

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL**  
**COSTS AND FUNDING COMMITTEE**  
**MONDAY 19 MARCH 2018 AT 4.15PM**  
**JUDGES CONFERENCE ROOM, LEVEL +2 PARLIAMENT HOUSE**

**MINUTES**

**Members Present:** Lord Burns (Chair)

Sheriff Charles Stoddart (Retired)

James Mure QC (Advocate)

Brandon Malone (SCJC member)

Elena Fry (SCJC member)

Alan Rogerson (Claims Manager, Aviva)

Kenneth Cumming (Auditor of the Court of Session)

Stewart Mullan (Law Accountant)

Andrew Henderson (Thompsons)

Ian Dickson (SLAB)

Gery McLaughlin (SG)

**In attendance:** Christina Bardsley, Depute in Charge of Offices of the Court of Session (Observer)

**Law Society of Scotland in attendance for Item 4.1** Russell Eadie, Senior Solicitor, Professional Practice team  
Iain Nicol, Balfour and Manson, member of the Civil Justice Committee

**Support:** John Thomson (Deputy Legal Secretary, Lord President's Private Office)  
Andrea Campbell (Policy Officer, Scottish Civil Justice Council)

- Apologies:** Hamish Goodall (SG)
- Sheriff Thomas Hughes (SCJC member & Dundee Sheriff Court)
- Yvonne MacDermid (Chief Executive, Money Advice Scotland)

**Item 1: Welcome, apologies and agreement of private papers**

1. The Chair welcomed those present and in particular Russell Eadie and Iain Nicol from the Law Society of Scotland who are attending the meeting in relation to Agenda Item 4.1.
2. The Chair noted that Jane MacDonald retired on the 16 March 2018. The Committee expressed thanks to her for her contribution to the Committee.
3. The Chair advised members that the Council had also approved the re-appointment of Sheriff Hughes for a further period of three years from 8 March 2018 and also noted the apologies received.
4. The Committee agreed not to publish the following papers: **2.3; 2.4; 3.2; 4.1; 5.1.**

**Item 2: Previous meeting**

*Item 2.1 – Minutes of previous meeting (Paper 2.1)*

5. **The minutes were approved.**

*Item 2.2 – Responses to Scottish Government consultations by the SCJC and committees (Oral)*

6. Following on from discussions at the last Committee meeting, Andrea Campbell provided members with an update on the process to be followed where a Committee wishes to recommend that the Council responds formally to a consultation.

*Item 2.3 – Progress of actions from previous meetings (Paper 2.3)*

7. **The progress that had been made on actions since the last meeting was noted.**

*Item 2.4 – Items by correspondence (Paper 2.4)*

8. **The Committee noted Paper 2.4**, which provided a summary of the outcome of consideration given to the following paper raised by correspondence since the last meeting.

9. **Paper 2018/07** was issued to members on the 16 February 2018 and invited the Committee to consider revising the fees of the shorthand writers in line with the increases proposed for Sheriff Officers and Messenger-at-Arms. Responses were invited by close of business on Friday 2 March 2018. No responses were received and the proposals were formally approved by the Committee.

10. **The Committee also noted that the Council, at their 19 March 2018 meeting, approved the draft rules for submission to the Court of Session increasing the fees of messengers-at-arms, sheriff officers and shorthand writers by 2.6%.**

### **Item 3: Work Programme**

#### *Item 3.1 – Update from the Scottish Government on legislative developments (Oral)*

11. Gery McLaughlin provided the Committee with an update on Scottish Government legislation, in particular the Civil Litigation Bill which has completed Stage 2 on 6 March 2018.

#### *Item 3.2 – Business Tracker (Paper 3.2)*

12. **Paper 3.2, which provided an update of the Committee’s work, was noted.**

### **Item 4: Proposals for rules: policy development**

#### *Item 4.1 – Review of Solicitors’ Fees: Law Society update (Papers 4.1 and 4.1A)*

13. This item was taken before agenda item 1. The Chair welcomed Mr Eadie and Mr Nicol to the meeting and invited them to offer any opening remarks regarding evidence to increases in solicitors’ costs based on the Financial Benchmarking Report, or based on other information at the Society’s disposal.

14. Mr Eadie advised that it is anticipated that the Financial Benchmarking Survey response rate will remain consistent with the previous year, however he believes the survey does not provide the evidence based information that the Committee needs.

15. Mr Nicol discussed with the Committee why the Law Society feels there is a fundamental need to increase the hourly rate. Although the Law Society accepts that they are unable to provide evidence at this stage that agent/client expenses are outstripping the recovery of solicitors fees in litigation at the current judicial rate, Mr Nicol suggests an increase the hourly rate in line with CPI, by around 3% per year from the date of the last increase, March 2014 to date.

16. Mr Eadie proposed that the Committee may wish to consider providing the Law Society with a ‘wish list’ to enable them to reach out to its members in order to provide evidence to the Committee to support future increases to the hourly rate.

17. The Chair thanked Mr Eadie and Mr Nicol for attending to speak to the Committee and for their input in relation to increases in solicitors' costs and agreed to consider the matter.

**18. The Committee agreed to recommend an increase to the underlying hourly rate and a draft instrument will be placed before the Committee at the May meeting with a view to being signed off by the Council in July.**

**Item 5: Justice System reform**

*Item 5.1 – Implementation of Taylor Recommendations – Civil Taxation Rules (Paper 5.1)*

19. John Thomson introduced this paper. **Paper 5.1**, which invited members to consider the Committee's strategy for the implementation of the new Civil Taxation Rules.

**20. The Committee agreed that work on the new Civil Taxation Rules should continue and that a more developed version of the draft rules will be considered further at a future meeting.**

**Item 6: A.O.C.B.**

21. No other business was raised.

**Item 7: Dates of future meetings**

22. The Committee noted the dates of future meetings and change to the September date:

- Monday 28 May 2018 at 4.15pm
- Monday 23 July 2018 at 4.15pm
- Monday 3 September 2018 at 4.15pm
- Monday 26 November 2018 at 4.15pm

**Scottish Civil Justice Council Secretariat  
March 2018**