

Citizens Advice Scotland

Response to the Scottish Civil Justice Council consultation on using online intimation to replace the “walls of court” – April 2025

Citizens Advice Scotland (CAS), our 59 member Citizen Advice Bureaux (CAB) and the Extra Help Unit (EHU) form Scotland’s largest independent advice network. The Citizens Advice network in Scotland is an essential community service that empowers people in every corner of Scotland through our local citizens advice bureaux and national services by providing free, confidential, and independent advice. We use people’s real-life experiences to influence policy and drive positive change. We are on the side of people in Scotland who need help, and we change lives for the better.

Background

The Citizens Advice network in Scotland plays a crucial role in supporting people across the country to secure access to justice across a wide range of civil, administrative, and criminal justice issues. We inform people of their rights and responsibilities and provide person-centred advice, regularly on more than one issue and often relating to human rights – this includes advice on social security, debt, energy, housing, employment, family and relationships, consumer issues, and legal proceedings. We empower people to navigate systems and procedures to resolve their issues, prevent detriment, and pursue recourse when things go wrong.

The network provides advice via multiple channels: in person in almost 300 locations across the country, as well as by phone, email, and other channels, and via our freely accessible online advice pages.

Our holistic advice and support changes lives. In **2023/24**,

- our public-facing online advice site registered more than 4.2m views across all advice areas;
- the Citizens Advice network in Scotland supported nearly 192,000 people and dealt with over 680,000 advice issues;
- our support put over £158 million in financial terms alone back into people’s pockets and local communities;
- we supported some of the most marginalised and (intersectionally) disadvantaged communities and individuals - 64% of people we supported reported having a disability or long-term health condition, 56% were women; and 31% resided in the most deprived areas in Scotland.¹

¹ At 2%, people from minority ethnic backgrounds are very likely underreported in our client demographic, as 52% of people we support choose not to answer questions regarding ethnicity.

The Citizens Advice network holds the largest dataset outside the public sector in Scotland on people's experiences on the ground and has unparalleled insight into the issues affecting them.

In 2023/24, CAB collectively provided more than 39,000 pieces of tailored **advice on legal proceedings** to more than 15,000 individuals, that is close to 3,300 pieces of advice in an average month.

- Legal proceedings advice was most frequently sought in relation to benefits tribunals, simple procedure, solicitors/advocates, summary cause proceedings at Sheriff court, incapacity, and legal aid.
- The network also **supported 1,427 clients at courts and tribunals** in 2023/24. This includes CAB advisers acting as authorised lay representatives, notably in debt and housing cases, and as tribunal representatives, such as in social security and employment cases.
- The economic value of advice provided by CAB on legal proceedings is an estimated £11.58m.
- The **Law and Courts pages** on our public advice site were viewed 930,000 times in 2023/24 and remain the most viewed among all our advice pages.

CAS's policy work on Access to Justice aims to ensure that people's rights are protected and realised, that people in Scotland have equal access to the justice system and legal services regardless of who they are, where they live, their digital skill level, and the specialty of their legal issue; can navigate and engage appropriately in legal proceedings; and that processes are transparent and fair.

We therefore welcome this opportunity to contribute to this Scottish Civil Justice Council consultation.

Our Response

Q1 & 2 – Do you agree the existing rules on “advertising via the walls of court” should be replaced by amended rules requiring “online intimation”? Are you aware of any reason why those existing references to ‘advertising via the walls of court’ should not be removed?

CAS notes the SCJC statement that the proposed change towards online intimation is aligned with modernising the courts, especially the “longer term strategic aim within the SCTS Corporate Plan to deliver fully end-to-end digital services.” While we recognise that the move to online services will continue, CAS has a number of concerns about digitisation within the justice system.

We understand that telecommunications services are increasingly an essential utility for people in Scotland, with access to a decent internet connection now vital for many day-to-day activities including work, learning, staying informed and accessing essential public services. Yet our data shows that many people in Scotland face ongoing barriers to accessing these

connections – whether due to the cost of devices or tariffs, a lack of skills or confidence to navigate the digital realm, or a lack of robust digital infrastructure, particularly in Scotland’s rural and island communities. For example,

- CAS’s 2018 research of 1200 clients of the Scottish Citizens Advice network, ‘Disconnected’, found that 18% of CAB clients that were surveyed never used the internet, while 9% used it ‘hardly ever’; and one third of respondents either had difficulty using a computer (18%) or simply could not use one at all (16%).
- While the number of people not using the internet across the UK has fallen steadily in recent years, our data and evidence show that many people and communities in Scotland continue to experience significant barriers to accessing the internet and suffer considerable detriment as a result. Across the Citizens Advice network in Scotland, the number of clients recorded as digitally excluded in 2023/2024 has increased by 15% year on year.
- Our 2024 tracker polling, conducted by YouGov² on behalf of Citizens Advice Scotland, found that almost 1 in 4 (24%) of Scottish consumers regularly run out of money before pay day. Amongst them, 21% go without internet access at home as a result, and 19% go without mobile phone access.

As essential services become increasingly digitised the more challenges this presents for those with more limited digital access. Access to basic information, healthcare, managing personal finances, housing, social security, and justice services – all increasingly rely on digital connections and competencies, creating significant detriment for people who do not have these. While the increase in digital by default approaches across public services has been accompanied by a range of measures aimed at boosting digital inclusion, advisers across our network report that public bodies often underestimate the level of support required by digitally excluded people.

CAS therefore continues to advocate that channel choice for those engaging with services is essential to mitigate the detriment faced by those less able to access the online world. We would urge that any further move towards digitisation in the justice system includes sufficient safeguards to ensure that no-one is denied their right to access justice. This includes alternative communication and engagement methods which must be easily accessible and available to those wanting or needing to engage with the justice system.

Assessed against these principles, CAS believes that there needs to be a way for pursuers to have access to court proceedings even if the defender’s whereabouts are unknown. We agree that it will be rare for a defender to become aware of an action raised against them by way of walls of court. Shifting from advertising via the walls of court to online intimation will, for the majority of people, increase the probability of them becoming aware of an action raised against them. We can see the benefits of online intimation where it enables individuals to lodge a defence or otherwise engage in proceedings, thus enabling their access to justice, which we support.

² YouGov Plc. Total sample size was 1,005 adults. Questions run as part of the YouGov Scotland Omnibus, fieldwork conducted 9-11 April 2024. The survey was carried out online. The figures have been weighted and are representative of adults in Scotland (aged 18+).

However, we would urge that the amended rules should “permit” rather than “require” online intimation. This could be similar, for example, to rule 6.6 of the Bankruptcy Rules (Act of Sederunt (Sheriff Court Bankruptcy Rules) 2016 which permits the Sheriff to “authorise the petitioner to effect service by any method that the sheriff thinks fit.” This gives the court the flexibility to mould service to the particular circumstances of the case. Once the defender has received notification and enters proceedings, any potential defect in service can be considered as cured (rule 5.10). CAS believes following this approach could provide a more balanced way forward, rather than a blanket replacement of existing rules on advertising via the walls of court by rules requiring online intimation.

More generally, the SCJC consultation recognises the need to further develop the existing digital service if online intimations were to become a permanent feature of court proceedings. We agree that enabling/improving searchability of notices online will be crucial for the public’s ability to access the information they need while ensuring the right to privacy and data protection for those whose personal data are published online. We would recommend early public and user consultation as well as regular monitoring of any digital platform/database that would be used or developed.

Q3. Other than notices for publication in the Edinburg Gazette, are you aware of any reason why the existing references to the mandatory use of ‘advertising via newspapers’ should not be made discretionary?

No. We believe it would be rare for anyone to read a newspaper notice, and these can also be costly to purchase. An exception to this would be professional creditors or their agents who tend to actively monitor the Gazette but also often have early warning via credit information services and other sources. However, making the mandatory use of ‘advertising via newspapers’ discretionary may pose problems if this leads to uncertainty for the public as to where (else) to look for notices that may directly affect them – clear information for the public will be needed regarding any such change.

Advisers in our network, moreover, report that advertising via newspapers appears to be already discretionary in certain proceedings in the sense that, provided the terms of rule 5.6(1) are satisfied, the sheriff may order service by walls of court *or* by newspaper.

Q4. Subject to securing a prerequisite law change, when potential appointments as an Executor Dative are being advertised, do you agree that ‘direct intimation’ would be more appropriate?

The consultation proposes that the pursuer “directly intimate their potential appointment to the relatives and other parties of the estate.” The appointment of an executor dative by the court is regarded as an administrative function and not a judicial function. The consultation suggests that at the stage of appointment the court may have a discretion as to who to appoint. Advisers in our network highlight this may be doubtful - there is a view that it is not the function of the court to ensure the selection of a “suitable” executor dative. Furthermore, the pursuer, who may be unrepresented, may not know who the “relatives and other parties”

may be or where they are. In circumstances of complex family relations, for example, it may be both burdensome and expensive for the pursuer to discharge this responsibility of direct intimation.

CAS is also concerned that the consultation paper suggests moving intimation of Executor Dative appointments online in the short-term, but then to direct intimation in the longer term, as this would be subject to a law change. We would caution against such an approach as successive changes to the intimation requirements could be potentially confusing for the public.

CAS therefore believes that this proposed change requires further consideration. For example, giving the sheriff the broad power to order intimation by any means the court deems appropriate in the specific circumstances, taking into account the pursuer's preferred means of intimation, could be considered as an alternative to making direct intimation mandatory.

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