

**MEETING OF THE SCOTTISH CIVIL JUSTICE
COUNCIL
MONDAY 17 FEBRUARY 2020 AT 10.30AM
RADISSON BLU HOTEL, HIGH STREET, ROYAL MILE,
EDINBURGH**

MINUTES

Present: Lord President (Chair)
Sheriff Principal Abercrombie QC
Lord Boyd of Duncansby
Lynda Brabender QC (Advocate)
Kenneth Campbell QC (Advocate)
Lady Carmichael
Joel Conn (Solicitor)
Employment Judge Joseph d'Inverno (LP member)
Elena Fry (Solicitor)
Jaqueline Harris (Solicitor)
Gavin Henderson (Scottish Government)
Colin Lancaster (Scottish Legal Aid Board)
Eric McQueen (SCTS)
Brandon Malone (LP member)
Sheriff Way
Thomas Docherty (Which?)

In attendance: Cameron Stewart (SCTS)
Diane Machin (Offices of Court of Session)

Support: Julia McCombie (SCJC)

Karen Stewart (SCJC)

Kelly Jack (SCJC)

Emma Laurie (SCJC)

Jennifer Kelly (SCJC)

Andrew Campbell (LPPO)

Ashley Pitcairn (LPPO)

Jessica Flynn (observer)

Apologies: Sheriff Hughes

Nicola Anderson (SCTS)

Item 1: Welcome, apologies and agreement of private papers

1. The Chair welcomed those present and noted the apologies received from Sheriff Hughes and Nicola Anderson.
2. The Committee agreed the following papers would remain private: 3.2; 4.2; 4.3; 5.1.

Item 2: Previous meeting

Item 2.1 – Items by correspondence (Paper 2.1)

3. **Members noted Paper 2.1** which provided a summary of the outcomes of matters considered by correspondence since the last meeting.

Item 3: Proceedings

Item 3.1 Election of Deputy Chair

4. The Lord President nominated Lord Boyd for appointment as Deputy Chair of the Scottish Civil Justice Council and invited any further nominations from members.

5. Council members made no further nominations.
6. The Council duly approved the nomination and elected Lord Boyd as Deputy Chair of the Scottish Civil Justice Council.

Item 3.2 *Proposed Revisions to Standing Orders (Paper 3.2)*

7. Paper 3.2 invited members to consider and approve amendments to the Council's Standing Orders which govern how the Scottish Civil Justice Council and its committees are run and which aim to create efficiencies in the planning and administration of Council business.
8. Members considered the paper which proposed amendments to:
 - reduce the frequency of ordinary meetings to four times per year;
 - Streamline the administration of items by correspondence and publication of outcomes on the Council's website; and
 - Streamline the process for approval and publication of Council minutes.
9. The proposed amendments were approved subject to a minor amendment in relation to Standing Order 4.14 where the Council felt it was important to ensure that any matter subject to consideration by correspondence had the opportunity to be tabled for discussion at a full SCJC meeting .
10. It was agreed that the revised Standing Orders would be published on the Council website.

Item 4: Work Programme

Item 4.1 – Update from the Scottish Government (SG) on legislative developments (Oral)

11. The SG provided an update on legislative developments.
12. It was noted that the Children (Scotland) Bill, Civil Partnership (Scotland) Bill and the Defamation and Malicious Publication (Scotland) Bill were now in Stage 1 in the Scottish Parliament.
13. It was also noted that the Scottish Government's consultation on Gender Recognition had been published, with forthcoming consultations on legal services and dispute resolution expected to be published in the near future.

14. The new Scottish Government Programme for Government would be published as normal in September. However, it was noted that next year's parliamentary session would be shorter due to the Scottish parliamentary election due to take place in May 2021.

Item 4.2 – Rules Rewrite Project (Paper 4.2)

15. Paper 4.2 provided an update on the status of the Rules Rewrite Project.

16. Whilst progress across a number of priorities had been made by the SCJC, Members noted their disappointment that this workstream in particular had not progressed due to a lack of resources at both the policy and legal level.

17. Council members considered this project central to the work of the Council and, with this in mind, agreed that it should be revisited as part of the forthcoming Strategy Day.

18. In the meantime, it was noted that efforts would continue to fill vacant policy and legal posts.

Item 4.3 – Annual Programme – Update on Work Plan and Priorities (Paper 4.3)

19. **Paper 4.3** gave a high-level overview of progress to date with delivering the Council Priorities as set out in the 2019/20 Annual Programme.

20. It was noted that whilst there had been substantive pieces of work progressed, due to limited resources and vacant posts there remained a number of outstanding priorities.

21. Council agreed therefore that outstanding priorities would be rolled into the Council's 2020/21 annual plan so that it may be laid in Parliament as required by the 1 April 2020.

22. It was noted that a draft 2020/21 programme would be circulated to Council members by correspondence at the earliest opportunity for consideration and approval.

23. Lastly, it was agreed that the forthcoming Strategy Day would be a good opportunity to consider Council's priorities more generally.

Item 5: Justice System reform

Item 5.1 – Scottish Government Consultation on the changes introduced by the Bankruptcy and Debt Advice (Scotland) Act 2014: judicial rate of interest (Paper 5.1)

24. **Paper 5.1** invited members to consider and approve a draft response to a consultation being led by Accountant in Bankruptcy (AiB) on changes introduced by the Bankruptcy and Debt Advice (Scotland) Act 2014.

25. Members discussed the complex issues arising under this topic and agreed that various broader considerations should be incorporated into the consultation response. The secretariat agreed to update the draft response to incorporate members' views in consultation with the Lord President.

26. It was agreed that, due to time constraints for responding to the consultation, members would not have an opportunity to further review the response prior to its submission to AiB by the end of February 2020. A copy of the final response would be circulated to members.

Item 6: Proposals for Rules

Item 6.1 Civil Litigation (E&GP)(S) Act 2018 – group proceedings

27. The SCJC secretariat team provided an update on work to implement Part 4 of the 2018 Act on group proceedings.

28. Council noted that this work was now an urgent priority for the Council and work was underway to expedite the development of rules to bring into effect Group Proceedings.

29. To date, a working group had been established to take forward this work and its first meeting had taken place on 29 January 2020.

30. The working group had agreed a timetable of work and the SCJC secretariat was undertaking engagement with a number of interested parties in relation to the development of policy.

31. Finally, it was noted that the working group would next meet on 27 February 2020.

Item 7: Any Other Business

32. The Lord President advised that this was Sheriff Principal Abercrombie's last Council meeting. The Lord President and all members intimated their thanks to Sheriff Principal Abercrombie for his contribution to the work of the Council since its inception. Sheriff Principal Abercrombie wished the Council well for the future.

Item 8: Date of next meeting

33. Members noted that the next meeting is scheduled for:

- Monday 11 May 2020 (subsequently amended to Monday 1 June)

**Scottish Civil Justice Council Secretariat
February 2020**