

## ITEMS CONSIDERED BY CORRESPONDENCE

### Purpose

1. To provide members with outcomes of matters considered by correspondence since the last meeting.

### Discussion

2. In considering matters by correspondence, members are advised that a nil response will be treated as consent, unless noted otherwise.
3. Eight matters have been considered by correspondence since the last meeting:

#### A. SCJC Admin Matters

- **Paper 2019/18** was issued on 13 September 2019 and invited members to approve the minutes of the meeting held on 09 September 2019. Responses were invited by close of business on 27 September 2019.
- Two responses were received, approving the minutes of 09 September 2019. One minor typographical change was noted. The approved minutes were thereafter published on the SCJC website.

#### B. Committee appointments and tenures

- **Paper 2019/20** was issued on 23 September 2019 and invited members to approve, or where appropriate to note, changes to membership and representation on Committees. In particular, members were invited to approve the reappointment of:
  - Sheriff Stoddart to the Costs and Funding Committee for a further period of three years from 3 June 2019;
  - Sheriff Principal Stephen to the Personal Injury Committee for a further period of three years from 21 November 2019.
- Responses were invited by close of business on Friday 04 October 2019. A nil response from Council members has been taken as approval of the reappointments.

### C. Committee appointments and tenures

- **Paper 2019/22** was issued on 11 October 2019 inviting members to approve, or where appropriate to note, changes to membership and representation on its Committees. In particular, members were invited to approve the reappointment for Mr Alan Rogerson to the Costs and Funding Committee for a further period of three years from 19 December 2019.
- Responses were invited by close of business on Friday 25 October 2019. Two responses were received approving the appointment.

### D. Proceeds of Crime Act – Part 11 Order

- **Paper 2019/25** was issued on 29 October 2019 inviting members to approve draft rules amending the Rules of the Court of Session 1994 and the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999 to implement the Proceeds of Crime Act 2002 (External Investigations and External Orders and Requests) (Amendment) Order 2018. Members were invited to agree that no policy note is required to accompany the rules instrument.
- Responses were invited by close of business on 04 November 2019 with a nil response indicating consent. No responses were received. The *Act of Sederunt (Rules of the Court of Session 1994 and Summary Applications, Statutory Applications and Appeals etc. Rules 1999 Amendment) (Proceeds of Crime) (No.2) 2019/405* was made on 27 November 2019 and commenced on 28 December 2019.

### E. Rules of Court of Session – Chapter 42A

- **Paper 2019/28** was issued on 05 November 2019 inviting members to approve draft rules making a number of changes to the operation of Chapter 42A of the Rules of the Court of Session, in particular in relation to prescribed timescales. Members were invited to agree that no policy note was required to accompany the rules instrument.

- Responses were invited by close of business on 22 November 2019. One response was received approving the draft rules. The *Act of Sederunt (Rules of the Court of Session 1994 Amendment) (Case Management of Certain Personal Injuries Actions) 2019/404* was made on 27 November 2019 and will commence on 01 April 2020.

## **F. Working Group establishment**

- **Paper 2020/01** was issued on 07 January 2020. Members were invited to approve the establishment, remit and membership of a Council working group to take forward implementation of group proceedings under Part 4 of the Civil Litigation (Expenses and Group Proceedings) (S) Act 2018.
- Responses were invited by close of business on 13 January 2020 with a nil response indicating approval. Two responses were received confirming approval. Two late responses seeking appointment of representatives from Scottish Government and the Scottish Legal Aid Board were received and issued to members for consideration on 24 January 2020 with responses sought by close of business on 31 January 2020 with a nil response indicating consent. 1 member responded in dissent of the additional appointments.
- Accordingly, the working group has been established and the following membership appointments have been made:

Lord Armstrong (Chair)  
Ian Dickson (SLAB)  
Thomas Docherty  
Walter Drummond- Murray (Scottish Government)  
Elena Fry  
Diane Machin  
Robert Milligan Q.C.

## **G. Rules on Reporting Restrictions**

- **Paper 2020/02** was issued on 10 January 2020 inviting members to consider correspondence from the BBC requesting changes to the rule provisions regarding reporting restrictions contained within Rules of Court of Session 1994, Sheriff Appeal Court Rules 2015, Ordinary Cause Rules 1993 and Summary Application Rules 1999.
- Responses were sought by close of business on 24 January 2020. Three responses were received approving the rules instrument.

## **H. Consultation - Judicial Rate of Interest**

- **Paper 2020/04** was issued on 24 January 2020 inviting members to consider a discussion paper and a Scottish Government consultation document which includes questions on the judicial rate of interest. As the Council is actively considering this topic, members were invited to submit comments with a view to the Council issuing a response to the consultation. Due to the consultation deadline, responses were sought by close of business on 03 February 2020.
- Two responses were received. A draft consultation response has been prepared and tabled for members' consideration at the SCJC meeting on 17 February 2020.

## **Recommendation**

4. **Members are invited to note this update.**

**Scottish Civil Justice Council Secretariat  
February 2020**