



Scottish
Civil Justice
Council



Scottish Civil Justice Council

Annual Report 2025/2026 & Annual Programme 2026/2027

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Chair's Foreword

It is a pleasure to introduce the thirteenth Annual Report of the Scottish Civil Justice Council, covering the period from 1 April 2025 to 31 March 2026.

During this reporting period there were three sets of draft rules proposed by the Council and given legal effect by the Court of Session. Those instruments enacted permanent procedures to replace a range of temporary measures provided during the pandemic and clarified the approach to judicial settlements under the Hague Convention. In addition, members have considered compliance with the Aarhus Convention in some detail, including a strategy to improve compliance.



There were two new Public Consultations published. The first sought feedback on adopting unit-based charging to fix the regulated charges that can be made by officers of court and the second sought views on extending the availability of cost protection in environmental cases. The Council published two Consultation Analysis reports to reflect the feedback received for those consultations, with a further three reports issued for the live consultations carried forward at the beginning of this period. Those consultations covered proposals made regarding the use of the signet, the use of online intimation and extending the scope of the simplified divorce procedures.

I am also delighted to introduce our Annual Work Programme for 2026-27, which represents the first steps in the Council's new direction, outlined in our Strategic Plan 2026-29, as we look to focus increasingly on our responsibility for keeping the Scottish civil justice system under review, and explore the opportunities to enhance the fairness, accessibility and efficiency of Scottish civil justice.

I am grateful for the support of all Council and Committee members for the voluntary time they so generously contribute and would also like to acknowledge the hard work and ongoing commitment of the policy staff within the secretariat and legal staff within the Lord President's Private Office.

The Rt. Hon. Lord Pentland
Lord President
Chair of the Scottish Civil Justice Council

About us

Introduction

The Scottish Civil Justice Council is an independent advisory body, established under the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013¹ (*the 2013 Act*).

Our key functions are:

- To keep the civil justice system under review and make recommendations to the Lord President on the development of, and changes to, the civil justice system.
- To keep practice and procedure under review, and then prepare draft civil procedure rules, draft fees rules and draft inquiry procedure rules for consideration, approval and enactment by the Court of Session.
- To provide advice on any matter relating to the civil justice system that may be requested by the Lord President.

Our approach to fulfilling those functions is informed by the following guiding principles:

- The civil justice system should be fair, accessible and efficient.
- All proposed rules should be as clear and easy to understand as possible.
- Practice and procedure should, where appropriate, be similar in all civil courts.
- Methods of resolving disputes outside the courts should, if appropriate, be promoted.

Members undertake an assessment of compatibility with those principles when proposing any new rules or recommending wider changes to the civil justice system.

¹ <https://www.legislation.gov.uk/asp/2013/3/contents>

Who we are

The Scottish Civil Justice Council was established with effect from May 2013 to promote continuous improvement within the civil justice system. Under the 2013 Act it is to have not more than 20 members, who encompass a broad range of interests and experiences across the civil justice system. The following membership categories are provided for:

Judicial members

- The Lord President.
- 1 Judge of the Court of Session.
- 1 sheriff principal or sheriff.
- 2 additional judicial office holders appointed by the Lord President.

Standing appointments

- The Chief Executive of the Scottish Courts and Tribunals Service.
- The principal officer of the Scottish Legal Aid Board.
- 1 member appointed by the Scottish Ministers.

Legal members

- At least 2 practising advocates (“advocate members”).
- At least 2 practising solicitors (“solicitor members”).

Other members

- At least 2 persons (“consumer representative members”).
- Up to 6 other persons considered by the Lord President to be suitable to be members of the Council (“LP members”).

Membership

The current members within each membership category are:

Category	Name
Chair The Lord President and Lord Justice General, by virtue of that office.	The Right Hon. Lord Pentland
Standing Appointments Chief Executive of the Scottish Courts and Tribunals Service, by virtue of that office.	Malcolm Graham
Principal officer of the Scottish Legal Aid Board, by virtue of that office.	Colin Lancaster
1 member appointed by the Scottish Ministers.	Denise Swanson
Judicial members At least 4 judges appointed by the Lord President including a minimum of: 1 judge of the Court of Session, and 2 sheriffs principal or sheriffs.	The Right Hon. Lord Ericht The Right Hon. Lady Carmichael Sheriff Principal Ross Sheriff McCartney Sheriff Johnston
Advocate members At least 2 practicing advocates appointed by the Lord President in consultation with the Faculty of Advocates.	Fiona Drysdale KC Usman Tariq KC
Solicitor members At least 2 practicing solicitors Appointed by the Lord President in consultation with the Council of the Law Society of Scotland.	Iain MacRae Nicola Irvine
Consumer representative members At least 2 persons appointed by the Lord President in consultation with the Scottish Ministers who, between them, appear to the Lord President to have — (i) experience and knowledge of consumer affairs, (ii) knowledge of the non-commercial legal advice sector, and (iii) an awareness of the interests of litigants in the civil courts.	Thomas Docherty Vacancy
LP members Up to 6 other persons appointed by the Lord President in consultation with the Scottish Ministers who are considered by the Lord President to be suitable to be members of the Council.	Sheriff Jillian Martin-Brown Adam McKinlay

To assist the Council in carrying out its function the following observers attend meetings:

Rachel Grant	Legislation Implementation Team, Scottish Courts and Tribunals Service.
Chris Fyffe	Deputy Principal Clerk of Session, Scottish Courts and Tribunals Service.

Standing Committees

The standing committees that assist the Council in carrying out its statutory functions are:

Committee	Chair	Remit & Functions
Access to Justice	The Hon. Lady Carmichael	To monitor the effect on access to justice and the operation of the civil justice system; to keep relevant rules under review; to develop and consider proposals for modification and reform and, where appropriate, to draft rules for SCJC consideration.
Costs and Funding	The Hon. Lord Harrower	To monitor matters that can be regulated by the Court of Session including the award of expenses and fees provisions; to keep the relevant rules, tables and fees under review; to consider proposed reforms and progress recommendations and draft rules.
Family Law	The Right Hon. Lady Wise	To monitor family actions and cases involving children; to keep the family law civil rules under review; to make proposals for change to ensure, via court rules and guidance, that cases are dealt with expeditiously and efficiently; to review, develop and promote a case management structure; to make recommendations for change and propose drafts new rules where required. At its core, the Committee has, as a paramount consideration, the welfare of children.
Personal Injury	The Hon. Lady Haldane	To keep the personal injury civil rules under review; to make proposals for change; to develop rules relating to action to be taken before proceedings are brought; to encourage fair, just and timely settlement of disputes; to make provision for any type of personal injury claim of any value at any stage of proceedings; and to make recommendations for change and new rules where necessary.
Rules Rewrite	The Rt. Hon. Lord Pentland, Lord President	To oversee the management of the Rules Rewrite Project; to develop a framework for reviewing new rules prepared under that project & to progress the reforms under the Courts Reform (Scotland) Act 2014; to consider those issues that do not fall under other Committee remits.

Policy and Legal Support

Under section 62 of the Judiciary and Courts (Scotland) Act 2008, the statutory function for providing the property, services and staff to support the work of the Council sits with the Scottish Courts and Tribunals Service (SCTS).

- *Policy Support* - for the 2025/26 financial year the budget allocated to the SCJC funded running costs and a complement of 7 posts (6.2 FTE) within the secretariat - 1 Director Strategy, 1 Secretary to the Council, 1 Business Manager, 1 Policy Manager, 2 Policy Officers and 1 Executive Officer.
- *Legal Support* - legal support for the drafting of rules instruments is provided for within the separate SCTS budget allocated to fund the Lord President's Private Office (LPPO). To provide career development options, the lawyers within that office are normally seconded from the Scottish Government Legal Directorate.

Key achievements and ongoing work

Summary of the new rules made in 2025-26

The following summarises, by date made, the three sets of draft court procedure rules the Council submitted to the Court of Session for consideration and approval during the current reporting period:

- The [Act of Sederunt \(Rules of the Court of Session 1994 and Ordinary Cause Rules 1993 Amendment\) \(Miscellaneous\) \(Amendment\) 2025](#) was made on **5 June 2025** and came into force from 1 July 2025. It corrected a typographical error within the rules that covered requests for judicial settlements under Article 11 the 2019 Hague Convention.
- The [Act of Sederunt \(Intimation and Service\) 2025](#) was made on **29 October 2025** and came into force on 1 December 2025. It made permanent the existing working practice adopted during the pandemic whereby a requirement for a document be placed on the walls or doors of civil courts is fulfilled by making an abbreviated notice available online, via the Scottish Courts and Tribunals Service website.
- The [Act of Sederunt \(Electronic Signature and Electronic Transmission of Documents\) 2025](#) was made on **29 October 2025** and came into force on 1 December 2025. It made permanent the existing working practice adopted during the pandemic whereby any requirement in court rules for documents to be sent to a person could be fulfilled by transmitting those documents to the person electronically or transmitting them (electronically or otherwise) to a solicitor engaged to act on that person's behalf.

The Calls for Evidence published in year

Call for evidence - on Modes of Attendance

From 1 October 2025 to 22 December 2025 the Access to Justice Committee ran a [Call for Evidence](#) on 12 questions regarding user experiences with the Modes of Attendance rules. The committee is considering the 20 responses received.

Call for evidence - on Group Procedure

From 24 October 2025 to 23 January 2026 the Group Procedure Working Group ran a [Call for Evidence](#) on 17 questions related to the lessons learned to date from using the opt-in procedure and whether (or not) the Group Procedure rules should additionally provide for the opt-out option. That group is considering the 26 responses received.

The Public Consultations published in year

During this reporting period the Council published two new Public Consultation exercises to inform its policy positions:

Simplified Tables of Fees for Officers of Court

From 28 May 2025 to 22 August 2025, the Council ran a [Public Consultation](#) that sought feedback on adopting unit-based charging as its preferred methodology for pricing the regulated fees charged by Messengers-at-Arms and Sheriff Officers. The views from the 26 respondents were set out in the [Consultation Analysis](#) published on **12 September 2025**. The Council's subsequent decision to proceed was set out in the [Consultation Response](#) report as published on **2 December 2025**, and that amending rules instrument will be made and laid early in the coming financial year.

Extension of Protective Expenses Orders (PEOs)

From 8 August 2025 to 28 November 2025 the Council ran a [Public Consultation](#) seeking feedback on a proposed set of draft rules extending the availability of protective expenses orders in environmental cases. The main proposal made would have provided an ability to access cost protection within the sheriff courts regarding summary applications made under the Environmental Protection Act 1990. A summary of the feedback received from 11 respondents was published on **3 December 2025** within the [Consultation Analysis](#) report, with the key message being that the proposed scope should go much further. The Council agreed and will consult again during 2026 on a revised set of rules with a significantly wider scope. The full detail of the policy decisions taken can be viewed online within the [Consultation Response](#) report published on **20 January 2026**.

The consultations carried forward

The following three consultations were opened for comment in the previous planning period (2024/25) with a view to the feedback received being analysed within this year (2025-26):

Modernisation of the Signet

This consultation was carried forward with a closing date for responses of 21 May 2025. The views of the 3 respondents were reflected in the [Consultation Analysis](#) report uploaded to the Council's website on **9 June 2025**. The Royal Mint subsequently approved a design for the digital signet which enables the manufacture of a physical signet seal for ceremonial

use. Once that physical signet seal is made available the draft rules proposing a signetted Order for Service will be proposed to the Court of Session for approval.

Online Intimation

This consultation was carried forward with a closing date for responses of 25 April 2025. The views of the 6 respondents were reflected in the [Consultation Analysis](#) report uploaded to the Council's website on **30 June 2025**. The main proposal made was to make permanent the provision whereby any document that was required to be advertised on the walls or doors of civil courts could equally be advertised by making an abbreviated notice of those documents available online. The decision taken was to proceed with that proposal. That change was enacted by the [Act of Sederunt \(Intimation and Service\) 2025](#) and came into force from **1 December 2025**.

Simplified Divorce

This consultation was carried forward with a closing date for responses of 9 May 2025. The views of the 10 respondents were reflected in the [Consultation Analysis](#) report uploaded to the Council's website on **17 September 2025**. The subsequent instruction of draft rules to implement this proposed change remains on hold, as it will require a change to the law of evidence. The Scottish Government subsequently consulted on that proposed law change within Part 4 of their [Family Law Consultation](#) which had a closing date of 21 April 2026.

Other matters progressed by letter or report

Monitoring the Aarhus concerns for Scotland

To help inform the next steps to be taken to improve compliance with the Aarhus Convention a further "Update on the Aarhus Concerns for Scotland" was tabled and discussed by the Council at its September 2025 meeting.

Resolving the Aarhus concerns for Scotland

The Council considered a detailed Aarhus Strategy paper at its December 2025 meeting, which conveyed the strategic approach needed to achieve full compliance with the Aarhus Convention. As one part of delivering on that strategy, draft rules with a significantly widened scope are now being prepared to support the commitment made to run a 2026 Public Consultation.

Monitoring the pending transfer of rulemaking for the Tribunals

To inform the likely timing of the future ‘transfer of function’ order for rule making under the Tribunals (Scotland) Act 2014, the Council monitors the tribunal jurisdictions transferred in and the future transfers that remain pending.

Research Papers

To inform the ongoing review of how Protective Expenses Orders (PEO) are being used in practice, the Council published a 3rd research report on **14 August 2025** to provide “Research on the Incidence of Interveners” in environmental cases.

Formal Recommendations Made

During the reporting year from 1 April 2025 to 31 March 2026 the Council made no formal recommendations on the development of the civil justice system in Scotland².

² Where such recommendations are made then under Section 5 (23) of the 2013 Act a summary must be provided within this Annual Report.

Annual Work Programme for 2026/2027

Under section 5 of the 2013 Act, the Council must table with the Scottish Parliament, an annual work programme for the coming year. This year, the Annual Work Programme has been organised by the themes contained in the Council's new Strategic Plan 2026-27.

Theme 1: Enhancing Civil Justice through Digital Innovation

- The Council will establish a Digital Innovation and AI Working Group, with a nominated judicial lead, with a formal remit and membership to be agreed, including input within that group from practitioners who are already active users of AI tools.
- Initial priorities for this working group will be:
 - o Commissioning research and engagement activity, and analysing the results of that activity, to understand how digital technologies and artificial intelligence has been used to good effect to enhance the fairness, accessibility and efficiency of civil justice around the world, and to consider to what extent these solutions would apply in the Scottish civil justice system.
 - o Undertake engagement activity with key users and wider stakeholders to understand current challenges and pain points within the Scottish civil justice system, and to better understand where intervention by the Council will have the most impact in terms of improving the civil justice system.
 - o Considering both the opportunities and risks presented to the Scottish civil justice system by artificial intelligence, and to advise the Council on what controls might need to be built into the civil justice system to enable opportunities to be exploited and risks to be mitigated.
 - o Considering how to respond to the increasing use of anonymised digital assets³.
 - o Commissioning research and engagement on mitigating the risks of digital exclusion and improving digital inclusion – with a view to supporting development of a digital ‘front door’ for civil justice.
- By the end of the first year, the working group will develop outline priorities for enhancing civil justice through the use of digital technologies and artificial intelligence, with those options developed further in the second year of the strategic plan.

³ As covered during parliamentary scrutiny of the [Digital Assets \(Scotland\) Bill](#)

Theme 2: Scotland as a Forum of Choice

- The Council will continue its work on how to improve the existing group procedure for those using the ‘opt-in’ option and to assess the potential for commencing the ‘opt-out’ option (as provided for by the Scottish Parliament within the 2018 Act⁴), and progress consideration of the feedback received to its Call for Evidence on Group Procedure which closed on 23 January 2026. The Group Procedure Working Group is preparing a discussion paper, on which there will be a three-month consultation. There will then be a final report from the SCJC containing the SCJCs decisions on court rules and recommendations to the Scottish Government in respect of any issues requiring legislation.
- We will undertake and/or commission research on the demand for, and value of, specialist dispute resolution before considering whether to develop specific policy options.
- As part of our implementation of the approved strategy for improving our compliance with the Aarhus Convention, we will:
 - o Research the volume of environmental actions initiated across both the courts and tribunals, given the potential trendline of increased litigation arising from the impacts of climate change.
 - o Commission research to consider the ways that environmental disputes are dealt with in Scotland, and potential alternative mechanisms for resolving such disputes.

Theme 3: Maintaining the Rules

- The Council will consult on the extension of Simple Procedure to include Simple Procedure Special Claims (SPSC) and consider further the feedback received to its Call for Evidence⁵ on Modes of Attendance which closed on 22 December 2025.
- The Council will progress the implementation of the actions identified within its Aarhus Strategy⁶ including progressing the public commitment⁷ to consult again on “Extending the availability of Protective Expenses Orders (PEOs)”.

⁴ The Civil Litigation (Expenses and Group Proceedings) Act 2018 ([ASP 2018/10](#))

⁵ <https://www.scottishciviljusticecouncil.gov.uk/consultations/scjc-consultations>

⁶ https://www.scottishciviljusticecouncil.gov.uk/docs/librariesprovider4/scjc-meeting-papers/20251208/paper-4-1---aarhus-strategy.pdf?sfvrsn=59e5ce0f_1

⁷ <https://www.scottishciviljusticecouncil.gov.uk/news/2026/01/20/widening-the-availability-of-costs-protection-in-environmental-cases>

- As part of the Council's function of keeping the rules under review, at a minimum within the coming year, the priority instruments we aim to have drafted, approved and proposed to the Court of Session for enactment include:
 - Extending the availability of Protective Expenses Orders - Subject to considering the feedback to its 2026 Public Consultation, the Council will propose a draft Act of Sederunt for enactment in line with the scope conveyed in the Consultation Response⁸ paper issued following the Council's 2025 consultation.
 - Fees of Messengers-at-Arms & Sheriff Officers – The Council will propose a draft Act of Sederunt for enactment in line with its Consultation Response⁹ paper on simplifying the table of fees for officers of court.
 - Format of Judgments – The Council will propose a draft Act of Sederunt for enactment in response to a judicial request made.
 - Interest on Expenses (in the Sheriff Appeal Court) – The Council will propose a draft Act of Sederunt for enactment in response to a judgment issued by the Sheriff Appeal Court.
 - Taxation of Judicial Expenses – The Council will propose a draft Act of Sederunt for enactment, to adjust party and party expenses for inflation and to respond to a judgment issued regarding the application of reductions in simple procedure cases.
 - Withdrawal of Postal Copies: (of documents served) – The Council will propose a draft Act of Sederunt for enactment, to remove the unnecessary duplication that arises when officers of court are required to post out copies of documents already served.
- In addition, suggestions for rule changes are made to the Council through several channels, including from court judgments, members of the Council, court practitioners, professional bodies, members of the public and the Scottish Government. There is a backlog of such requests. The Council will review this backlog, consider the relative priority of these requests and consider what further action, if any, may be required within the year to either progress consideration of these proposals or to deprioritise this work. These are outlined below.
 - Suggestions brought forward by Council members in previous years that raise items to be taken forward subject to the availability of resources:

Count	Description
1	Rules Rewrite (<i>the New Civil Procedure Rules</i>)

⁸ https://www.scottishciviljusticecouncil.gov.uk/docs/librariesprovider4/consultations/scjc-consultations/extending-the-availability-of-peos/20260120---consultation-response---peos.pdf?sfvrsn=7336335e_1

⁹ https://www.scottishciviljusticecouncil.gov.uk/docs/librariesprovider4/consultations/scjc-consultations/extending-the-availability-of-peos/consultation-response---simplified-fees.pdf?sfvrsn=944f3f9b_1

2	Inner House Rules
3	Mandatory use of Civil Online
4	Lay representation, lay support and party litigants
5	Extension of Simplified Divorce (<i>awaits a change to the law of evidence</i>)

- Suggestions raised by members of the public, organisations, practitioners, judiciary and court officials through the Council's website:

Count	Description
1	Pre Action Protocol – for Personal Injury
2	Pre Action Protocol – for Clinical Negligence
3	Pre Action Protocol – for Disease
4	Withdrawal of Agents (RCS Chap. 30)
5	Caveats
6	Electronic Recording of Evidence
7	Public Interest Interventions
8	Appointment of assessors under the Equality Act
9	Historic Abuse – Nominal Defenders
10	E-Motions
11	Pursuers Offers (for PI cases under £5k)
12	Inhibition in execution
13	Reporting Restriction Orders
14	Insolvency rules – model law

- Proposals made by officials within both the Scottish Government and UK Government for new rules or amendments prior to the commencement of relevant sections within primary legislation.

Count	Description
1	Civil Litigation (Expenses & Group Proceedings) (S) Act 2018 - Sec 9
2	Civil Litigation (Expenses & Group Proceedings) (S) Act 2018 - Sec 10
3	Civil Litigation (Expenses & Group Proceedings) (S) Act 2018 - Sec 11
4	Damages (Investment Returns and Periodical Payments) (S) Act 2019
5	Civil Partnership (S) Act 2020
6	Children (S) Act 2020
7	Female Genital Mutilation (Protection & Guidance) (S) Act 2020
8	Defamation and Malicious Publication (S) Act 2021
9	Domestic Abuse (Protection)(S) 2021
10	Moveable Transactions (S) Act 2023
11	Hunting with Dogs (S) Act 2023
12	Trusts and Succession (S) Act 2024
13	Bankruptcy and Diligence (S) Act 2024
14	Judicial Factors (S) Act 2025
15	Child Support (Enforcement) Act 2023

- In preparation for any future transfer of tribunal rule-making powers, the Council will work with the President of Scottish Tribunals, chamber presidents and the SCTS to:
 - Assess the scale of the amendments required to the rules in use.
 - Prepare and publish a plan to progress those amendments.

Theme 4: Sustainable Delivery

- The Council will undertake a review of its committee structures and ways of working, making recommendations to the Lord President on how the Council should revise its governance structures to best enable the delivery of the Council's strategic objectives.
- The Council will develop a public education and stakeholder management plan to ensure that the Council is effectively communicating what it does, why it does it, and how to effectively engage with the work of the Council.

Further information and contacts

Full information about the Council and its activities is available at www.scottishciviljusticecouncil.gov.uk. The website is updated regularly with news about the Council and provides full details of Council and committee meetings, publications, draft rules under consideration and new rules made.

You can also follow us on X (formally Twitter) @ScottishCJC for the latest updates.

The Council welcomes all feedback in relation to the practical workings of the rules of court. You can contact us as follows:

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