

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL
COSTS AND FUNDING COMMITTEE
MONDAY 27 JUNE 2016 AT 4.15PM
JUDGES CONFERENCE ROOM, PARLIAMENT HOUSE**

MINUTES

Members Present: Lord Burns (Chair)

Ian Dickson (SLAB)

Denise Swanson (Manager of Policy & Development, Scottish Government)

Sheriff Thomas Hughes (SCJC member & Dundee Sheriff Court)

Brandon Malone (SCJC member)

Sheriff Charles Stoddart (Retired)

James Mure QC (Advocate)

Kenneth Cumming (Auditor of the Court of Session)

Iain Nicol (Solicitor)

Alan Rogerson (Claims Manager, Aviva)

Stewart Mullan (Law Accountant)

Support: John Thomson (Deputy Legal Secretary, Lord President's Private Office)

Susan Brodie (Policy Officer, Scottish Civil Justice Council)

Apologies: Yvonne MacDermid (Chief Executive, Money Advice Scotland)

Gillian Prentice (Deputy Principal Clerk of Session)

Jane MacDonald (SCTS Legislation Implementation Team)

Item 1: Welcome, apologies and agreement of private papers

1. The Chair welcomed all in attendance and introduced Brandon Malone as a new member to the Costs and Funding Committee (“the Committee”). Brandon Malone has recently become a member of the Scottish Civil Justice Council (“the Council”).
2. The Chair noted apologies received.
3. **The Committee agreed not to publish the following papers: 2.2, 4.2, 5.1, 5.1A, 5.1B, 5.2, 5.2A, 5.2B, 5.3, 5.3A, 5.4 and 5.4A.**

Item 2: Previous meeting

Item 2.1 – Minutes of previous meeting (Paper 2.1)

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

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

5. **The Committee noted that it is intended to submit the policy discussion paper in relation to implementation of the recommendations of Chapters 2- 4 of the Taylor Review. Sheriff Hughes agreed to speak to the paper on behalf of the Committee.**
6. **The Committee noted the progress that had been made on actions since the last meeting.**

Item 3: Proceedings

Item 3.1 – Membership (Paper 3.1)

7. **The Committee noted Paper 3.1 informing of the update of the Council membership.**

Item 4: Work programme

Item 4.1 – Update from the Scottish Government on legislative developments (Oral)

8. Denise Swanson provided the Committee with an update on the legislative developments of the proposed Taylor Bill. She advised that the Scottish Government intends to share draft provisions with relevant stakeholders and information in relation to this will be shared with the Costs and Funding Committee.

Item 4.2 CAFC Work Tracker

9. **The Committee noted this paper.**

Item 5: Proposals for rules

Item 5.1 Pursuers' Offers (Papers 5.1, 5.1A and 5.1B)

10. The Committee considered **Paper 5.1A**, proposing draft rules to introduce Pursuers' Offers into the sheriff court. The paper included the Committee's agreed policy proposals from its meeting of 21 March 2016. The Committee was generally content with the proposed draft rules and discussed each draft rule individually.

11. **Following discussions the Committee agreed:**

- **that LPPO should prepare revised draft rules incorporating the agreed changes;**
- **that the revised draft rules should be extended to include rules for Pursuers' Offers in the Court of Session;**
- **that the draft rules would be considered by the Committee at a future meeting.**

12. **The Committee thanked LPPO for the immense work undertaken in preparing these draft rules.**

Item 5.2 Regulation of fees of Shorthand Writers (Papers 5.2, 5.2A and 5.2B)

13. The Committee considered draft instruments shown at **Papers 5.2A and 5.2B** which increases the fees payable to shorthand writers in relation to Court of Session and sheriff court proceedings, under the provision of sections 105 and 106 of the Courts Reform (Scotland) Act 2014.

14. **The Committee was content for the draft rules to be submitted to the Council for consideration.**

Item 5.3 Pre-Litigation Fees (Papers 5.3, 5.3A and 5.3B)

15. The Committee considered **Paper 5.3A** relating to Pre-Litigation Fees, consideration of this issue having been deferred from the previous meeting of 24 May 2016.

16. **Following discussions the Committee agreed:**

- **that LPPO should prepare draft rules giving effect to proposals in Paper 5.3A, for consideration at the Committee's next meeting on 5 September 2016; and**
- **in view of the timescale for implementation, that a preliminary draft of rules should be circulated to the Committee for comment prior to the Committee's next meeting, so that any comments can be taken into account in the draft prepared for that meeting.**

17. **The Committee thanked Stewart Mullan for producing Paper 5.3A and thanked Alan Rogerson and Iain Nicol for their contribution.**

*Item 5.4 Procedures to claim expenses from the Scottish Legal Aid Fund –
Proposals for modification of procedure (Papers 5.4 and 5.4A)*

18. The Committee considered and discussed **Paper 5.4A** in relation to proposals requested by Scottish Legal Aid Board ("the Board"), regarding changes to the procedure in applications for awards of expenses out of the Scottish Legal Aid Fund.

19. **The Committee agreed the existing procedure should be streamlined when lodging a motion to the court to claim for expenses from the Scottish Legal Aid Fund.**

20. **The Committee agreed that the party applying should be required to complete a prescribed form setting out the necessary information, to be intimated on the Board along with the motion on an appropriate period of notice.**

21. **The Committee agreed both form and revised rules be drafted for consideration at a future meeting.**

Item 6: AOCB

No other business raised.

Item 7: Dates of future meetings

22. **The Committee noted the dates of future meetings:**

- Monday 5 September at 4.15pm
- Monday 7 November at 4.15pm
- Monday 19 December at 4.15pm

Scottish Civil Justice Council Secretariat

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