



**Scottish
Civil Justice
Council**

**Access to Justice Committee
Questionnaire: Rules Review on
mandatory use of Civil Online for Simple
Procedure claims**

FEBRUARY 2021

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SECTION 1: RESPONDING TO THIS QUESTIONNAIRE

Written responses to this questionnaire are invited by **the 13th of April 2021**.

Please use the questionnaire in Annex A to make comments or clearly indicate in your response which questions you are commenting on. You can provide your response in a separate document.

Due to current government health restrictions in place, the SCJC Secretariat staff are currently working from home. **Please send your response by email only to scjc@scotcourts.gov.uk.**

If you have any queries please contact the SCJC Secretariat at scjc@scotcourts.gov.uk.

How your response will be treated

This is an informal exercise to gather feedback from court users including members of the public. We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public.

Please complete the Respondent Information Form (Annex B) and send this with your response to make sure that we treat your response as you wish. Your response will not be published on the SCJC website if you have asked us not to make it public.

However, all respondents should be aware that the SCJC is subject to the provisions of the Freedom of Information (Scotland) Act 2002. This means that if the SCJC receives a Freedom of Information request about the responses to this questionnaire, any of the responses (including those not published) may have to be made available under the request.

Where respondents have given permission for their response to be made public (and as long as they contain no potentially defamatory material) responses will be made available to the public on the SCJC website.

SECTION 2: INTRODUCTION AND BACKGROUND

Introduction

1. This questionnaire has been issued by the Scottish Civil Justice Council's Access to Justice Committee, to help inform the review of the rules contained within the Act of Sederunt (Simple Procedure Amendment) (Civil Online) 2020. The rules can be accessed on the [Legislation.Gov website](#).
2. Civil Online is an online portal, operated by the Scottish Courts and Tribunals Service and is available to all court users submitting or responding to a Simple Procedure case. SCTS has also developed an Application Program Interface ("API") alongside Civil Online to enable professional claim firms to submit Simple Procedure claims in bulk.
3. The court rules which made the use of Civil Online mandatory for Simple Procedure cases came in to force on 1st of December 2020. They are in force until the 30th of September 2021. There is one exception to the rules and that is if users are unable to submit a claim online, they may be able to submit their claim on paper, with permission of the Sheriff. The Committee and Council are now conducting a review of the rules to consider whether to extend or adjust the rules, or allow them to expire after the 30th of September 2021.

Background

4. The Council was established on 28 May 2013 under the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013. The Council is responsible for developing rules for the civil courts in Scotland and for keeping the civil justice system under review and making recommendations for its improvement.
5. The Council therefore wishes to conduct a review of the rules contained in the Act of Sederunt (Simple Procedure Amendment) (Civil Online) 2020 to determine if they should continue in force beyond 30th of September 2021.

6. The views of those responding to this questionnaire will be analysed for use in a report, prepared by the Access to Justice Committee, which has been tasked with assisting the Council in considering the issue.

7. The Access to Justice Committee, currently chaired by the Honourable Lady Carmichael, has a remit concerned with the effect on access to justice of the operation of the civil justice system. The Committee is made up of members that have a wide range of experience, including members of the judiciary, legal profession and third sector as well as experts in consumer affairs. The Committee have previously led on work to introduce rules for Simple Procedure cases, and is currently undertaking a review of those rules. The Committee also first considered a separate rules request from SCTS relating to Civil Online in December 2019 and have a keen interest in the mandatory provisions currently under review by the Council.

Civil Online and API

8. Civil Online is an online portal developed by SCTS. This service is used for Simple Procedure Cases¹ and allows users to raise and respond to claims online. It also enables users to submit documents relating to their case online. Users can access Civil Online from their mobile phone or tablet as well as other electronic devices. This information can be accessed at any time, including outside business hours. Further information on how to use Civil Online and frequently asked questions are available on the [Scottish Courts and Tribunals Service Website](#).

9. SCTS has also developed an interface that provides a way for professional claim firms to transfer claims from their own case management system to the case management system that SCTS use. The API service permits external computers to be programmed to lodge bulk claims and input them directly into the SCTS case management system. This is known as machine-to-machine transfer. The API has been available to use since September 2020.

¹ SCTS Guidance on Simple Procedure Cases - <https://www.scotcourts.gov.uk/taking-action/simple-procedure>

10. The rules under review currently require both party litigants and professional claims firms to submit Simple Procedure claims using one of these digital interfaces, unless they can provide an acceptable reason to a Sheriff as to why they cannot submit claims that way.

11. SCTS is responsible for the operation of the Civil Online portal and the digital interface. Therefore, if court users have questions on the operation of these facilities they are required to contact SCTS directly.

SECTION 3: OVERVIEW OF THE RULES

Rules Development

12. The rules under review were developed following a rules request from SCTS in June 2020. This was lodged as an urgent rules request and sought a rule change to make the use of Civil Online mandatory for Simple Procedure cases. This change was intended to assist SCTS's business recovery plans as a result of the Coronavirus pandemic.
13. The Council met virtually on 9 July 2020 to consider the request and a draft rules instrument. The Council considered and agreed to the policy in principle and instructed some revisions to the draft rules instrument. The minutes of this meeting are available on the [Scottish Civil Justice Council's website](#).
14. A revised draft rules instrument was considered and approved by the Council in August 2020, subject to confirmation from SCTS that the API, allowing bulk submissions by firms, would be ready for use by the proposed commencement date.
15. It was agreed that the rules would commence on the 1st of December 2020. This date gave court users around 10 weeks to prepare for submitting claims digitally after the rules were made.
16. As the rules were being developed, Council members were mindful of the impact of the change on party litigants, or court users that do not use professional representation. The Council noted that there may be reasons why a party litigant could not use Civil Online, for example if they do not have access to the internet. The rules therefore provide that court users can submit a claim on paper accompanied by a note to the Sheriff, outlining why they cannot use either of the digital options. If the Sheriff considers that the claim could not have been sent digitally, then the paper claim will be registered with the court.

17. When approving the draft rules instrument, the Council agreed that the rules should be time-limited due to the impact they would have on court users and wished to have an opportunity to review how the rules operate in practice. The rules therefore cease to have effect on 30th of September 2021.

Rules review

18. In order to assess whether or not it would be appropriate to extend the rules beyond September 2021, the Council asked SCTS to provide it with a report on the operation of the rules and the API digital interface by 30th of June 2021.

19. The Committee is seeking feedback from those using Civil Online for Simple Procedure cases. It is intended that the information gathered will be collated in a report to assist the Council in considering the mandatory use of Civil Online for Simple Procedure cases.

SECTION 4: QUESTIONS

20. This section sets out questions regarding the rules under review. Your responses will assist the Committee and the Council to consider the relevant issues.

21. The questions focus on key themes under consideration. You can also offer comment on any part of the rules and digital interface in question 19.

User Experience of the Digital Interfaces

22. The Committee wish to know what it is like to use Civil Online to submit a claim. Comments are welcome from both party litigants and solicitors who have submitted a claim using Civil Online.

Question 1 - Do you have any general comments about using Civil Online to submit claims?

Question 2 – Were there benefits to using Civil Online to submit your claim and if so, what were these?

Question 3 - Did you have any difficulties using Civil Online when submitting a claim? If so, what were these?

Question 4 – If you tried to raise a claim but did not do so because of Civil Online, could you explain why and what happened?

23. Professional claims firms responding to this questionnaire may have also used the API to submit claims in bulk. The Committee welcomes feedback from those who have used the API.

Question 5 - Do you have any general comments about using the API for Civil Online to submit bulk claims?

Question 6 – Were there benefits to using the API for Civil Online for submitting bulk claims and if so, what were these?

Question 7 - Did you have any difficulties in using the API for Civil Online to submit bulk claims? If you did, what were these? Please include any issues you may have had integrating the API with your own computer system, case management system or general way of submitting claims.

Support for users

24. It would be helpful for the Committee to know if users have sought support if they have had difficulties in using Civil Online or the API and if so where users sought support and if they found it helpful.

Question 8 - If you needed support to use either of the digital portals, who did you ask for support?

Question 9 - Was it easy to find information about what support was available to you?

Question 10 - Was the support provided helpful to you?

25. The Committee recognises that support may be sought from places such as Scotland's Citizens Advice Network or local law centres. The Committee is interested to hear from support providers about their experience of helping users as a result of the rule change.

Question 11- If you play a role in providing support to court users, do you have any comments on any practical issues arising from the rule change?

Question 12 - What effect, if any, has the rule change had for your service and service users?

Question 13 – Are you aware of any cases whereby individuals have decided not to engage with the court under the new rules? If so, how often has this happened and do you know the reasons why?

Submitting a note to the Sheriff

26. In recognition that not all court users will have access to the internet or technology that connects to the internet, the rules permit users to submit a claim on paper, along with a note outlining why they cannot use either of the digital options. If the Sheriff considers that the claim cannot be sent digitally then the paper claim will be registered with the court. The Committee would like to understand why users submit a note to the Sheriff alongside their claim on paper and establish if there are any barriers to this process.
27. Please note that support bodies who wish to answer questions 14-16 can respond on behalf of the experiences they have had when advising clients on the change as opposed to individual client experiences.

Question 14 - If you have provided a note to the Sheriff asking to submit your claim on paper please comment on the process. For example - is it straightforward or complicated? Did you encounter any problems and if so, please explain?

Question 15 - If you requested to submit a claim on paper and NOT through either digital interface (Civil Online or the API) please explain the main reasons why? (Please do not include any personal information which could identify you or your case)

Question 16 – Did you need any support or further information to submit the note, if so, why did you feel you needed support? Where did you go to for support to complete the note and was this helpful?

Review of the Rules

28. The Committee would like to know if you think these rules should remain in place as a result of your experience in using either Civil Online, the API or both.

Question 17– Do you think the rules to make the use of Civil Online mandatory for Simple Procedure Cases should remain in place? If yes, why? If no, why?

Question 18 – If the rules continue to be in force past the 30th of September 2021, are there any changes to them that you think could usefully be made and if so, why?

29. The Committee welcomes any additional comments on the rules regarding the mandatory use of Civil Online for submitting Simple Procedure claims.

Question 19 – Please provide any further comments on the rules under review regarding the submission of claims through Civil Online or the API.

SECTION 5: NEXT STEPS

Following the closing date, responses will be analysed and considered along with any other available evidence to help the Council reach a view on whether the rules relating to mandatory use of Civil Online for Simple Procedure cases should continue to be in force beyond the 30th of September.

It is intended that a report of the Council's findings will be published on the SCJC website in due course.

ANNEX A QUESTIONNAIRE

Please clearly indicate in your response which questions you are commenting on.

- 1. Do you have any general comments about using Civil Online to submit claims?**
- 2. Were there benefits to using Civil Online to submit your claim and if so, what were these?**
- 3. Did you have any difficulties using Civil Online when submitting a claim? If so, what were these?**
- 4. If you tried to raise a claim but did not do so because of Civil Online, could you explain why and what happened?**
- 5. Do you have any comments about using the API for Civil Online to submit bulk claims?**
- 6. Were there benefits to using Civil Online API for submitting bulk claims and if so, what were these?**
- 7. Did you have any difficulties in using the API for Civil Online to submit bulk claims? If you did, what were these? Please include any issues you may have had integrating the API with your own computer system, case management system or general way of submitting claims.**
- 8. If you needed support to use the either of the digital portals, who did you ask for support?**
- 9. Was it easy to find information about what support was available to you?**
- 10. Was the support provided helpful to you?**
- 11. If you play a role in providing support to court users, do you have any comments on any practical issues arising from the rule change?**
- 12. What effect, if any, has the rule change had for your service and service users?**
- 13. Are you aware of any cases whereby individuals have decided not to engage with the court under the new rules? If so, how often has this happened and do you know the reasons why?**

- 14. If you have provided a note to the Sheriff asking to submit your claim on paper please comment on the process. For example - is it straightforward or complicated? Did you encounter any problems and if so please explain?**
- 15. If you requested to submit a claim on paper and NOT through either digital interface (Civil Online or the API) please explain the main reasons why? (Please do not include any personal information which could identify you or your case)**
- 16. Did you need any support or further information to submit the note, if so, why did you feel you needed support? Where did you go to for support to complete the note and was this helpful?**
- 17. Do you think the rules to make the use of Civil Online mandatory for Simple Procedure Cases should remain in place? If yes, why? If no, why?**
- 18. If the rules continue to be in force past the 30th of September 2021, are there any changes to them that you think could usefully be made and if so, why?**
- 19. Please provide any further comments on the rules under review regarding the submission of claims through Civil Online or the API.**

Please note this form **must** be returned with your response to ensure that we handle your response appropriately.

Name / Organisation

PERSONAL DETAILS

Title *(Optional)*

Forename

Surname

CONTACT DETAILS

Address and postcode

Phone

Email

1. PERMISSIONS

I am responding²:

- As an individual (complete section (a))
- On behalf of a group/organisation (complete section (b))

INDIVIDUALS

(a) If responding as an **individual**:

- (i) **Do you agree to your response being made available to the public (on the Scottish Civil Justice Council website)? (Please tick as appropriate)**

Yes No

- (ii) **If you are content for your response to be published, please tell us how you wish us to make your response available to the public:**

Please tick ONE of the following boxes:

Make my response, name and address all available

Make my response and name available, but not my address

Make my response available, but not my name and address

ORGANISATIONS

(b) If responding as a **group or organisation**:

- (i) **The name and address of your organisation will be made available to the public on the Scottish Civil Justice Council website. Are you content for your response to be made available?**

Yes No

² To insert a tick in to the box, please double click the one you would like to select.

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