

ITEM 7.1: COURT RULES: GUIDANCE FOR POLICY TEAMS**Purpose**

1. To seek members' approval of guidance [**Paper 7.1A**] to be issued to policy teams wishing to submit requests for new, or amendments to court rules.

Background

2. Much of the demand for new rules or amendments to existing rules is driven by new legislation initiated by the Scottish Government. The demand for rules that will be occasioned by legislation introduced in the next parliamentary year, coupled with the on-going maintenance of existing rules, raises the need for comprehensive guidance on requesting court rules. Such guidance will also be useful to UK Government officials, and non-government bodies who may be unfamiliar with the rule-making process.
3. The Rules Rewrite Working Group (RRWG) has been tasked with developing comprehensive guidance for policy teams. It can be expected that that will take into account, and complement, the work underway to develop a 'style guide' for the rules.
4. Pending the detailed guidance to be developed by the RRWG, it is considered that it would be helpful to issue interim guidance (covering civil and criminal rules) in early course. It is proposed that the guidance should also be available on the SCJC website.
5. The guidance gives information about the new arrangements for the preparation of civil court rules, explains how to engage with the SCJC and the Criminal Courts Rules Council; and what the key considerations are when proposing an amendment to court rules. It has been prepared with a view to ensuring that policy teams provide such information as is necessary or helpful for the Council or committee in question to give full consideration to the matters at hand. This includes: the rationale for the request; details as to any relevant legislation (existing or anticipated); what consideration has been given to the *vires* to make the rules requested; and any relevant implementation timescales. It is hoped that this will assist with business planning and help to ensure full consideration can be given to proposals prior to their submission to the Court of Session.
6. The guidance includes a section on sheriff court proceedings (at paras. 21-26) based on a paper originally prepared under the auspices of the Sheriff Court Rules Council (although this was never formally issued). Further

consideration will require to be given to guidance in relation to Court of Session proceedings in due course.

7. The guidance will be similarly submitted to the Criminal Courts Rules Council.

Recommendation

8. That members:

- a. **agree to the guidance provided at Paper 7.2A being issued to policy teams and made available on the SCJC website, subject to the Criminal Courts Rules Council's consideration of it; and**
- b. **note that further guidance will be produced under the auspices of the RRWG in due course.**

Scottish Civil Justice Council – Secretariat

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