

# SCOTTISH CIVIL JUSTICE COUNCIL

## ACCESS TO JUSTICE COMMITTEE

### MINUTES

PARLIAMENT HOUSE, 4.15PM, MONDAY 12 MAY 2014

- Members present:** Lady Wise (Chair)  
Sheriff Arthurson (Edinburgh Sheriff Court)  
Kenneth Forrest (SCJC member)  
Ruth Crawford QC (Advocate)  
Catherine Molloy (Solicitor, East Lothian Council)  
Employment Judge Joseph d’Inverno (SCJC member)  
Prof. Frances Wasoff (SCJC member)  
Lauren Wood (SCJC member)  
Ian Maxwell (SCJC member)  
Denise Swanson (Scottish Government representative)  
Colin Lancaster (Scottish Legal Aid Board)
- In attendance:** Mandy Williams (Deputy Head, Policy and Legislation Branch, SCS)  
Kenny Htet-Khin (Head of Rules Rewrite Drafting Team)  
Carmen Murray (Policy Officer, SCJC)
- Apologies:** Yvonne Anderson (Depute in Charge of Offices of Court, Court of Session)  
Neil Christie (Office Manager, Dumbarton Sheriff Court)

#### **Item 1: Introduction, welcome, apologies and private papers**

1. The Chair welcomed those present and noted apologies. In particular, the Chair welcomed new advocate member Ruth Crawford QC, who had been appointed following the departure of James Wolffe QC, and Kenny Htet-Khin who was recently appointed to head up the new drafting team for the SCJC Rules Rewrite Project.

2. The Committee were informed that Mandy Williams, Deputy Head, SCS Policy and Legislation Branch had been appointed as an observer, replacing the current sheriff clerk representative Neil Christie following a review of arrangements by the SCS.
3. **Members agreed not to publish the following papers: 4.3, 5.1A, 5.2B, 5.2C, 6.1.**

## **Item 2: Previous Meeting**

*Item 2.1: Minutes of previous meeting [Paper 2.1]*

4. **The Committee approved the minutes of the previous meeting.**

## **Item 3: Proceedings**

*Item 3.1: Update on activity of the SCJC*

5. Carmen Murray provided an update on the activity of the SCJC, including evidence provided to Parliament on the Courts Reform (Sc) Bill and preparation of the Annual Report for 2013/14. The Committee were informed that the Rules Rewrite Working Group had been renamed the Rules Rewrite Committee and that its remit will be extended to include rules not covered by other committees once the Group's final report is published.
6. Kenny Htet-Khin provided an update on the SCJC Rules Rewrite Project, explaining that recruitment of the drafting team was underway and that the Rules Rewrite Group was developing draft guidance and a process for instructing the rules.

## **Item 4: Forward Work Programme**

*Item 4.1: Update from the Scottish Government on legislative developments [ORAL]*

7. Denise Swanson provided an update from the Scottish Government on legislative developments relevant to the Committee's work covering courts reform, the Taylor Review and the Justice Digital Strategy.

*Item 4.2: Update from the Scottish Legal Aid Board on Making Justice Work Project 3: Enabling Access to Justice [ORAL]*

8. Colin Lancaster provided an oral update from the Scottish Legal Aid Board on *Making Justice Work Project 3: Enabling Access to Justice*, highlighting developments which have taken place since the last meeting of the Committee including the Justice Digital Strategy, the Board's grant funding programme and project 3.5 (family justice).

*Item 4.3: Update on Civil Justice Council conference on the impact of the "Jackson" reforms [Paper 4.3]*

9. The Chair provided members with an update on findings from the Civil Justice Council's recent conference on the Jackson reforms one year on and particularly those relevant to party litigants and access to justice. The Chair attended alongside Duncan Murray (SCJC member), Sheriff Hughes (Costs and Funding Committee Member) and Neil Robertson (SCJC Policy Officer). **Members discussed the access to justice implications of the English experience for Scotland.**

**Item 5: Access to Justice Literature Review**

*Item 5.1: Literature Review of Party Litigants [Papers 5.1 and 5.1A]*

10. The Committee considered a revised draft **[Paper 5.1A]** of the literature review of arrangements for party litigants and provided feedback in relation to its content. **Members noted that statistical information on party litigants in the sheriff court was unavailable.**
11. **Members discussed potential areas for future civil data needs and noted that the Secretariat was giving consideration, in conjunction with Scottish Government and Scottish Court Service colleagues, to the SCJC's role in the monitoring and evaluation of the court reforms.**
12. **The Committee noted that a finalised literature review incorporating feedback received from members would be prepared for the July meeting and provided initial thoughts as to next steps following the review. It was agreed this should tabled for further discussion at the July meeting.**

*Item 5.2: Literature Review of ADR methods [Papers 5.2 and 5.2A-C]*

13. Members considered a working draft [Paper 5.2A] of the literature review on ADR methods and **noted the progress of the review and the intention to provide a finalised report for the Committee's next meeting.**
14. **Members noted the work of the previous Sheriff Court Rules Council's Mediation Committee on alternative dispute resolution procedures and instructed the Secretariat to circulate the final report for full consideration.**

**Item 6: Alternative Dispute Resolution**

*Item 6.1: Papers provided by the Scottish Mediation Network and Scottish Arbitration Centre [Papers 6.1 and 6.1A-B]*

15. The Committee considered its response to the Scottish Mediation Network (SMN) and Scottish Arbitration Centre (SAC), following discussion of their respective proposals [Papers 6.1A and 6.1B] at the last meeting.
16. **The Committee instructed the Secretariat to write to SMN and SAC to thank them for their input and to advise that the Committee would find it helpful to meet face to face in order to gather further information to assist with its on-going work in reviewing ADR.**

**Item 7: Future business**

*Item 7.1: ICT – Barriers to Access to Justice [Papers 7.1A-B]*

17. Lauren Wood spoke to the detail of two papers [Papers 7.1A-B] prepared by Citizens Advice Scotland (CAS) (which were forwarded for consideration by the Information and Communications Technology Committee in light of the social issues raised) which outlined issues around digital exclusion in Scotland.
18. **The Committee thanked CAS for agreeing to share Papers 7.1A and 7.1B and noted that these would be useful in the consideration of any future work.**

*Item 7.2: Date of Next Meeting*

19. **Members noted that the next meeting would be at 4.30pm on 7 July 2014.**

**Item 8: A.O.C.B**

20. There was no other business raised.

**Scottish Civil Justice Council Secretariat**

**May 2014**