

SCOTTISH CIVIL JUSTICE COUNCIL

MINUTES

PARLIAMENT HOUSE, MONDAY 16 MARCH 2015

- Members present:** Lord Menzies (Chairman)
Sheriff Principal Abercrombie QC
Sheriff Thomas Hughes
Colin Lancaster (Director of Policy and Development, SLAB)
Kay McCorquodale (Scottish Ministers' representative)
Andrew Stewart QC (Advocate)
Kenneth Forrest (Advocate)
Eric Baijal (Solicitor)
Jacqueline Harris (Solicitor)
Paul Reid (Solicitor)
Prof. Fran Wasoff (LP member)
Ian Maxwell (Consumer representative)
Lauren Wood (Consumer representative)
Employment Judge Joseph d'Inverno (LP member)
- In attendance:** Gillian Prentice (Deputy Principal Clerk of Session)
Jane MacDonald (SCS Policy and Legislation Branch)
Craig McCorkindale (Director for Civil Courts Reform, SCS)
- Secretariat:** Roddy Flinn (Secretary to the Scottish Civil Justice Council)
Kenny Htet-Khin (Head of the Rules Rewrite Drafting Team)
Mandy Williams (Deputy Secretary to the Scottish Civil Justice Council)
Susan Brodie (Policy Officer, Scottish Civil Justice Council)
- Apologies:** Lord President
Lord Tyre
Eric McQueen (Chief Executive, SCS)
Jan Marshall (Scottish Minister's representative)

Item 1: Introduction, welcome and apologies

1. The Chair welcomed Sheriff Thomas Hughes to his first Council meeting. Sheriff Hughes fills the shrieval vacancy created following Sheriff Principal

Abercrombie's installation. The Chair congratulated Sheriff Principal Abercrombie on his recent appointment. In addition the Chair welcomed those present and noted apologies from The Lord President, Lord Tyre, Eric McQueen and Jan Marshall.

2. Members agreed not to publish the following papers: 2.2, 4.3, 4.4A, 4.5, 5.1, 5.1A, 6.1 and 6.1A-B.

Item 2: Previous Meeting

Item 2.1 - Minutes of previous meeting [Paper 2.1]

3. It was agreed that Colin Lancaster would provide the Secretariat with amended wording in relation to his presentation on Making Justice Work stream 3.
4. **Members agreed the minutes from the previous meeting with the above amendments.**

Item 2.2 - Progress of actions from previous meeting [Paper 2.2]

5. **Members noted the progress that had been made on actions since the last meeting.**

Item 3: Proceedings

Item 3.1 Membership

6. The Chair informed the Council of the membership recommendations. Sheriff Sean Murphy has been nominated to fill the shrieval vacancy within the Information and Communications Technology Committee (ICTC) and Sheriff Fiona Tait has been nominated to fill the shrieval vacancy within the Family Law Committee (FLC). It was also recommended that Stephen O'Connor to take up membership within the Costs and Funding Committee in place of Ms Stella Smith (Scottish Government).
7. **Members approved the Committee appointments.**

Item 4: Work programme

Item 4.1 Update from Scottish Government on legislative developments

8. Kay McCorquodale provided members with an update on progress in relation to the Legal Writings (Counterparts and Delivery) (Scotland) Bill; Apologies (Scotland) Bill; The Tribunals (Scotland) Act 2014 (Commencement no. 2) Order 2015; Consultation on Expenses and Funding of Civil Litigation Bill and The Fatal Accident Inquiries Bill.

Item 4.2 Update from SCS on Making Justice Work Programme of reform and Shaping Scotland's Courts

9. Craig McCorkindale gave an oral update on the Making Justice Work Programme. He advised that the third stage of the Court Structures project had been completed and an evaluation exercise would be carried out in the coming months. Appointed contractors of the case management system, Kainos, are carrying out their discovery stage and from Easter moving into the developments stage.

Item 4.3 Business Tracker

10. Discussion took place regarding the business tracker, specifically regarding D1 EU Directive on Consumer ADR and Regulation on Consumer ODR (online dispute resolution). **It was agreed that the Scottish Government would provide an update concerning this area. Members noted the progress of work as outlined on the Business Tracker at Paper 4.3.**

Item 4.4 Rules Rewrite: update

11. Kenny Htet-Khin provided an oral update on the progress of the rules rewrite project. Members were advised that all the activities on the Rules Rewrite activity tracker were timeous. **Members noted the progress of the work as outlined on the Rules Rewrite activity tracker at Paper 4.4A.**

Item 4.5 Drafting priorities

12. Kenny Htet-Khin spoke to **[Paper 4.5]**. Members agreed the drafting priorities, subject to minor amendment, and agreed the order of the priorities for the drafting commitments.

13. *Item 4.6 Stakeholder events*

14. Mandy Williams provided information regarding stake holder events. Discussion took place and **members agreed for one promotional event to be held on a date to be fixed in May, after the SCJC meeting of 11 May 2015. This will take place in Parliament House and will highlight the Annual Report and launch the Annual Programme. Council members agreed that the SCJC Secretariat will produce an Autumn Tour plan which members would participate in to ensure relevant coverage of Scotland. Members also suggested small articles be placed upon the Scottish Legal News.**

Item 5: Research and consultations

Item 5.1 Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland

15. The Council members thanked the Secretariat for the production of the Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland. On discussion of this report, Council members suggested a visit to the Judicial Institute to view the training members of the Judiciary receive now and in future to implement the Reforms. **Members approved the Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland and remitted it back to the Costs and Funding Committee to implement. Secretariat to arrange a visit to the Judicial Institute to view the Judicial Institute's training suite and facilities.**

Item 6: Secondary Legislation

Item 6.1 The Bankruptcy and Debt Advice (Scotland) Act 2014

16. Roddy Flinn spoke to **[Papers 6.1 and 6.1A]**. He invited the Council to consider and comment on a draft Act of Sederunt **[Paper 6.1A]** proposing changes to Rules

of Court of Session (RCS) and the Sheriff Court Bankruptcy Rules 2008 (the 2008 Rules). **Members considered the draft rules and indicated they are content that they be submitted to the Court of Session. The transitional provision identified in Paper 6.1 is to be included.**

Item 7: AOCB

17. No other business was raised.

Item 8: Date of next meeting

18. **Members noted meeting dates for 2015 as provided on the agenda and that the next meeting would now take place at 10.00am on Monday 11 May 2015.**