

MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL

MONDAY, 16 JUNE 2025, AT 10:30

Judges Conference Room, Parliament House, Edinburgh

- Present:** Lord President (*Chair*)
Lady Carmichael
Fiona Drysdale KC
Thomas Docherty
Lord Ericht
Malcom Graham (*SCTS*)
Nicola Irvine
Colin Lancaster (*SLAB*)
Iain MacRae
Sheriff Principal Ross
Denise Swanson (*SG*)
Sheriff Way
- In attendance:** Andrew Campbell (*LPPO*)
Chris Fyffe (Court of Session)
Rachel Grant (*LIT*)
- Support:** Craig McCorkindale (*Secretariat*)
Graeme Welsh (*Secretariat*)
- Apologies:** Sheriff Martin-Brown
Sheriff McCartney

Item 1: Introduction, welcome, apologies and agreement of private papers

1. The Chair welcomed members to the meeting. Apologies were noted from Sheriff Martin-Brown and Sheriff McCartney.
2. The following papers are open papers and will be published:
 - Paper 2.1 – Items by correspondence
 - Paper 3.1 - Standing order amendments
 - Paper 3.2 – Annual report and work programme
 - Papers 4.1A-B – Consultation analysis for online intimation
 - Paper 4.3 - Messenger at Arms and Sheriff Officers – Consultation on simplified fee tables

Item 2: Items by Correspondence (Paper 2.1)

3. The Chair introduced paper 2.1 and summarised the 4 items approved by correspondence:

- Paper 2025.1 invited members to consider and approve draft minutes from the SCJC's meeting held on 20 January 2025. Three responses were received. The minutes were finalised and published;
- Paper 2025.2 invited members to consider and approve draft minutes from the SCJC's strategy day held on 31 March 2025. One response was received. The minutes were finalised and published;
- Paper 2025.3 invited members to consider and approve the appointments of Stewart Mullan and Alan Rodgers to the Costs and Funding Committee for a further three-year period. Two responses were received. Both members were appointed to the Committee for a further three years;
- Paper 2025.6 invited two members to consider and approve the draft SSI to amend 2 errors in the Act of Sederunt (Rules of the Court of Session 1994 and Ordinary Cause Rules 1993 Amendment) (Miscellaneous) 2025 ([S.S.I. 2025/80](#)). Approval was undertaken by the Council's urgent procedure as set out in standing order 7.2.

4. The Chair confirmed that an additional paper (2025.07) has since closed. This paper invited members to approve the reappointments of both Lord Ericht and SP Ross to Council for a further three years. Both members have now been reappointed.

Members noted this update.

Item 3: Governance

Item 3.1 Proposed revision to standing orders (paper 3.1)

5. Members' views were invited on 2 proposed changes to the standing orders:

- That standing order 4:13 be amended to reflect a different approach for members responding to Items by Correspondence. The amendment means that when requested (by the Chair of the SCJC or one of the Committees), a response will be invited to be lodged by members, where practicable.
- That standing order 8.6 be amended to promote open and transparent working for the SCJC and its Committees. The amendment means that papers will default to being open papers unless there is specific recommendation stating otherwise.

Members approved the changes to the standing orders.

3.2 Annual Report 2024/25 and Work Programme 2025/26 (papers 3.2 and 3.2A)

6. The Council considered the draft annual report for 2024/25 and work programme for 2025/26. Members suggested including references to capturing data and user experience in order to provide a stronger evidence base to aid the Council in fulfilling its role of keeping the civil justice system under review.

Members approved the annual report and work programme.

Item 4 Work programme

Item 4.1 Consultation Analysis: online intimation (papers 4.1 and 41A-B)

7. Members were invited to:
 - Note that the public consultation closed on 25 April 2025 and received 6 responses;
 - Approve the publication of the consultation analysis, data protection impact assessment; and
 - Approve the preparation of draft rules.

Members approved publication and preparation of draft rules.

Item 4.2 Promoting public participation under article 8 of the Aarhus convention (papers 4.2 and 4.2A-C)

8. The Chair sought members' views on the Council's approach to running consultations and promoting public participation as set out in Article 8.
9. Members discussed:
 - The Council noted that the Aarhus Convention Compliance Committee is considering the complaint made by Environmental Rights Centre for Scotland and, in light of that, agreed to keep its consultation policy under review;
 - The Council welcomes views on the extent to which it should seek feedback from stakeholders; and
 - The Business Regulatory Impact Assessment will be updated to include feedback received.

Members agreed that further consideration is required at a future meeting of the Council.

Item 4.3 Messenger at Arms and Sheriff Officers – Simplified fee table consultation

(paper 4.3)

10. The Council noted the consultation was published on 28 May 2025 and seeks views on the introduction of unit based charging.

Members noted this update.

Item 4.4 Electronic Transmission of Documents (paper 4.4)

11. The Chair introduced paper 4.4 which provides the rationale for the continuation of electronic transmission of documents and acceptance of electronic signatures after 30 November 2025. Members noted:

- The evolution of these concepts over the last few decades which has normalised alternative ways of working;
- That the current practice is well embedded and will continue;
- Paper documents will still be required for commissary business and for adoptions; and
- All three types of electronic signature will be accepted (Simple, Advanced and Certified).

Members approved the drafting instruction.

Item 4.5 Rules Request – Format of Judgments (paper 4.5)

12. The Chair invited members to consider the rules request which proposes a style template be added to Chapter 12 of the Ordinary Cause Rules. The style template is intended to provide a consistent approach for how judgments should be set out.

13. Members noted:

- In principle, all judgments should be published and not only those which are believed by the author to be of interest to the public; and
- This change will be important in promoting open justice, where decisions of the court are accessible to the public, which increases transparency and reduces the risk of cases being misinterpreted.

Members approved the drafting instruction.

Item 5: A.O.B

Item 5.1 Fatal Accident Inquiry Review (paper 5.1)

14. Members noted that Sheriff Principal Abercrombie has been appointed as Chair of the Scottish Government's Fatal Accident Inquiry Review, and that a suggested response to the call for evidence will be prepared later this year.

Item 5.2 Scottish Land Court (paper 5.2)

15. Members noted the introduction of the Crofting and Scottish Land Courts Bill on 2 June 2025. The Bill includes provision for the Court of Session to make rules on practice and procedure in the Land Court. The SCJC responsibility for preparing draft rules will be expanded accordingly.

Virtual Hearings

16. Lady Carmichael provided an update on members' discussions, which took place at the Access to Justice Committee meeting on 2 June 2025. Members noted:
- The use of telephone hearings is difficult to reconcile with the principle of open justice. WebEx hearings, with the links published, should be the direction of travel in both the Court of Session and the sheriff courts.
 - Additional data is being captured to inform the review of both virtual hearings and the use of mandatory civil online.
17. The Access to Justice Committee will continue to review the use of virtual hearings and consult widely to gather views on where improvements can be made which support open justice and improve user experience.