



Forum of Scottish Claims Managers (FSCM) – Response to Consultation on the draft Simple Procedure Rules

<http://www.fscm.org.uk>

Section 1 Who are the Forum of Scottish Claims Managers and who do we represent?

Section 2 Annex B Question Responses



About the Forum of Scottish Claims Managers (FSCM)

The Forum exists as a lobbying organisation on behalf of its members and to represent their interests in the handling of insurance claims.

1. The Forum aims to promote improvements to the law to enable consumers easier and quicker access to justice.
2. The forum membership covers a number of major insurers, financial institutions together with claims handling companies and Local Authorities.
3. The individual members of FSCM are all senior professionals being Claims Managers or equivalent within their respective organisations with a wealth of experience in Insurance claims matters.
4. To provide some context of the size and scale of our membership:
 - We directly employ approximately 5,550 people in Scotland, solely in insurance
 - We generate over £1.9 billion annually in respect of insurance premiums collected in Scotland (Personal and Commercial business premiums)
 - Solely on claims, we spend £1.257 billion annually in Scotland
 - Glasgow is the largest insurance centre in the UK, outside London and is seen as core pool of talented resources
5. Insurance companies exist to provide financial protection for consumers and businesses in the event that the unforeseen happens.

It is the Forum's desire to be actively engaged, with all interested parties, in discussions and debate relating to Third Party claims** in Scotland including Pre and Post-litigation.

Calum McPhail
Chairman of the Forum of Scottish Claims Managers

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**** Third Party Claims definition:**

Personal Injury or damage to Property arising out of a party's negligence – be it a personal (Consumer) matter or a Commercial (Business) matter, Road Traffic Accidents and accidents in the Workplace

Further information on the Forum of Scottish Claims Managers (FSCM)

Membership:

ACE European Group Ltd Allianz Aviva Direct Aviva Insurance AXA Chartis Churchill Direct Line Eagle Star Direct Esure Equity Red Star Halifax Liverpool Victoria Markerstudy More Than NFU Mutual NIG	Pearl Privilege Prudential PSV Claims Bureau Ltd QBE RAC Insurance Royal & Sun Alliance Travelers Insurance UKI Insurance Zurich Municipal Zurich Insurance Plc Glasgow City Council North Lanarkshire Council Motor Insurers Bureau
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ANNEX B

CONSULTATION QUESTIONNAIRE

Consultation question 1

Do you have any comments on the approach taken to splitting the Simple Procedure Rules into two sets of rules?

We support the proposal to split the Simple Procedure Rules into two sets of rules.

Consultation question 2

Are you content with the use of the following terms in the rules?

- *Claim – for a standard simple procedure case*

Content

Not content

No Preference

- *Claimant – for pursuer*

Content

Not content

No Preference

- *Responding party – for defender*

Content

Not content

No Preference

- *Freeze – for sist*

Content

Not content

No Preference

Consultation question 3

Do you have any comments on the approach taken to updating hard to understand terminology in the simple procedure rules?

Of the examples given, the term “Freeze” is not appropriate as this has an entirely different meaning within the England & Wales jurisdiction. We suggest using “Stay” as a more appropriate and understandable term.

Consultation question 4

Is there any terminology remaining in the draft simple procedure rules which you think is unfriendly or difficult for the lay user to understand and, if so, what alternatives would you suggest?

Yes

No

No comment

Consultation question 5

Do you have any comments about the approach taken to the numbering and layout of the rules?

No comment

Consultation question 6

Do you have any comments about how, and where, the rules should be presented on the internet?

We agree with the proposals in paragraph 39.

Consultation question 7

Do you have any comments on the approach to headings in the Rules?

We agree with the proposal to proceed on a question and answer basis.

Consultation question 8

Do you have any comments on the approach taken to minimising the number of hearings?

We agree with the approach suggested on the basis that it will be most effective when applied consistently.

Consultation question 9

Do you have any comments on the approach taken to alternative dispute resolution in the rules?

We agree that parties should have access to ADR and be encouraged to resolve issues by negotiation throughout the process.

Consultation question 10

Do you have any comments on the proposed principles of simple procedure as set out in Part 1 Rules 2.1 – 2.5?

We support the principles proposed as set out in Part 1 Rules 2.1 - 2.5, encouraging resolution of cases as quickly and cheaply as possible with limited need to use Hearings.

Consultation question 11

Do you have any comments on the proposed duties on sheriffs, parties and representatives?

We agree with the proposed duties for sheriffs, parties and representatives as laid down.

Consultation question 12

Do you have any other comments on the approach taken in Part 1: The simple procedure?

No comment

Consultation question 13

Do you have any comments on the approach taken in Part 2: Representation and support?

No comment

Consultation question 14

Do you have any comments on the proposed timetable for raising a simple procedure claim?

We are content with the time frames specified but believe it would help to specify whether or not it is "calendar days" and have the timetable set out in table format with associated timeframes for ease of understanding for party litigants

Consultation question 15

Do you have any other comments on approach taken in Part 3: Making a claim?

No comment

Consultation question 16

Do you have any comments on the flowchart (at Part 4 Rule 2.4) setting out the options available to the responding party when responding to a claim?

No comment

Consultation question 17

Do you have any other comments on the approach taken in Part 4: Responding to a claim?

No comment

Consultation question 18

Do you have any comments on the approach taken in Part 5: Sending and service?

No comment

Consultation question 19

Do you have any comments on the proposed procedures for settlement and for undefended actions?

No comment

Consultation question 20

Do you have any comments on the proposed model for case management conferences?

No comment

Consultation question 21

Do you have any other comments on the approach taken in Part 6: The first consideration of a case?

No comment

Consultation question 22

Do you have any comments on the approach taken in Part 7: Orders of the sheriff?

No comment

Consultation question 23

Do you have any comments on the proposed model for freezing and unfreezing cases?

We think it would be better to use different terminology rather than "Freeze" which has a different meaning within England and Wales legal terminology

Consultation question 24

Do you have any other comments on the approach taken in Part 8: Applications by the parties?

No comment

Consultation question 25

Do you have any comments on the approach taken in Part 9: Documents and other evidence?

No comment

Consultation question 26

Do you have any comments on the approach taken in Part 10: Witnesses?

No comment

Consultation question 27

Do you have any comments on whether the detailed provisions on documents, evidence and witnesses are necessary in the Simple Procedure Rules?

No comment

Consultation question 28

If you think that any of this provision could be dispensed with (or any additional provision is necessary), please identify that provision.

No comment

Consultation question 29

Do you have any comments on the approach taken in Part 11: The hearing?

We understand and support the proposals regarding the hearing

Consultation question 30

Do you have any comments on the approach taken in Part 12: The decision?

We understand and support the proposals regarding the decision

Consultation question 31

Do you have any comments on the approach taken in Part 13: Other matters?

No comment

Consultation question 32

Do you have any comments on the approach taken in Part 14: Appeals?

We understand and support the proposals regarding appeals

Consultation question 33

Do you have any comments on the approach taken in Part 15: Forms?

We understand and support the proposals regarding "Forms"

Consultation question 34

Do you have any comments on any individual forms?

No comment

Consultation question 35

Do you have any comments on the proposal to include standard orders in the rules?

We believe the use or availability of standard orders is sensible and we have no further comment to make.

Consultation question 36

Do you have any comments on the terms of the standard orders included in the draft rules?

No comment

Consultation question 37

Do you have any comments on the approach taken in Part 17?

No further comment in relation to Part 17

Consultation question 38

Do you have any other comments on the draft Simple Procedure Rules?

No comment