

ITEM 2.1: STANDING ORDERS

Purpose

1. To draw members' attention to the Standing Orders for the Council and its committees.

Discussion

2. Section 12 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 ("the Act") provides that the Council may determine its own procedure and that of any committees established by it, except in relation to quorums, which are to be determined by the Lord President.
3. At the SCJC Meeting on 23 September 2013 the members adopted a revised set of the standing orders, which had been amended to include, among other things, further provision in relation to committee proceedings. **[Paper 2.1A]**
4. Members' attention is drawn to the following aspects of the standing orders:
 - a) **General (standing orders 1.6 and 1.7):** these standing orders set out that the following standing orders apply to committee proceedings as they do the SCJC:
 - **General** (1.1- 1.3, and 1.7)
 - **Membership:** conflicts of interest and committee membership (2.3 (a)-(d) 2.4-2.8)
 - **Ordinary Meetings:** collective responsibility, voting and recording of dissent (4.2 4.4-4.8, 4.10 – 4.12)
 - **Agenda:** notice of agenda (5.1-5.3)
 - **Minutes and Publication of Papers** (8.1-8.5)
 - **Committees:** delegated authority and arrangements for reporting (9.4-9.8)
 - **Communications:** these standing orders provide for the role of committee Chairs in relation to communications relating to the work of committees (11.1-11.6, 1.8)

- **Freedom of Information (Scotland) Act:** including provision for handling FOISA requests (12.1-12.3)
 - **Confidentiality** (13.1-13.4)
 - **Members' expenses:** (14.1)
 - **Code of conduct:** standing order 1.7 provides that the Members' Code of Conduct applies to committee members, with the exception of the requirement to register interests
- b) **Membership (standing orders 2.4 – 2.8):** these standing orders set out the rules governing period of tenure of committee membership and arrangements for resignation and removal of committee members.
- c) **Collective decision making (standing order 4)** – these standing orders provide that decisions on members are binding. A procedure for recording dissent is also provided for.
- d) **Ordinary Meetings (standing orders 4.11 – 4.12):** these standing orders allow the Chair of a committee to nominate a member to act as Chair in their absence, define the quorum of a committee and make provisions for committee meetings that are not quorate.
- e) **Confidentiality (standing orders 8.3, 13 and paras 3.7 and 3.8 of the Code)** – provision is included for agreeing confidential items of business. It is suggested that members should not disseminate documents or information pertaining to the ICT Committee or the SCJC, unless already in the public domain, without the Chair's approval. Agendas, papers (excluding draft rules, private papers and confidential items of business) and minutes will be published online (under standing order 8) following meetings. It should be noted that even where confidentiality is agreed, information may be releasable under the Freedom of Information (Scotland) Act 2002. These standing orders commit the ICT Committee to determining which papers, for each meeting, are private.
- f) **Committees (standing orders 9.4-9.8):** these standing orders outline the delegated authority of the committees and provisions for committees reporting back to the SCJC.

- g) **Communications (standing order 11)** – members will wish to note in particular standing orders 11.5 and 11.6 which state that all communications with the press should be made through the Secretariat and that members should seek the Chair’s approval before undertaking promotional activity, unless the Council’s (or a committee’s) prior agreement has been obtained.
 - h) **Freedom of Information (Sc) Act (FOISA) (standing orders 12.2 and 12.3)** – these standing orders outline the procedures to be followed by the Council Secretariat when a request under FOISA is received. Members will wish to note that there is a statutory obligation to respond to requests within 20 working days and as such that this should be borne in mind when dealing with any correspondence relating to a request under FOISA. Guidance on the implications on FOISA for SCJC and committee members will be produced by the Secretariat in due course.
 - i) **Declaration of interests (section 5 of the Code of Conduct)** – members may wish to note these provisions.
 - j) **Lobbying (section 6 of the Code of Conduct)** – members may wish to note these provisions.
5. As part of the preparation for the SCJC’s annual report, the Secretariat will review the standing orders in spring 2014 as part of a general ‘stocktake’ of the SCJC’s operations in its first year.

Recommendation

6. Members are invited to:

- a) **note the standing orders; and**
- b) **note the intention to review the standing orders in spring 2014.**

Scottish Civil Justice Council – Secretariat

February 2014