

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL**  
**INFORMATION AND COMMUNICATIONS TECHNOLOGY COMMITTEE**  
**MONDAY 13 JUNE 2016 AT 4.30 PM**  
**JUDGES' CONFERENCE ROOM, PARLIAMENT HOUSE**

**MINUTES**

**Members Present:** Lord Tyre (Chair)  
Sheriff Sean Murphy  
Tony Jones (Solicitor)  
Stuart Duncan (Head of Delivery: Criminal Justice and Parole,  
Scottish Government)  
Graeme Hill (Director of Corporate Services and Accounts,  
Scottish Legal Aid Board)  
Craig McCorkindale (Director for Civil Courts Reform, Scottish  
Courts and Tribunal Service)

**Support:** Edward McHugh (Deputy Legal Secretary, Lord President's  
Private Office)  
Bridget Lee (Policy Officer, Scottish Civil Justice Council)

**Apologies:** Lord Woolman  
Nicola Anderson (Policy and Legislation Branch, Scottish Courts  
and Tribunal Service)  
Yvonne Anderson (Depute in Charge of Offices of Court, Court  
of Session)

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

1. The Chair welcomed all those present and congratulated Sheriff Murphy on his recent appointment to the Council. The Chair went on to say that Lauren Bruce's tenure on both the Council and the Committee had come to an end and recorded the Committee's thanks for her contribution. Apologies were noted from Lord Woolman, whose appointment to the Committee had recently been approved by the Council, Nicola Anderson and Yvonne Anderson. The Committee agreed not to publish the following papers: 3.1, 3.1A-C, 5.1 and 5.1A.

2. The Chair noted that Lord Justice Briggs, Deputy Head of Civil Justice in England and Wales, would be joining the meeting by video conference from London for a discussion about online courts at Item 5 and that this item would be taken after Item 3.

## **Item 2: Previous meeting**

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

- 3. The Committee agreed the minutes from the previous meeting.**

## **Item 3: Proceedings**

### *Item 3.1 – Committee remits (Papers 3.1 and 3.1A and B)*

4. Paper 3.1 invited the Committee to review its current remit with a view to submitting a revised remit, if required, to the Council for consideration at its next meeting on 11 July 2016. All the Committees are being asked to review their remits to ensure that they accurately reflected the Committees' current work programme.
- 5. The Committee agreed to put forward the revised remit which had been proposed by the Chair**, which has a broad perspective going beyond court rules.
6. Item 5 was taken next.

## **Item 5: Research and consultations**

### *Item 5.1 – Online dispute resolution and the online court – Discussion with Lord Justice Briggs by video conference (Papers 5.1 and 5.1A-C)*

7. The Chair thanked Lord Justice Briggs for setting aside time to join the meeting and explained that the Committee is very interested in the proposals for an online court in England and Wales, as they think similar developments are inevitable in Scotland.
8. Lord Justice Briggs outlined the proposals for an online court in England and Wales. The court would be designed throughout to be accessible without a lawyer, using simple rules and with the judge being more inquisitorial. The grievance would be extracted by questions in an automated system at Stage 1. Settlement would be sought at Stage 2 using Case Officers and, if required, online judicial resolution would be undertaken at Stage 3. He also noted that, in a separate initiative, it is intended that the courts in England and Wales would be effectively online by 2020.
9. There has been considerable public and stakeholder engagement about the proposals in the *Interim Report to the Civil Courts Structure Review* and the general reaction has been favourable, particularly to the proposal that the costs of litigating about claims of £25,000 or less should be proportionate to the amount of the claim. However, there have been some concerns expressed by the legal professions about

the proposal for the online court to be accessible without legal representation. The advice agencies support the increased access to justice these proposals would offer but had expressed concern about access to the online court for those without access to computers and were now engaging with Her Majesty's Courts and Tribunal Service in looking at this issue.

10. It was thought that online judicial determination would most likely be undertaken by District Judges who currently do small claims work, rather than as a separate role. It is envisaged that there would be a route to a District Judge for those dissatisfied with a Case Officer determination and that District Judges would supervise Case Officers. On the question of where the online judicial determination would take place, Lord Justice Briggs noted that there would continue to be a requirement for transparency so public access would need to be taken into account, possibly by using a video feed to public areas of courts. It was noted that determination on papers, in digital format, could presumably take place in the judge's home. Lord Justice Briggs commented that Case Officers are likely to be legally qualified as the role envisaged for them has expanded since the interim report.

11. The question arose of how the business community, and in particular volume lenders, had responded to the proposals. It is intended that bulk claims would be included in the online court. These respondents were interested in the enforcement proposals in the Interim Report. It is thought that as these sorts of claims are generally unopposed they could probably be dealt with at the first stage.

12. It was noted that the Stage 1 process of answering questions to establish the basis of the claim would also be useful to defendants who would be invited to use the same process.

13. The question of whether Stage 3, online judicial determination, could be introduced first was raised as the development of the automated system for Stage 1 is challenging, requiring both subject expertise, knowledge engineering and IT development. However, it is thought that the real help for litigants in person would be provided at Stage 1 and work is beginning on determining which subjects should be covered. It was noted that the development of the automated system for Stage 1, and keeping it up to date, was likely to be very costly.

14. Integration with the Third Sector is considered vital to the introduction of the online court and HMCTS have set up groups to engage with the Third Sector.

15. Lord Justice Briggs commented that the Final Report is likely to be published online before the end of July.

16. The Chair thanked Lord Justice Briggs for taking the time to join the Committee meeting for a most useful and interesting discussion.

17. Following video conference the Committee discussed what recommendations it wished to make to the Council about online dispute resolution and online courts. It

was noted that over £700 million pounds had been committed to this project in England and Wales and it was queried whether there would be funding in Scotland. At the same time, there is work in progress on projects in Scotland which cover much of the same ground as Stages 1 and 2 of the online court proposals. The mygov.scot portal project is currently exploring which topic to address. It was also noted that there are proposals to develop family online dispute resolution. It was suggested that further subject areas could be developed such as debt recovery. It was noted that with the implementation of simple procedure on ICMS in November 2016 that this would begin the process of putting a court process online.

18. It was noted that the Justice Digital Strategy (JDS) presented a triage approach similar to the online court proposals.

19. The Committee noted that there may be scope for online judicial determination for simple procedure cases in the future and that this may be an attractive proposition in Scotland where there can be long distances to travel to court.

**20. The Committee agreed to present its findings about online dispute resolution and online courts to the Council and to make recommendations for how some elements of these proposals might be usefully added to the ongoing work in Scotland in this area. The Secretariat was asked to draft a paper for Council.**

#### **Item 4: Work Programme**

##### *Item 4.1 – SCTS update on the ICMS Project (Oral)*

21. Craig McCorkindale provided an update on the ICMS project. They had opted to make the system cloud-based. There will be train the trainer testing, followed by business practice testing. This will address teething issues such as minor changes to forms. There has been positive feedback from users thus far. When the simple procedure rules are implemented in November, online submission will be available via ICMS and there will be an online portal for sending and receiving.

##### *Item 4.2 – SG update on the Justice Digital Strategy (Oral)*

22. Stuart Duncan provided an update on the Justice Digital Strategy. The legal aid content of the mygov.scot portal has gone live and they are working on providing information and advice on relationship breakdown over the summer. It was decided not to move forward with developing information on simple procedure for the mygov.scot portal. On the criminal side, they will conclude the discovery process for the digital information and evidence vault in the summer.

*Item 4.3 – SLAB update on Making Justice Work online information project (Oral)*

23. Graeme Hill provided an update on the online information project. There is a read across to Stage 1 of the online court proposals. The online information project is at the Discovery Phase and they are looking at what the subject should be. The approach is to develop a general model and then look at a specific subject.

**Item 6: AOCB**

24. There was no other business raised.

**Item 7: Date of next meeting**

25. The Committee noted the date of the next meeting:

- Monday 10 October 2016 at 4.30pm

**Scottish Civil Justice Council Secretariat**

**June 2016**