

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL  
COSTS AND FUNDING COMMITTEE  
MONDAY 19 DECEMBER 2016 AT 4.15PM  
JUDGES CONFERENCE ROOM, PARLIAMENT HOUSE**

**MINUTES**

**Members Present:** Lord Burns (Chair)

Sheriff Charles Stoddart (Retired)

Ian Dickson (SLAB)

Brandon Malone (SCJC member)

James Mure QC (Advocate)

Iain Nicol (Solicitor)

Kenneth Cumming (Auditor of the Court of Session)

Alan Rogerson (Claims Manager, Aviva)

Stewart Mullan (Law Accountant)

Yvonne MacDermid (Chief Executive, Money Advice Scotland)

**In attendance:** Gillian Prentice (Deputy Principal Clerk of Session)

Jane MacDonald (SCTS Legislation Implementation Team)

**Support:** John Thomson (Deputy Legal Secretary, Lord President's Private Office)

Mandy Williams (Deputy Secretary, Scottish Civil Justice Council)

**Apologies:** Sheriff Thomas Hughes (SCJC member & Dundee Sheriff Court)

### **Item 1: Welcome, apologies and agreement of private papers**

1. The Chair welcomed those present and noted apologies received from Sheriff Hughes.
2. **The Committee agreed not to publish the following papers: 2.2, 3.2, 4.1, 4.1A-D, 5.1, 5.1A-B, 5.2, 5.2A, 6.1 and 6.1A.**

### **Item 2: Previous meeting**

#### *Item 2.1 – Minutes of previous meeting (Paper 2.1)*

3. **The Committee approved the minutes from the previous meeting.**

#### *Item 2.2 – Progress of actions from previous meetings (Paper 2.2)*

4. **The Committee noted the progress that had been made on actions since the last meeting.**

### **Item 3: Work programme**

#### *Item 3.1 – Update from the Scottish Government on legislative developments (Oral)*

5. No update was provided as no Scottish Government representative was in attendance.

#### *Item 3.2 CAFC Work Tracker (Paper 3.2)*

6. **The Committee noted Paper 3.2 which provided an update of the Committee's work.**

### **Item 4: Justice System Reform: Taylor Review**

#### *Item 4.1 – Implementation of Taylor Recommendations in the Sheriff Court (Papers 4.1 and 4.1A-D)*

7. John Thomson introduced these papers which invited members to consider options for combining the implementation of the Taylor recommendations in the sheriff court with a wider rationalisation of the rules regulating the expenses that

fall to be allowed on taxation of an account of expenses and associated applications to the court.

8. In particular, the paper set out the following options for consideration:
  - replacement of the General Regulations with a new, free-standing set of rules, with tables of charges annexed;
  - adjustment of the language of the rules;
  - adoption of a unit-based system under which a unit is assigned a value and the individual entries in the table of fees are expressed as multiples of that unit;
  - incorporation of rules concerning the recovery of payments to witnesses; and
  - a single set of rules and tables to regulate the taxation of accounts in the different courts.
9. **Members thanked John for the work carried out in preparing the papers for today's meeting, in particular the illustrative draft rules.**
10. **Members fully endorsed the options proposed. In relation to the unit-based system, it was agreed that the unit should be divisible by 60 so that it could be apportioned to timings within an hour.**
11. **It was agreed that the illustrative draft rules be developed further, including taking the opportunity to simplify the language used where possible. Members confirmed that they would be happy to liaise with John as required in during the further development of the rules.**
12. **The Committee agreed that it would be useful to seek input from sheriff court auditors and Jane MacDonald agreed to provide contact details.**

## **Item 5: Regulation of Fees**

### *Item 5.1 – Methodology for Fees Review (Papers 5.1 and 5.1A-C)*

13. The Committee considered proposals developed by the Secretariat in relation to undertaking a periodic review of fees. **The Committee agreed the programme framework which breaks the review into two tranches: one for solicitor fees and one for all other fees.**
14. At the last meeting it was agreed to commence the review process by looking at solicitor fees and it was agreed that the Secretariat would contact the Law Society to discuss timelines. The Law Society has confirmed that it is re-

launching its financial benchmarking survey (Cost of Time) of law firms. A pilot of the survey is due to take place soon with full roll out in spring next year. As part of their preparations, the Law Society is seeking feedback on the content of the survey.

15. In order to feed in to the survey, members noted that it would be useful to find out more about the content of the survey and welcomed an opportunity to have sight of the pilot survey in draft form. **The Secretariat agreed to contact the Law Society to request sight of the pilot survey and invite a representative to come along to the Committee's next meeting to provide more information in relation to the content of the survey.**
16. The Committee also considered a draft consultation document prepared by the Secretariat and agreed a number of revisions to give better effect to the factors previously identified by the Committee to be taken into account when considering fees, including proportionality and stakeholder engagement.
17. **It was agreed that the revised consultation document would be considered at the next meeting alongside the Law Society's survey.**
18. **Members also considered the extent of the consultation and it was agreed that the consultation would be published on the Scottish Civil Justice Council's website to ensure the survey was open to as many respondents as possible.**

**Item 5.2 – Request for uplift in fees from SMASO (Papers 5.2 and 5.2A)**

19. The Committee considered a written submission from the Society of Messengers-at-Arms and Sheriff Officers (SMASO) requesting an increase in the Table of Fees for Sheriff Officers and Messengers-at-Arms.
20. **Given the progress that has been made in relation to the Committee's methodology for reviewing fees and that an interim increase was only applied in April this year, the Committee agreed that a further increase was not appropriate at this time. It was agreed that the Secretariat write to SMASO setting out the Committee's reasons more fully for not granting the request at this time.**

## **Item 6: Proposals for rules**

### ***Item 6.1 Pursuers' Offers – consequential amendment of Table of Fees (Papers 6.1 and 6.1A)***

21. The Committee was invited to consider and approve **Paper 6.1A**, containing revised draft amendments to the Court of Session and sheriff court Table of Fees to take account of the proposed introduction of Pursuers' Offers.
22. **The Committee discussed the draft amendments and, subject to agreed minor revision, agreed that it be submitted to the Council for consideration and approval.**

## **Item 7: AOCB**

23. No other business was raised.

## **Item 8: Dates of future meetings**

### **24. The Committee noted the dates of future meetings:**

- Monday 30 January 2017 at 4.15pm
- Monday 27 March 2017 at 4.15pm and
- Tuesday 23 May 2017 at 4.15pm.

**Scottish Civil Justice Council Secretariat**

**December 2016**