



STRATEGY WORKSHOP

31 March 2025

PURPOSE - to shape the annual Work Programme so that the available resources can make a realistic contribution to the two main statutory functions of this Council:

To keep “practice & procedure” under review; and then propose draft:

- COURT RULES
- FEES RULES
- INQUIRY RULES

To keep the wider “civil justice system” under review, and then make recommendations for the development of that system

Supporting background information is provided in:

- *FLAG B - a “Listing of Procedures” to convey the range of procedures members should keep under review*
- *FLAG C – a “Mindmap” to convey the wider context when undertaking that review*



RECAP OF THE AGENDA:

Item 1. Opening comments (Chair)

Item 2. Progress made within this year's programme (2024-25):

2.1 - POLICY DEVELOPMENT

2.2 - RULES ENACTED

Item 3. Agreeing the priorities for the coming year (2025-26):

3.1 - SUGGESTED PRIORITIES

3.2 – KEEPING THE SYSTEM UNDER REVIEW

3.3 – PROMPTS FOR DISCUSSION

Item 4. Considering the 42 Rules Requests carried forward:

4.1 - COURT RULES - 35 requests

4.2 - FEES RULES - 4 requests

4.3 - INQUIRY RULES - 1 request

4.4 - TRIBUNAL RULES – 2 requests

Item 5. Closing comments (Chair)



Item 2. Progress made with this year's work programme (2024-25):

2.1 POLICY DEVELOPMENT

2.2 RULES ENACTED

PROGRESSING THE POLICY POSITIONS - during 2024-25 the Council has opened 3 consultations on court procedure; published 2 research papers; considered updates on 2 key policy topics, and issued 1 practice note:

WORKFLOW	PUBLICATIONS	Published	Pages
CONSULTATION PAPERS	Online Intimation - to replace the walls of court	31 Oct 24	22
	Simplified procedures - for divorce and dissolution	19 Nov 24	25
	Modernising the Signet	04 Dec 24	18
RESEARCH PAPERS	Research on the cost caps used in practice	02 Sep 24	22
	Research on the type of cases seeking a PEO	02 Oct 24	13
MONITORING REPORTS	Update on the Aarhus concerns for Scotland	30 Sep 24	16
	Annual update on the transfer of Tribunal Rules	20 Jan 25	13
PRACTICE NOTES	Practice Note 2 of 2024 – on Citizens Rights following withdrawal from the EU	04 Nov 24	1

Note

1. Supporting consultation documents = 3 X BRIA , 3 x EQIA , 1 DPIA & 1 set of draft rules (140 pages)



THE VISIBLE OUTCOMES - the opening balance was 41 'rules requests' and 7 SSI have been enacted:

WORKFLOW	RULES INSTRUMENTS MADE & LAID	Commenced	Pages
REVIEW	Protective Expenses Orders (SSI 2024/196)	01 Oct 24	3
MODERNISE	Statutory Interveners (SSI 2024/353)	01 Jan 25	20
MAINTAIN	Hague 19 & currency conversion certificates (SSI 2025/XX) Nautical Assessors (SSI 2025/61)	30 Apr 25 11 Apr 25	16 3
REFORM			
COMPLY	UNCRC Compatibility & Devolution Issues (SSI 2024/195) and the Determination of Compatibility Questions Rules (SSI 2024/197)	16 Jul 24 16 Jul 24	15 8
FEES & EXPENSES	Objections in a Diet of Taxation (SSI 2024/323)	01 Jan 25	3

Notes

1. Priority SSI - 2 delivered in year (PEOs/UNCRC) & 1 carried forward (Inner House Rules).
2. Other items closed - 1 item for the UK Withdrawal from the EU(C)(S) Act 2021 (as ESS can use the Statutory Interveners procedure)
3. UNECE Complaint - the press release for the PEO rules publicly communicated the reasons for the decision not to consult



Agreeing the priorities for the coming year (2025-26):

3.1 – SUGGESTED PRIORITIES

3.2 – KEEPING THE SYSTEM UNDER REVIEW

3.3 – PROMPTS FOR DISCUSSION



The Council operates a multi-year programme of work and for 1 April 2025 there are 42 rules requests being carried forward. To progress those requested changes the 9 suggested priorities for 2025-26 are:

WORKFLOW	COUNT	POLICY TOPIC
RUNNING CONSULTATIONS	1	Simple Procedure Special Claims (SPSC)
	2	Extending PEOs to the sheriff court
	3	Simplified table of fees for Officers of Court
ANALYSING CONSULTATION RESPONSES	4	Online intimation / withdrawal of the walls of court
	5	Extension of simplified divorce
	6	Modernisation of the signet
FACILITATING WORKING GROUPS	7	Group Procedure
SSIs TO BE MADE & LAID	8	Inner House Rules
	9	Covid (Recovery & Reform) (S) Act 2022

Note

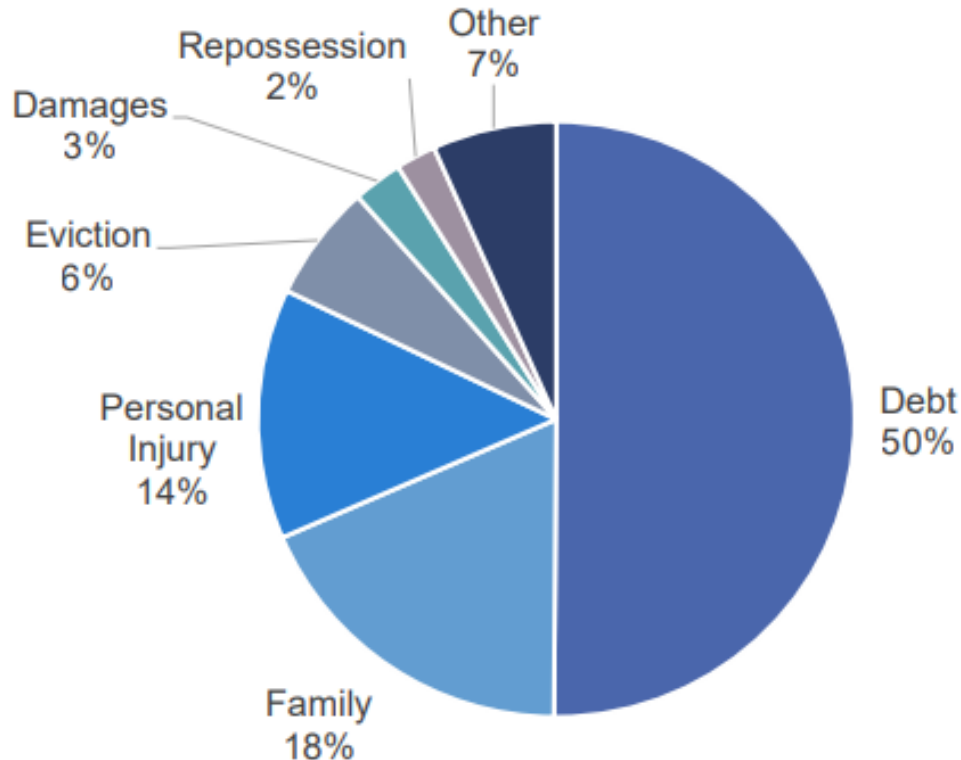
1. The sunset clauses in the Covid legislation are due to expire on 30 November 2025 (which requires the rules on electronic documents to be made permanent)



DECIDING THE PRIORITIES: *3.2 Keeping the system under review*

In addition to the 42 items in the pipeline - the Council has a statutory function for “keeping the civil justice system under review” and generating “recommendations for the development of that system”.

Proportions of civil court case types initiated in 2022-23



Q – What other policy areas do members perceive as providing either ‘a problem to be solved’ or ‘an opportunity to add value’?



Flag D provides further background on the following “prompts for discussion”:

- 1 - Establishing the Group Procedure Working Group;
- 2 - How to better support “open justice”;
- 3 - Anticipating the impact of “artificial intelligence”;
- 4 - Compliance with Article 8 of the Aarhus Convention;
- 5 - The government response to requests for an Environment Court;
- 6 – Accessing judgments via the SCTS website; and
- 7 – Anticipating any future reorganisation of local authority boundaries



Next year's work programme (2025-26) will open with 42 items logged:

4.1 - COURT RULES - 35 items

4.2 - FEES RULES - 4 items

4.3 - INQUIRY RULES - 1 item

4.4 - TRIBUNAL RULES – 2 item

COURT RULES – On this slide - 4 rules reviews & 5 modernisation initiatives

WORKFLOW	COUNT	POLICY TOPIC
REVIEW	1	Personal Injury - Pre Action Protocol
	2	Withdrawal of Agents (RCS Chap. 30)
	3	Inner House Rules
	4	Extension of Protective Expenses Orders (PEO's)
MODERNISE	1	Lay representation, lay support and party litigants
	2	Pre Action Protocol - Clinical negligence (<i>awaits new fee structure</i>)
	3	Pre Action Protocol – Disease (<i>awaits new fee structure</i>)
	4	Caveats
	5	Electronic Recording of Evidence (<i>new item</i>)

Notes:

1 - 1 item was closed in year - Statutory Interveners.

2 - 1 item was added - Electronic Recording of Evidence.

3 – The 2 suggested priorities for 2025-26 are – enacting an SSI for Inner House Rules + a consultation on the extension of PEOs

COURT RULES – On this slide - 8 care & maintenance requests + 6 reform initiatives

WORKFLOW	COUNT	POLICY TOPIC
MAINTAIN	1	Public Interest Interventions
	2	Appointment of assessors (<i>under the Equality Act 2010</i>)
	3	Extension of Simplified Divorce – (<i>awaits consultation analysis</i>)
	4	Historic Abuse – Nominal Defenders
	5	E-Motions
	6	Pursuers offers (<i>for PI cases under £5k</i>)
	7	Inhibition in execution
	8	Postal copies (<i>of documents served</i>)
REFORM (Gill)	1	Rules Rewrite / the Ordinary Procedure Rules
“ “	2	Simple Procedure Special Claims (SPSC) – (<i>issuing the consultation</i>)
“ “	3	Group Procedure – adding the ‘opt out’ option
REFORM (Taylor)	4	CL (E & GP) (S) Act 2018 – s9 – Pro Bono Expenses Orders
“ “	5	CL (E & GP) (S) Act 2018 – s10 – Funders Expenses Orders
“ “	6	CL (E & GP) (S) Act 2018 – s11 – Unnecessary Expenses Orders

Notes:

1 - 1 existing item was closed in year – Objections in a Diet of Taxation

2 - 3 items were both opened and closed in year - Hague Convention 2019 + Nautical Assessors + Independent Monitoring Authority

3. -The 3 suggested priorities for 2025-26 are – the Group Procedure Working Group, the SPSC consultation & the analysis of responses on simplified divorce

COURT RULES – On this slide – implementation planning to support 12 Acts (11 Scottish & 1 UK)

WORKFLOW	COUNT	POLICY TOPIC
COMPLY	1	Damages (Investment Returns & Periodical Payments) (S) Act 2019
	2	Civil Partnership (S) Act 2020
	3	Children (S) Act 2020
	4	Defamation and Malicious Publication (S) Act 2021 - <i>consequential amendments only</i>
	5	Domestic Abuse (Protection)(S) 2021
	6	Coronavirus (Recovery and Reform) (S) Act 2022
	7	<i>Child Support (Enforcement) Act 2023 - UKG - consequential amendments only–</i>
	8	Hunting with Dogs (S) Act 2023
	9	Moveable Transactions (S) Act 2023
	10	Trusts and Succession (S) Act 2024
	11	Bankruptcy and Diligence (S) Act 2024 – <i>(new item)</i>
	12	Judicial Factors (S) Act 2025 – <i>(new item)</i>

Note:

1. There were 2 new items added - Bankruptcy & Diligence + Judicial Factors.
2. There were 2 items closed in year - UNCRC + the UK Withdrawal for the EU (Continuity) (S) Act 2021.
3. The 3 suggested priorities for 2025-26 are - the electronic transmission of documents on expiry of the Coronavirus (R&R) (S) Act 2022 + consultation analysis and rules for online intimation + consultation analysis and rules for modernisation of the signet



FEES RULES - On this slide -- 4 items (3 for recovery of expenses & 1 for updating regulated fees)

WORKFLOW	COUNT	POLICY TOPIC
JUDICIAL EXPENSES	1	Fee structure - for Clinical Negligence PAP
	2	Fee structure - for Disease PAP
	3	Reduction of Inclusive Charges – taxation rule 3.7
REGULATED FEES	4	Simplified 'Table of Fees' for Officers of Court (<i>new item</i>)

Note:

1. There was 1 new item added - SMASSO requested an 8.6% inflation adjustment (to Sep 2024)
2. The 1 priority item for 2025 -26 is – a consultation on using a simplified table of fees for officers of court.



INQUIRY RULES - On this slide – 1 discussion in due course.

WORKFLOW	COUNT	POLICY TOPIC
FAI RULES	1	Seek a COPFS view on the workability of the FAI Rules 2017 <i>(from their Scottish Fatalities Investigation Unit)</i>

Note

1. Members considered an Evaluation Report in February 2023; which concluded that a full Rules Review was unnecessary as a) the FAI rules are seen to be fit for purpose and b) no subsequent change requests had been received.



TRIBUNAL RULES - On this slide – 2 monitoring actions

WORKFLOW	COUNT	POLICY TOPIC
JURISDICTION TRANSFERS	1	Monitoring Report – yearly update on the jurisdictions transferred in <i>- the 2024 update report was tabled at the JAN 2025 Council meeting. The next report is due Mar 2026.</i>
SCOPING A RULES REWRITE	1	Scoping the judicial objectives <i>(for updating the tribunal rules)</i>

Note - the Council currently has the transfer pencilled in for 2026-27 and the items for consideration are:

- finalising the target date for commencing section 81 of the 2014 Act (which transfers the function for keeping tribunal practice & procedure under review);*
- establishing the remit and membership of the new Tribunals Committee;*
- securing the legal and policy resources required to support the work of that new Tribunals Committee; and*
- assessing the expectations of Chamber Presidents on - the drafting of replacement rules v a comprehensive rule rewrite.*