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Dear Ms Lee

SCJC Consultation on the draft Simple Procedure Rules

The Equality and Human Rights Commission is the regulatory body for equality and human rights law in Scotland, England and Wales, working across the nine protected characteristics set out in the Equality Act 2010: age, disability, sex, race, religion or belief, pregnancy and maternity, marriage and civil partnership, sexual orientation and gender reassignment. We are an “A-status”¹ National Human Rights Institution (NHRI)² and share our mandate to promote and protect human rights in Scotland with the Scottish Human Rights Commission (SHRC).

The Consultation paper, at question 38, invites other comments. Accordingly, we are responding by way of this letter.

¹ www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf

² www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx

Access to Justice

The Commission welcomes the council's focus on access to justice namely, simplifying the language used, increasing accessibility to information on court procedures and reducing the costs of litigation with a focus on creating a simple and accessible system for party litigants.

The Commission would ask the SCJC to continue to bear in mind the needs of people who share protected characteristics when finalising the new rules and guidance. The rules and procedure should be accessible to people, for example, who do not speak English, including British Sign Language users.

Part 13 – Other Matters

In relation to 'Part 13: Other Matters' which deals specifically with interventions by the Commission and SHRC, we support the simplification, in terms of the language used, of this rule. However, the Commission would take this opportunity to invite the SCJC to amend the rule to allow for an Invitation to Intervene Notice to be sent to the Commission as well as to the SHRC to ensure that we have parity with the SHRC under this rule.

Part 15 – Forms

The Commission welcomes the development of interactive, electronically submitted forms as well as paper forms to increase access to Simple Procedure. However, many people may be unable to access and use them. As such, it is important to ensure that the forms are available in a number of formats and through a number of channels to ensure that they are as accessible as possible to a variety of groups.

Presentation of Rules on the internet (question 6)

With regards to the question of how and where the rules should be presented on the internet, we agree that it would be beneficial to use large readable text with links to definitions and forms. We would encourage the SCJC to produce accessible versions of the rules and guidance, making them available in various formats such as 'easy-read' and in other languages. Details of how a party litigant may, for example, request an interpreter or have any other

communication or access needs met, which would allow them to fully participate in proceedings, should also be made clear.

Consultation

It is noted that a number of organisations have been invited to consult on the new draft rules. However, the list of those being consulted does not appear to list any disabled people's organisations, BME organisations or many other groups representing people who share protected characteristics. It would be advisable to consult a wider section of the public to ensure that the rules are useful and accessible to those who are likely to rely on the new rules as party litigants, for example.

Section 114(8) Equality Act 2010

The Commission would also urge the SCJC to set out as a rule the need to consider section 114(8) of the Equality Act 2010 namely that,

“In proceedings in Scotland on a claim within subsection (1), the power under rule 44.3 of Schedule 1 to the Sheriff Court (Scotland) Act 1907 (appointment of assessors) must be exercised unless the sheriff is satisfied that there are good reasons for not doing so.”

Conclusion

The Commission is grateful for the opportunity to comment on the draft rules and supports the intention to enhance access to justice. However, coinciding with our comments above regarding a more inclusive consultation, we would welcome more information on how court users and party litigants will be consulted to ensure that the new rules meet the needs of those who share protected characteristics under the Equality Act 2010 when accessing the Simple Rules Procedure. As stated, we would also welcome an insertion to the rules regarding the appointment of assessors in the Sheriff Court and an amendment to the rule regarding interventions to extend Invitation to Intervene Notices to the Commission.

We hope this response is useful. If you have any questions, please do not hesitate to contact us.

Yours sincerely



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