revised in the light of the recent consultation. The Committee also considered **Papers 4.1 and 4.1A** which set out the timetable for implementing the rules and provided commentary on the principal revisions to the rules and the views expressed in consultation responses

that these stem from. A summary of the responses to consultation was provided at **Paper 4.1J**.

11. Luke McBratney spoke to this item and outlined the implementation timetable for the rules and the parliamentary process that would be involved. The further opportunities that the Committee would have to comment on the rules were also set out. As these rules provide a new approach to the process for claims of low monetary values there are likely to be matters that require review in due course. Proposals for evaluation of the rules after they have been in operation for some time were set out in **Paper 4.1F**.
12. **The Committee agreed that the draft Act of Sederunt should be submitted to the Council for consideration and approval at its next meeting (subject to some minor amendments).**
13. **It was noted that if Members have further comments on the draft rules they should email these to the Secretariat and RRDT as soon as possible before the Council meeting on 16 May.**

Item 4.2 – Demonstration of forms on the new ICMS system (Oral)

14. The Chair welcomed Jackie Powell and David Ross from the ICMS project team. They provided a demonstration of prototypes of the electronic simple procedure claim and response forms. The forms are in editable PDF software and are designed to have a familiar online appearance.
15. **The Committee provided some feedback on the forms and noted its thanks for the demonstration.**

Item 5: A.O.C.B.

16. The Chair noted that the tenure on the Council, and consequently membership of the Committee, of Employment Judge d’Inverno, Professor Wasoff, Ian Maxwell and Lauren Bruce would end before the next meeting of the Committee. The Chair thanked them for their substantial, and very valuable, contribution to the work of the Committee.
17. Members noted that a Council recruitment exercise is in progress and appointments would be made in due course.

Item 6: Dates of future meetings

18. The Committee noted that the next meeting would be on Monday 30th May 2016 at 3pm.