



Scottish
Civil Justice
Council

EQUALITY IMPACT ASSESSMENT:

Modernising the signet

PREPARED BY: The Secretariat to the Scottish Civil Justice Council (SCJC).

REGARDING: The introduction of a new *Order for Service* for use by the Court of Session when it authorises the service of a summons.

LAST UPDATED: **19 November 2024**

Step 1 – POLICY BACKGROUND

What is the purpose of this policy?

To shift to the position where all courts will be issuing a court order to explicitly state that the authority to serve a summons on a defender has been granted by the court. Where such orders are made by the Court of Session, the image of the signet seal within that order will convey that it has 'passed the signet'

Why is this policy being developed or revised now?

An explicit statement within a court order clarifies that court decision for lay users. Removing the requirement to "open and insert" a docquet into a user generated document mitigates the cyber security risks arising.

Consultation

The use of the signet seal is part of the long standing traditions of the courts. This consultation documents the courts reasons for proposing this change and the feedback received will inform the final policy decision.

How are staff and / or customers affected by this policy?

Court Users:

- *Pursuers* – will await a formal notification that the court has granted "authority to serve" before they can then proceed to serve their summons on the defender.

- *Defenders* – on receiving a summons most defenders, or their legal representative, will check the court has formally authorised service.

Officers of the Court

- *Court Officials* - on checking the initiating documents it is officials that will generate and issue the *Order for Service*.
- *Messengers at Arms* – will find it easier to confirm that the legal authority to serve has been granted, without needing to search for a docquet placed on the original summons.

The Court

- *Judicial Office Holders* – require awareness of the introduction of the *Order for Service*.
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What research has influenced the development of this policy?

Judicial Decision Making

Court officials undertake all checks prior to case registration. The escalation of a summons for a judicial intervention would only occur by exception.

Business Levels

For the Court of Session – up to 1,000 summonses will be signeted per year.

Technology

Email is the current solution specified for electronic transmission. The SCTS will continue to extend the ability to use Civil Online, and in due course that will include the online viewing of each *Order for Service*.

User Experience

Legally represented parties will access lawyers with the training to understand the purposes of signeting. Most party litigants will lack the prior legal knowledge to understand signeting and would benefit from having an explicit message stated within a court order.

How does this policy support the public sector equality duty?

The Council does not provide front line public services. It does provide ‘functions of a public nature’ by proposing draft court rules, and it does give ‘due regard’ to the general equality duties under the Equalities Act 2010:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

All those with protected characteristics will benefit from receiving an explicit message conveyed in writing within the normal mechanism of a court order.

How has feedback from equality groups helped to shape this policy?

Equality groups would expect to see all decisions of the court communicated through the normal mechanism of a court order.

Step 2 – ASSESSMENT OF LIKELY EQUALITY IMPACTS

When considering equality impacts, readers should note the differing roles of the organisations that support the judiciary:

- The “rule making” function - sits with the Scottish Civil Justice Council (SCJC) which is responsible for anticipating the needs of those with impairments and making reasonable adjustments within any proposed rules.
- The “service delivery” function - sits with the Scottish Courts and Tribunal Service (SCTS). They deliver the frontline digital services (*for the electronic transmission of documents*) that support the rules in use and make the reasonable adjustments required within their front line services.

This EQIA is narrated from the perspective of the Council, so the focus is on the impacts arising from the **rule making** function only.

IMPACTS APPLICABLE TO ALL COURT USERS	DIGITAL SERVICES – For a summons in the Court of Session the current approach relies on using email for the electronic transmission of documents. The proposed rules will be drafted in a manner that remains agnostic to which digital service is used for electronic transmission (now or in the future). LEGAL TERMINOLOGY - The legal profession does use complicated legal terminology and using symbols such as a docket to indicate “passing the signet” does make that existing procedure difficult to understand for those without legal training. That gap in knowledge gap will become problematic for a party with more complex communication needs as they will already have a sense of separation from the other people involved in the proceedings, which will be heightened where the use of complex legal language, symbols and processes hinders their understanding and their ability to participate.
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	<p><i>Terminology – positive impacts</i> Harmonising all courts onto issuing a court order to explicitly state that “authority to serve has been given” will deliver a procedure that is much easier to use and understand.</p>
AGE	<p>DIGITAL EXCLUSION – compared to the general population there is a larger cohort of the elderly who do not use the internet. As part of its aim to provide end to end digital services the SCTS is progressively adding the functionality to view initiating documents via Civil Online. When making that change the SCTS will address how best they can assist those elderly parties that are not yet online.</p>
DISABILITY	<p>DIGITAL EXCLUSION – compared to the general population there is a larger cohort of the disabled who do not use the internet. As part of its aim to provide end to end digital services the SCTS is progressively adding the functionality to view initiating documents via Civil Online. When making that change the SCTS will address how best they can assist those with impairments who are not yet online.</p>
GENDER REASSIGNMENT	No significant impacts identified.
MARRIAGE & CIVIL PARTNERSHIP	No significant impacts identified.
PREGNANCY & MATERNITY	No significant impacts identified.
RACE	<p>TRANSLATION – for those who use English as a second language, or do not understand English at all, any reference that is made to signeting or passing the signet is likely to remain a mystery unless they (or their legal representatives) have a good understanding of Scots Law.</p> <p><i>Language – positive impacts</i> Harmonising all courts onto issuing a court order that explicitly states that “authority to serve” has been given delivers a procedure that will be easier to use and understand. In turn that ability to see the court’s decision in writing will make it easier for any translator to convey the decision made to their client.</p>
RELIGION & BELIEF	No significant impacts identified.
SEX	No significant impacts identified.
SEXUAL ORIENTATION	No significant impacts identified.