

**SUBMISSION TO THE
THE SCOTTISH CIVIL JUSTICE
COUNCIL
BY THE
PRESIDENT OF THE
SHERIFF APPEAL COURT**

Introduction

- [1] I invite the Scottish Civil Justice Council to recommend that the Court of Session issue an Act of Sederunt, under section 104(1)(a) and section 104(2)(e) of the Courts Reform (Scotland) Act 2014, to amend rule OCR 12.4 in Schedule 1 of the Sheriff Courts (Scotland) Act 1907. The purpose is to make written decisions in the sheriff court more readable and therefore accessible.

Issues in judgment formatting for public accessibility

- [2] At present, OCR 12.4 states:

“Reserved judgments

- 12.4. (1) This rule applies where a sheriff reserves judgment in accordance with rule 12.2(4)(b).
- (2) The sheriff must give to the sheriff clerk—
- (a) an interlocutor giving effect to the sheriff’s decision and incorporating findings in fact and law; and
 - (b) a note stating briefly the grounds of his or her decision, including the reasons for his or her decision on any questions of fact or law or of admissibility of evidence.
- (3) The date of the interlocutor is the date on which it is received by the sheriff clerk.
- (4) The sheriff clerk must forthwith send a copy of the documents mentioned in paragraph (2) to each party.”
- [3] Where it applies, OCR 12.4(2) requires the sheriff to give the sheriff clerk: (i) an interlocutor giving effect to his or her decision and incorporating findings in fact and

law; and (ii) a note stating the grounds for the decision. There is no prescribed format for the note. Standing the terms of OCR 12.4(2), some shrieval colleagues take the view that, when formatting and drafting any judgment they prepare, they may not go beyond the strict requirements of OCR 12.4(2). It is common for sheriffs to begin by stating at the outset of the judgment that they have “resumed consideration of the cause”, then to narrate the terms of the interlocutor and proceed to immediately set out the findings-in-fact. Recent examples of this can be seen in: *Drumchapel Housing Co-operative Limited v Kelly* [2025] SC GLA 1; *Wheatley Homes Glasgow Limited v Sharif* [2025] SC GLA 2; and *AO v The Scottish Ministers* [2025] SC GLA 5.

- [4] The problem with the above approach, however, is that it is unlikely to encourage interested members of the public to enquire further. At a time when the judiciary are being encouraged to publish more judgments in the interests of open justice, I consider there is merit in making sheriff’s judgments more user-friendly and accessible to the general public by prescribing a form of judgment.

- [5] Opinions issued by sheriffs are also wide-ranging in style and format. Some continue to use phrases such as “act” and “alt” to describe those appearing. Some are issued without paragraph numbers or headings to assist the reader. Consistency is likely to lead to accessibility and a greater understanding of sheriff court decisions.

- [6] While training has been repeatedly made available over the years to sheriffs, experience shows that it has not effectively prevented a range of styles of judgments from different sheriffs. Notwithstanding the considerable efforts of the Judicial Institute, training is somewhat piecemeal, so that not all sheriffs are trained in the same way or at the same time, and training is not currently delivered to all part time sheriffs. The learning a sheriff takes from training and whether what they learn is put into practice is not audited or measured in any way. Training, while welcome and valuable, is therefore not an entirely effective means of rationalising the form of written decisions. Prescribing the form of an opinion will address the issue more effectively.

Proposal

- [7] I propose that OCR 12.4 be amended. I envisage that OCR 12.4 should set out a template judgment to be used by sheriffs with the template being appended to Appendix 1 of Schedule 1 of the Sheriff Courts (Scotland) Act 1907.
- [8] Such an approach would be consistent with the approach taken to determinations issued following Fatal Accident Inquiries: see section 26 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016; rule 6.1 of the Act of Sederunt (Fatal Accident Inquiry Rules) 2017; and Schedule 3, Form 6.1 of the Act of Sederunt (Fatal Accident Inquiry Rules) 2017.
- [9] In terms of the layout for a sheriff's judgment, I would propose the format in the schedule attached to this submission.
- [10] I thank the Scottish Civil Justice Council for its consideration of this matter and would be happy to provide such further information as may be required.



Sheriff Principal Aisha Anwar
President of the Sheriff Appeal Court

17 April 2025

SHERIFFDOM OF *[name of sheriffdom]* AT *[name of sheriff court]**[Citation]**[Court Ref]*JUDGMENT OF SHERIFF *[name]*

in the cause

*[PURSUER'S DESIGNATION]*Pursuer

against

*[DEFENDER'S DESIGNATION]*Defender

Pursuer: *[Counsel]*; *[Solicitors]*
 Defender: *[Counsel]*; *[Solicitors]*

*[Date of Issue]***Introduction***(A brief introduction should include the following information:-**The nature of the case;**The parties involved;**The issues or issues to be decided; and**Where appropriate, an overview of the route to be taken to decide the issues.)***Background***(Set out briefly the background that has led to the dispute between the parties including any procedural history.)***Summary of the Disputed Evidence***(Set out a summary of relevant evidence led, to the extent it is necessary)***Submissions**

(Set out briefly and concisely the submissions made to the sheriff by each of the parties)

Findings in fact

Findings in fact and law

(Set out the findings in fact and findings in fact and law as established by the evidence led from the parties.)

Decision

(Set out, to the extent required to resolve the dispute, the analysis of the evidence, assessment of credibility and reliability of witnesses and explanation of the application of the law to the facts found established.)

Interlocutor (Order of the Court)

(State the terms of the sheriff's interlocutor.)

