



Scottish  
Civil Justice  
Council

# Annual Report 2015/16

[www.scottishciviljusticecouncil.gov.uk](http://www.scottishciviljusticecouncil.gov.uk)

## © Crown copyright 2016

You may re-use this information (excluding logos and images) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit: [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/) or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

ISBN: 978-0-9929447-5-9

Report number: SCJC/2016/01

Laid before the Scottish Parliament by the Scottish Civil Justice Council in pursuance of section 5(4) of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 on 16 June 2016.

Scottish Civil Justice Council  
Parliament House  
Edinburgh  
EH1 1RQ

Published by the Scottish Civil Justice Council

June 2016

## CONTENTS

	<b>Page</b>
Foreword.....	3
Introduction.....	4
Guiding Principles.....	6
Key Achievements.....	7
Summary of Rules Prepared.....	12
Freedom of Information.....	16
Summarised Expenditure .....	17
Further Information and Contacts.....	18

## Foreword

It is a pleasure to introduce the Scottish Civil Justice Council's third Annual Report, covering the year to 31 March 2016.

During the course of the past year, the Council has supported historic reform to civil justice in Scotland and taken significant steps towards delivering a modernised and efficient system.



The Council has assumed a number of new responsibilities to support the substantial changes which are re-shaping the justice landscape in Scotland. One of its new functions includes the task of reviewing how inquiries into fatal accidents and sudden deaths are carried out. The Council has also supported the creation of a new Scottish Court with the launch of the Sheriff Appeal Court.

Other significant developments have included the provision of a framework for simple procedure to offer user-friendly rules which are easily accessible to the public; a specialist personal injury court, and the use of e-motions. These all come alongside the emergence of a new structure to accommodate tribunals dealing with devolved matters.

All of these weighty achievements and ongoing developments require a high level of commitment and professionalism from members who continue to ensure that reform is implemented effectively – taking the civil justice system forward into the modern era.

**Lord President, Chairman of the Scottish Civil Justice Council**

## Introduction

### The Scottish Civil Justice Council

1. The Scottish Civil Justice Council ("the Council") was established on 28 May 2013 under the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013, replacing the [Court of Session Rules Council](#) and the [Sheriff Court Rules Council](#). It is responsible for preparing draft rules of procedure for the Court of Session and for civil proceedings in the Sheriff Appeal Court and sheriff court. It also has the function of providing advice and making recommendations to the Lord President on the development of the civil justice system in Scotland.

### Functions and powers

2. During 2015/16, the Council's functions were extended. The Courts Reform (Scotland) Act 2014 extended the functions to include the preparation and submission of 'draft fees rules' from 01 April 2015. The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 further extended the functions by conferring a responsibility on the Council for the review of practice and procedure followed in inquiries under the 2016 Act and this includes the drafting of inquiry procedure rules. These provisions came into force on 15 January 2016. Therefore, the Council's key functions now include:
  - keeping the civil justice system under review;
  - reviewing the practice and procedure followed in the Court of Session and in civil proceedings in the Sheriff Appeal Court and the sheriff court;
  - reviewing the practice and procedure followed in inquiry proceedings under the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016;
  - preparing and submitting to the Court of Session draft civil procedure rules, draft fees rules and draft inquiry procedure rules; and
  - advising and making recommendations on the development of and changes to the civil justice system in Scotland.

### Who we are

3. Our membership encompasses a range of interests and experiences across the civil justice system. As well as the judiciary and practitioners, the Council includes consumer representatives, an academic and an employment judge. In addition, the Chief Executives of the Scottish Courts and Tribunals Service and the Scottish Legal Aid Board and a member of staff of the Scottish Government hold standing appointments.
4. The members of the Council are:

The Right Hon. Lord Carloway	Lord President and Lord Justice General, Chairman
Eric McQueen	Chief Executive, Scottish Courts and Tribunal Service
Colin Lancaster	Chief Executive, Scottish Legal Aid Board
Jan Marshall	Scottish Ministers' appointee
The Right Hon. Lord Menzies	Judicial member, Deputy Chair
The Hon. Lord Tyre	Judicial member
Sheriff Principal Abercrombie QC	Judicial member
Sheriff Hughes	Judicial member
Andrew Stewart QC	Advocate member
Kenneth Forrest	Advocate member
Eric Baijal	Solicitor member
Paul Reid	Solicitor member
Jacqueline Harris	Solicitor member
Ian Maxwell	Consumer representative member
Lauren Bruce	Consumer representative member
Employment Judge Joseph d'Inverno	Lord President member
Professor Frances Wasoff	Lord President member

## Committees

5. The Council has established the following committees to assist it in carrying out its work:

Access to Justice Committee	Chair: The Hon. Lady Wise
Costs and Funding Committee	Chair: The Hon. Lord Burns
Family Law Committee	Chair: The Hon. Lord Brailsford
Information and Communications Technology Committee	Chair: The Hon. Lord Tyre
Personal Injury Committee	Chair: The Hon. Lord Armstrong
Rules Rewrite Committee	Chair: The Rt. Hon. Lord Carloway, Lord President Deputy Chair: The Right Hon. Lord Menzies

6. The Council has also recently established a working group to consider implementation of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016. This is chaired by Sheriff Principal Abercrombie QC.

## Guiding principles

7. Under section 2 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 the Council must have regard to the following principles when carrying out its functions:

- (a) the civil justice system should be fair, accessible and efficient,*
- (b) rules relating to practice and procedure should be as clear and easy to understand as possible,*
- (c) practice and procedure should, where appropriate, be similar in all civil courts, and*
- (d) methods of resolving disputes which do not involve the courts should, where appropriate, be promoted.*

8. In general terms, all Council committees are required to have regard to the principles set out in the 2013 Act. However, certain committee remits have been drawn with particular principles in mind:

### **The civil justice system should be fair, accessible and efficient**

The Access to Justice Committee, Costs and Funding Committee and Family Law Committee remits include a specific requirement that each Committee will take account of the need to ensure that actions proceed through the courts as expediently as possible.

The Access to Justice Committee's remit includes a requirement that it consider the implications of proposals for legal reforms of the civil justice system upon litigants and potential litigants in the Scottish civil courts.

The Information and Communication Technology (ICT) Committee's remit includes a requirement to consider how ICT can be used more effectively within the Scottish civil courts to enable business to be dealt with as expediently as possible.

### **Rules relating to practice and procedure should be as clear and easy to understand as possible**

The former Rules Rewrite Working Group, now the Rules Rewrite Committee, recommended in its Interim Report that the opportunity should be taken to clarify ambiguous language in the rules. The Access to Justice Committee has designed the simple procedure rules with party litigants in mind.

### **Practice and procedure in the Scottish civil courts should be as**

### similar as possible, where appropriate

The Interim Report recommended that separate rules for the sheriff court and Court of Session should be adopted but the rules should be identical in procedure and wording, where appropriate.

All Committees are required to take account of the different circumstances of the sheriff court and the Court of Session whilst seeking to achieve, where possible, consistency of overall approach.

### Alternative methods of dispute resolution (ADR) should be promoted, where appropriate

The Access to Justice Committee is reviewing the arrangements for the use of ADR in the sheriff court and the Court of Session. In addition, its remit requires it to take account of ADR initiatives across the civil justice system, including those outwith the Scottish civil courts.

The introduction of pre-action protocols is a priority issue being taken forward by the Personal Injury Committee.

### Common principles

The Interim Report recommended that there should be a 'statement of principle and purpose' in the rules.

It also recommended that new rules should be subject to review 18-24 months after their entry into force and that the starting point for such a review should be the guiding principles.

9. In order to ensure that these statutory guiding principles are built into the work of the Council, an assessment of compatibility with each of the principles is carried out every time the Council considers individual policy and rules proposals.

## Key Achievements

### Priorities for 2015/16

10. The SCJC has given particular focus to the following matters during 2015/16:

- preparation for and the implementation of major justice system reform projects, particularly implementation of civil courts reform and the Courts Reform (Scotland) Act 2014;
- consideration, and preparation for implementation, of new legislation;
- ongoing preparation of rules revisions necessary to implement primary and subordinate legislation and developments in case law (the 'care and maintenance' aspect of the rules); and
- consideration of potential improvements to procedures particularly in respect of those aspects of civil courts reform which can be taken forward without primary legislation.



## Civil Courts Reform

11. Since its creation, the work of the Council has primarily been focused on implementation of civil courts reform as proposed by the Report of the Scottish Civil Courts Review and the Courts Reform (Scotland) Act 2014 (the 2014 Act). Delivery of this major reform programme requires many new suites of court rules which the Council has been responsible for drafting. As well as drafting the rules required to support implementation of the provisions of the 2014 Act, the Council has also been tasked with carrying out a Rules Rewrite Project to consolidate, harmonise and simplify rules of the civil courts in Scotland.
12. To support this work, the SCJC established a Rules Rewrite Working Group tasked to consider the overall approach to the Rules Rewrite Project. Following research into the approach other jurisdictions have taken in respect of similar exercises, the Group published its Interim Report in March 2014 and its Final Report in April 2015.
13. The Interim Report, endorsed by the SCJC, sets out the Group's key recommendations for the Rules Rewrite Project, addressing the vision and objective of the new rules.
14. The Final Report set out in more detail how the new rules should be drafted including how the aims of harmonisation, modernisation and simplicity of the rules might best be achieved. Following that report, the SCJC formally established the Rules Rewrite Committee, with an extended remit to include matters relating to court procedure generally which do not clearly fall within the remit of any other SCJC committees.
15. The following suites of rule changes were taken forward as a priority:
  - increase to the privative limit;
  - judicial structures (introduction of the new judicial offices of summary sheriff and Appeal Sheriff);
  - creation of a Sheriff Appeal Court;
  - creation of a specialist personal injury court with civil jury trials;
  - simple procedure;
  - judicial case management;
  - rules for enforcement / sanctions; and
  - creation of compulsory pre-action protocols.
16. During 2014/15, it was agreed that no specific rules were required in relation to judicial structures or judicial case management in order to implement the 2014 Act. The Family Law Committee has been considering case management in family actions and proposals will be considered by the Council in the context of the recommendations contained within the Report of the Scottish Civil Courts Review.
17. During 2015/16, significant progress has been made on those priorities with rules now in force in relation to the following areas:
  - Increase to the privative limit – rules prepared by the Costs and Funding Committee and brought into force in September 2015;

- Creation of a Sheriff Appeal Court (SAC) – rules prepared by the Rules Rewrite Committee in respect of the SAC’s civil jurisdiction which began in January 2016;
- The creation of a specialist personal injury court, with civil jury trials – rules prepared by the Personal Injury Committee and brought into force in September 2015;
- Judicial Review – rules prepared by the Rules Rewrite Committee and brought into force in September 2015.

18. Work has also been progressing in relation to the following priorities:

- Simple procedure – this is being progressed by the Access to Justice Committee. Following public consultation on the rules, draft rules are to be considered by the Council in May 2016 with a view to commencement in November 2016.
- The creation of compulsory pre-action protocols has been considered in the context of personal injury actions. A broader approach may be taken in the longer term. The Personal Injury Committee is looking to provide the Council with proposals for compulsory pre-action protocols around September 2016.

19. On the recommendation of the Rules Rewrite Committee, the Council agreed a number of additional court reform drafting priorities for 2015/16. Unless otherwise stated, this work has been progressed by the Rules Rewrite Committee. The following progress has been made:

- Implementation of the remaining areas of the Courts Reform (Scotland) Act 2014 including lay representation for non-natural persons, vexatious proceedings and interdicts and other orders – general policy proposals have been considered and discussions are ongoing with Scottish Government colleagues in relation to implementation timescales;
- Development of a framework for reviewing the suites of rules prepared under the Rules Rewrite Project – the Council has agreed that it will be for the relevant lead committee to review the rules it has prepared and that when rules are submitted to the Council they should be accompanied by a proposal for their review, at a later date;
- Commencement of a structural review for rules rewrite proper – a scoping paper has been approved. The paper details a project plan for the rewrite and provides for a five stage process:
  - the preparation of discussion papers,
  - the preparation of procedural narratives,
  - the agreement of a draft structure,
  - the preparation of policy instructions on particular matters, and
  - the agreement of draft rules.
- Simple procedure personal injury rules – the Personal Injury Committee is

currently considering rules for simple procedure personal injury actions;

- Following the creation of compulsory pre-action protocols in Personal Injury actions, wider application of compulsory pre-action protocols will be considered.

## Sheriff Principal Taylor's Review

20. The Costs and Funding Committee has been considering the recommendations of the Report of Sheriff Principal Taylor's Review into the Expenses and Funding of Civil Litigation in Scotland (the Taylor Review) on behalf of the Council.

21. The Committee reported to the Council in March 2015, setting out its proposed approach to implementation of the Taylor Report. Since then, the Committee has been considering a series of discussion papers seeking views on the detailed approach to the implementation of the agreed aspects of the Taylor Review. The Committee is now working on the production of a policy discussion paper, which will outline its policy proposals for consideration by the Council.

## Fees

22. The Courts Reform (Scotland) Act 2014 extended the functions of the Council to include the preparation and submission of 'draft fees rules' from 01 April 2015. The Costs and Funding Committee has been supporting this by exploring options and methodologies for assessing and/or reviewing fee provisions. A small working group within the Committee has been tasked to explore possible options and methodologies and is expected to report to their findings to the Committee at its June meeting.

## Tribunals Reform

23. The Tribunals (Scotland) Act 2014 provides for the creation of a new structure for tribunals dealing with devolved matters under the judicial leadership of the Lord President of the Court of Session as Head of the Scottish Tribunals. It will also extend the SCJC's functions to include the preparation of rules for devolved tribunals. It is anticipated that preparatory work will commence in 2016/17 with a view to the Council assuming these functions in 2017.

## Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016

24. Section 36 of the Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (the 2016 Act) provides an enabling power to the Court of Session regarding practice, procedure and incidental/ancillary matters pertaining to inquiries under the Act. Section 36(6) introduces Schedule 1 which amends the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013. This amendment confers responsibility upon the Council for the review of practice and procedure followed in inquiry proceedings under the 2016 Act and this includes the drafting of inquiry procedure rules. These provisions

came into force on 15 January 2016.

25. In March 2016, the Council established a working group to consider the implementation of the 2016 Act. The working group will make proposals for draft inquiry procedure rules for consideration by the Council. Membership of the working group includes a sheriff principal, two sheriffs, a solicitor and an advocate along with representatives from the Crown Office and Procurator Fiscal Service, Scottish Government, the Scottish Courts and Tribunals Service, the Scottish Legal Aid Board and Victim Support Scotland. The group will first meet in May 2016.

## Research, Consultation and Publications

26. At the beginning of the year, the Council jointly funded a Scottish Legal Aid Board research project to provide evidence about the drivers and motivations behind the dispute resolution paths chosen by people in dispute and to explore which type of cases may be amenable to Alternative Dispute Resolution.

27. The Family Law Committee are considering case management in family actions and in particular have been undertaking research on the operation of Chapter 33AA of the Ordinary Cause Rules 1993. The Committee supported a two phase approach to the research. Phase one consisted of a Family Law Case Management questionnaire issued to sheriffs. The Committee has considered a Report of the findings from responses to the questionnaire and is now considering, as the second phase, a research specification to look at capturing wider views.

28. In November 2015, the Access to Justice Committee consulted on draft rules of court for the simple procedure – a new procedure to replace the small claims and summary cause court procedures in the sheriff court. The consultation closed on 02 March 2016 and responses were published on 01 April 2016. Responses have been analysed and are being considered to help the Council reach a view on the Simple Procedure Rules. It is intended to publish a consultation report on the Council's website in May 2016.

## Communications and Engagement

29. Promoting Council activity to practitioners and users of the civil justice system, as well as engaging with other justice organisations, is a key part of our work.

30. The Council's website was launched with the establishment of the Council and acts as the hub for communicating all Council activity. All official publications, details of Council and committee meetings, agendas and selected papers, and civil court rules prepared by the Council, are available online.

31. In July 2015, the Council held its first Information Event. This event was held to update interested parties of the work the Council had carried out during 2014/15, including draft rules as part of courts reform implementation, and what it plans to do throughout 2015/16.

32. It also conducted a Winter Tour in November and December 2015 for court users and staff in order to explain more about the court reform rules that had been made as well

as the upcoming changes. Nearly 80 people attended the sessions held at the sheriff courts in Aberdeen, Inverness and Glasgow. The events covered the background to changes to court rules arising from the Courts Reform (Scotland) Act 2016; an outline of the rules already made by the Council and the new drafting approach. The events also provided discussion on rules still to come with a focus on simple procedure and the civil Sheriff Appeal Court. Summaries from the event were published on the Council's website for those unable to attend.

33. In November 2015, the Council revised its communications strategy and plan. This included the introduction of a newsletter to provide regular updates on the work of the Council and its committees. In January 2016, *Update*, the Council's newsletter was launched. This is published every two months on the Council's website and distributed to interested stakeholders.
34. The use of social media was also considered and in February 2016 the Council launched its own Twitter account.

## Summary of Rules Prepared

35. During 2015/16, the Council has undertaken significant work preparing rules revisions necessary to implement primary and subordinate legislation, most notably in relation to implementation of the Courts Reform (Scotland) Act 2014 but also in respect of 'care and maintenance' rules. Through the work of its committees, it has also proposed potential improvements to procedures which can be taken forward without primary legislation.
36. Having approved draft rules submitted to it by the Council, the Court of Session made the following Acts of Sederunt:

### Implementation of section 38 of the Courts Reform (Scotland) Act 2014

37. The **Act of Sederunt (Ordinary Cause Rules Amendment) (Proving the Tenor and Reduction) 2015** was made on 21 April 2015 and came into force on 25 May 2015. It amended the Ordinary Cause Rules to make provision for two forms of action newly available in the sheriff court under section 38 of the Courts Reform (Scotland) Act 2014: proving the tenor and reduction.
38. It also inserted a new Chapter 53, which is in similar terms to Chapter 52 of the Rules of the Court of Session ("actions of proving the tenor") and new Chapter 54, which is in similar terms to Chapter 53 of the Rules of the Court of Session ("actions of reduction").

### Implementation of the Courts Reform (Scotland) Act 2014: transfer and remit of proceedings and personal injury actions

39. The **Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No. 2) (Personal Injury and Remits) 2015** was made on 02 June 2015 and came into force on 22 September 2015. It amended the Rules of the Court of Session 1994, the Ordinary Cause Rules 1993 and the Summary Cause Rules 2002 in

respect of the transfer and remit of civil proceedings and personal injury actions. It made provision in consequence of the coming into force of the Courts Reform (Scotland) Act 2014 as well as containing other amendments in relation to personal injury actions.

### Implementation of the Courts Reform (Scotland) Act 2014: determination of the value of an order; applications for judicial review; and appeals to the Supreme Court

40. The **Act of Sederunt (Rules of the Court of Session 1994 Amendment) (No. 3) (Courts Reform (Scotland) Act 2014) 2015** was made on 02 June 2015 and came into force on 22 September 2015. It amended the Rules of the Court of Session 1994 in consequence of the coming into force of certain parts of the Courts Reform (Scotland) Act 2014.
41. In particular, the Act of Sederunt made provision for the determination of the value of an order; applications for judicial review; and appeals to the Supreme Court.

### Implementation of the Courts Reform (Scotland) Act 2014: Fees of solicitors

42. The **Act of Sederunt (Rules of the Court of Session 1994 and Fees of Solicitors in the Sheriff Court Amendment) (Courts Reform (Scotland) Act 2014) 2015** was made on 04 June 2015 and came into force on 22 September 2015. It amended Chapter 42 (taxation of accounts and fees of solicitors) of the Rules of the Court of Session 1994 and the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993.
43. Paragraph 2 amended the Table of Fees in rule 42.16(3) of the Rules of the Court of Session 1994 in consequence of the substitution of Chapter 58 (judicial review) by the Act of Sederunt (Rules of the Court of Session 1994 Amendment) (No. 3) (Courts Reform (Scotland) Act 2014) 2015.
44. Paragraph 3 amended the Table of Fees in Schedule 1 to the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993 in consequence of the amendments to Chapter 36 (actions of damages) and the insertion of new Chapter 36A (case management of certain personal injuries actions) by the Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No. 2) (Personal Injury and Remits) 2015.

### Miscellaneous instrument: Child witness notices; Counter-Terrorism and Security Act 2015 and summary warrant procedure

45. The **Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No. 3) (Miscellaneous) 2015** was made on 07 July 2015 and came into force on 07 August 2015. It amended the Rules of the Court of Session 1994, the Ordinary Cause Rules 1993, the Summary Cause Rules 2002, the Small Claim Rules 2002, the Act of Sederunt (Child Care and Maintenance Rules) 1997, the Summary Application Rules and the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002. The changes were in relation to child witness notices,



detention of travel documents and summary warrants for recovery of sums payable to Revenue Scotland

### Act of Sederunt (Ordinary Cause Rules 1993 Amendment and Miscellaneous Amendments) 2015

46. The **Act of Sederunt (Ordinary Cause Rules 1993 Amendment and Miscellaneous Amendments) 2015** was made on 31 July 2015 and came into force on 21 September 2015. This Act of Sederunt was a corrective instrument, in order to clarify that summary decree is not possible in actions of proving the tenor and correcting numbering and typographical errors in previous instruments.

### Act of Sederunt (Rules of the Court of Session 1994 and Ordinary Cause Rules 1993 Amendment) (Child Welfare Reporters) 2015

47. The **Act of Sederunt (Rules of the Court of Session 1994 and Ordinary Cause Rules 1993 Amendment) (Child Welfare Reporters) 2015** was made on 26 August 2015 and came into force on 26 October 2015. It amended the Rules of the Court of Session 1994 and the Ordinary Cause rules 1993 to make provision concerning the appointment of reporters and local authorities to assist the court in relation to child welfare issues in family actions in the Court of session and sheriff court.

### Act of Sederunt (Child Support Rules Amendment) (Miscellaneous) 2015

48. The **Act of Sederunt (Child Support Rules Amendment) (Miscellaneous) 2015** was made on 16 October 2015 and came into force on 21 December 2015. It inserted a new Schedule in the Act of Sederunt (Child Support Rules) 1993 in place of the existing Schedule. The Schedule sets out the forms that are prescribed for the purpose of, and in connection with, various categories of application to the sheriff under the Child Support Act 1991 (“the 1991 Act”).

### Act of Sederunt (Sheriff Court Appeal Rules) 2015

49. The **Act of Sederunt (Sheriff Court Appeal Rules 2015)** was made on 21 October 2015 and came into force on 01 January 2016. It made provision about procedure to be followed in appeals to the Sheriff Appeal Court in civil proceedings.

### Act of Sederunt (Fees of Solicitors in the Sheriff Appeal Court) 2015

50. The **Act of Sederunt (Fees of Solicitors in the Sheriff Appeal Court) 2015** was made on 17 November 2015 and came into force on 01 January 2016. It regulates the taxation of accounts of expenses between parties in relation to proceedings in the Sheriff Appeal Court.

### Protective Expenses Orders

51. The **Act of Sederunt (Rules of the Court of Session 1994 Amendment) (No. 4) (Protective Expenses Orders) 2015** was made on 02 December 2015 and came into force on 11 January 2016. It amended Chapter 58A of the Rules of the Court of Session 1994. The rules in Chapter 58A make provision for the granting of protective expenses orders in certain proceedings relating to the environment.

### Sheriff Appeal Court

52. The **Act of Sederunt (Rules of the Court of Session, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment) (Sheriff Appeal Court) 2015** was made on 08 December 2015 and came into force on 10 December 2015. It amended the Rules of the Court of Session 1994 and various sheriff court rules in consequence of the Sheriff Appeal Court taking up its civil jurisdiction and competence on 1 January 2016. The amendments principally removed inconsistent appeal provisions from individual sets of rules as the procedure in the Sheriff Appeal Court will be regulated instead by the Act of Sederunt (Sheriff Appeal Court Rules) 2015.

### Miscellaneous instrument: transfer of cases to the Competition Appeal Tribunal and appeals under the Secure Accommodation (Scotland) Amendment (No 2) Regulations 2015

53. The **Act of Sederunt (Sheriff Court Rules Amendment) (Miscellaneous) 2015** was made on 11 December 2015 and came into force on 01 February 2016. It amended the Ordinary Cause Rules 1993 in implementation of the Section 16 Enterprise Act 2002 Regulations 2015 to allow for the transfer of certain cases to the Competition Appeal Tribunal for the sheriff court.
54. It also amended the Act of Sederunt (Child Care and Maintenance Rules) 1997 in consequence of the coming into force of section 44A of the Criminal Procedure (Scotland) Act 1995 and the Secure Accommodation (Scotland) Amendment (No 2) Regulations 2015. The scope of Chapter 3 of the Rules has been widened so as to apply to appeal under section 44A.

### Fees for sheriff officers and messengers at arms

55. The **Act of Sederunt (Fees of Sheriff Officers) 2016** and **Act of Sederunt (Fees of Messengers-at-Arms) 2016** were made on 12 February 2016 and came into force on 01 April 2016. They amend the table of fees for sheriff officers and messengers at arms.

### Amendments to Court of Session and Sheriff Court rules

56. The **Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (Miscellaneous) 2016** was made on 15 February 2016 and came into force on 21 March 2016. This miscellaneous instrument covered a number of matters including the lodging of documents in process; procedure for reclaiming an interlocutor refusing a sist; the signing of leave to appeal forms; provisions for Child Welfare Reporters in civil partnership actions; as well as a number of minor corrections.



## Freedom of Information

57. The Council operates in an open and transparent manner and is subject to the provisions of the Freedom of Information (Scotland) Act 2002 (FOISA).
58. The Council has adopted the Scottish Information Commissioner's Model Publication Scheme and issued its [Publication Scheme and Guide to Information](#) in June 2013. To support its members and committees with obligations under FOISA for the storing of records, the Council agreed and published a [Records Management Plan](#) in February 2014.
59. The Council has received three requests for information under the Act to date on different topics. Each of these requests were dealt with within the statutory timescales.

Number of requests received under FOISA 2015/16	
Legal Profession	0
Members of the public	2
MSPs/MPs	0
Press/media	0
Other	1
<b>TOTAL</b>	<b>3</b>

Outcome of requests received under FOISA 2015/16	
Information supplied	1
Information partially supplied	0
Information withheld	0
Insufficient information provided by the requester to respond	0
Information not held	2
Request withdrawn	0
<b>TOTAL</b>	<b>3</b>

## Summarised Expenditure 2015/16

60. Property, services and staff (including the Council Secretariat and legal support from the Lord President's Private Office) are provided to the Council by the Judicial Office for Scotland (a distinct arm of the SCTS, which provides support to the judiciary).
61. As detailed in the Annual Programme for 2015/16, the resources allocated to the Council during 2015/16 were approximately £715,339, made up of £636,339 for staffing costs and £79,000 for other operating costs.
62. In terms of staffing, it had always been anticipated that a drafting team of five solicitors would be required to support courts reform, in terms of implementation of the 2014 Act and the Rules Rewrite Project. At the beginning of the year, 3.8 drafters were allocated to that team. In October 2015, an additional member has been recruited to that team, bringing it to full complement. In addition, an additional post of Business and Policy Manager has been created within the Secretariat team. This has resulted in an overall annual expenditure on staffing costs of £641,493, a slight over-spend on the funding originally allocated.
63. In terms of other operating costs, the Council is building its operations gradually and the focus to date has been on implementation of the Courts Reform (Scotland) Act 2014 rather than long-term issues relating to the development of the civil justice system. Consequently, the Council's expenditure for 2015/16 under this head, of £8,851 was significantly lower than the total resources that were available to it. Whilst some work is still required in 2016/17 to implement the remaining provisions of the Courts Reform (Scotland) Act 2014, the Council will be looking to focus more on its overarching function of keeping the justice system under review and it is expected that the expenditure will increase significantly over the coming year.

SCJC Annual Expenditure 2015/16		
Category	Description	Expenditure* £
Staffing (Secretariat)	Deputy Secretary Business and Policy Manager (from December 2015) 3 Policy Officers 0.2 Communications Officer	188,983
Staffing** (Drafting)	2.2 (Full Time Equivalent) Solicitors  3.8 solicitors for the Rules Rewrite Drafting Team from April to September 2015; increased to 4.7 from October 2015	452,510

Expenses	Reimbursement of SCJC and committee members' Travel & Subsistence, additional expenditure and consultancy fees.	3,133
Recruitment and Training	Ongoing recruitment of and training for new members	75
General Expenses	General operating costs e.g. hospitality, catering, minor purchases.	5,718
<b>Total staffing</b>		<b>641,493</b>
<b>Total other</b>		<b>8,851</b>
<b>TOTAL</b>		<b>650,344</b>

\*Note: all figures are rounded up to the nearest £

\*\*As legal services to the SCJC are provided by lawyers of the Lord President's Private Office on a part-time basis, this figure is approximate.

## Further information and contacts

64. Full information about the Council and its activities is available at [www.scottishciviljusticecouncil.gov.uk](http://www.scottishciviljusticecouncil.gov.uk). The website is updated regularly with news about the Council and provides full details of Council and committee meetings, Council publications, draft rules under consideration and rules which have been recently made.
65. The Council publishes a newsletter, *Update*, which provides up-to-date information about its ongoing work. This is published around six times per year and can be accessed via the [publications](#) page. If you would like to be added to our email list to receive links to future editions, please contact us.
66. You can also follow the Council @ScottishCJC to keep up to date with us on Twitter.
67. The Council welcomes all feedback in relation to the practical workings of the rules of court. You can contact us as follows:

Email [scjc@scotcourts.gov.uk](mailto:scjc@scotcourts.gov.uk)

Telephone: 0131 240 6781

Post: Scottish Civil Justice Council  
Parliament House  
Edinburgh  
EH1 1RQ

© Crown copyright 2016

ISBN: 978-0-9929447-5-9

16 June 2016

Scottish Civil Justice Council  
Parliament House  
Parliament Square  
Edinburgh  
EH1 1RQ



Scottish  
Civil Justice  
Council

[www.scottishciviljusticecouncil.gov.uk](http://www.scottishciviljusticecouncil.gov.uk)