

UPDATE

The newsletter of the
Scottish Civil Justice Council



Scottish
Civil Justice
Council

ISSUE 24: July 2021

Welcome to July 2021's edition of the SCJC newsletter.

The Covid-19 pandemic has impacted on the Council's business, however we have adapted to ensure that our key priorities can continue to be progressed. Most significantly, this has included work on a number of key developments which have been progressed since our last update and we are pleased to provide an overview of this work within this newsletter:

- [Council activity](#), ongoing work and meetings
- [New Rules](#)
- [Committee Business updates](#)
- [Appointments](#)

Consultations, publication and other developments:

There are currently no open consultations.



Lord Carloway

Lord President of the Court of Session,
Chair of the SCJC.

Latest news

New rules:

[Act of Sederunt \(Fees of Messengers-at-Arms and Sheriff Officers\) \(Amendment\) 2021](#) came in to force on 30th June 2021.

[Act of Sederunt \(Rules of the Court of Session 1994, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment\) \(Qualified One-Way Costs Shifting\) 2021](#) also came in to force on 30th June 2021.

You can [find more](#) information on these developments in this article or on our [website](#).

The Council welcomes feedback in relation to the practical workings of the rules of court.

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Council Activity

Council Meeting – 24 May 2021

The Council convened a virtual meeting on 24 May 2021 to provide council members with the opportunity to share and discuss the wide range of views expressed at the Civil Justice Conference held on 10 May by the Judicial Institute, and the appropriate next steps for the Council to take.

Members discussed the key themes that arose during the conference, including:

- Open justice for media/court users
- Access to justice issues e.g. disability and other equality impacts, digital poverty, specialist support services, geographical barriers
- Issues around welfare
- Environmental issues e.g. avoiding unnecessary travel
- Implications for rule making (barriers within existing rules, case management decisions, electronic transmission of documents).

[Minutes](#) of the meeting are available on the Council's website.

Council meeting – 19 July 2021

The Council convened a virtual meeting on 19 July 2021 to discuss and consider the following items:

- Approval of the Annual report 2020/21 and Annual programme 2021/22
- Rules Review - Mandatory Use of Civil Online in Simple Procedure Cases
- Request for new rules to support the Age of Criminal Responsibility (Scotland) Act 2019
- Preparation for a consultation on Remote Hearings

Minutes of the meeting will be available on the Council's website shortly.

Future Council meetings are scheduled on the following dates:

- Monday 18 October 2021

(Meetings dates for 2022 will be confirmed at the October meeting.)

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New Rules

This section details rules that have been approved by the Court of Session and embodied in an Act of Sederunt.

- The [Act of Sederunt \(Fees of Messengers-at-Arms and Sheriff Officers\) \(Amendment\) 2021](#) came in to force on 30th June 2021.

This Act of Sederunt makes changes to the rules regulating the fees of Messengers-at-Arms and sheriff officers. Paragraphs 2 and 3 substitute new Tables of Fees for Messengers-at-Arms and sheriff officers in Act of Sederunt (Fees of Messengers-at-Arms) (No. 2) 2002 and Act of Sederunt (Fees of Sheriff Officers) (No. 2) 2002. The fee levels in the new Tables of Fees represent an increase of 6% on the existing fees.

- The [Act of Sederunt \(Rules of the Court of Session 1994, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment\) \(Qualified One-Way Costs Shifting\) 2021](#) came in to force on 30th June 2021.

This Act of Sederunt amends the Rules of the Court of Session 1994, the Act of Sederunt (Sheriff Appeal Court Rules) 2015, the Ordinary Cause Rules 1993 and the Summary Cause Rules 2002. The new rules support the implementation of section 8 of the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 which establishes a qualified one way cost shifting regime. The underlying principle is that, provided proceedings have been conducted in an appropriate manner, the court must not make an award of expenses against the person bringing a personal injury action (or related appeal) even if the person loses their claim. The Act sets out some exceptions to that principle and provides that court rules may specify further exceptions. These new rules establish those further exceptions in terms of a cap which applies with equal effect where there is failure to beat a tender as well as where there is unreasonable delay in accepting a tender. That cap is limited to an aggregate sum, payable to all applicants (if more than one) of 75% of the amount of damages awarded to the pursuer.

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Committee business update

To ensure the health and safety of our staff and members during the Covid-19 pandemic, committee meetings are being scheduled virtually during 2021 and matters are being considered by correspondence when appropriate.

The [Access to Justice Committee](#) convened a virtual meeting on 14 June 2021 where the following matters were discussed:

- **Civil Online Questionnaire Report and Recommendations.**
The Committee discussed the responses to the questionnaire on the mandatory use of Civil Online for Simple Procedure cases, and the appropriate next steps.

[Minutes](#) of the meeting are available on the Council's website.

The [Personal Injury Committee](#) has considered the following item by correspondence:

- **Compulsory Clinical Negligence Pre-Action Protocol**
Members were invited to approve the procedure contained within the draft Compulsory Clinical Negligence Pre-Action Protocol.

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Appointments

- **Fiona Campbell, Solicitor member to the Family Law Committee, was reappointed to the Committee for a further three years, effective from 22 June 2021.**

You can view the full membership of the Council and its Committees on our [website](#).