

ITEM 5.1: LITERATURE REVIEW – PARTY LITIGANTS

Purpose

1. To provide the Committee with a revised draft of the literature review covering arrangements for party litigants and the information available to them (“the literature review”).
2. To seek members’ views on the direction of the Committee’s work in light of the literature review and its remit.

Discussion

3. **Paper 5.1A** is a revised draft of the literature review incorporating the Committee’s comments from the previous meeting.
4. The paper has been revised in light of the discussion at the last meeting. Members will wish to be aware that data on party litigants in the Court of Session has been included in the review, but that there are limitations as to its usefulness [as outlined at para. 4]. In addition the Scottish Court Service has advised that it does not collect statistical information in relation to party litigants in the sheriff court.
5. **Subject to any further comments, members are invited to approve the final draft of the literature review.**
6. The Committee’s remit includes reviewing:
 - a) the arrangements for actions conducted by party litigants in the sheriff court and the Court of Session;

b) the arrangements for lay representation and lay support in the sheriff court and the Court of Session; and

c) the information and guidance that is available to party litigants, lay representatives and lay support in the sheriff court and the Court of Session.

7. The Committee is invited to consider next steps in relation to the review. Subject to members' views, the Secretariat will develop a position paper for the Committee's consideration, in due course.

8. To aid discussion, members may wish to consider the following matters:

- a. Whether there are opportunities to improve the guidance and information available to party litigants (it should be noted that in this respect, the Rules Rewrite Working Group in its Interim Report, recommended that the simple procedure should itself act as a guide to the procedure and should not therefore require to be supplemented by guidance).
- b. Whether it would be helpful to have guidance available for any particular actions, and if so which.
- c. Whether guidance for practitioners might be useful.
- d. What data would be useful to collect, given that information currently available in the civil courts is limited, in order to better understand the issues around and volume of cases involving party litigants.
- e. Whether there should be any alignment of arrangements for lay support and representation of party litigants (this is not currently in the SCJC work programme but may merit future consideration once the work on the priority areas for courts reform implementation near completion.).
- f. The role of the judiciary in relation to handling cases conducted by party litigants and in particular in relation to the introduction of summary sheriffs and the new simple procedure.

Recommendations

- **That members:**
 - a) **approve the revised draft of the literature review subject to any further comments,**
 - b) **offer views on the matters arising; and**
 - c) **consider next steps in relation to the review, as outlined at para. 8.**

Scottish Civil Justice Council - Secretariat

May 2014