

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL
COSTS AND FUNDING COMMITTEE
MONDAY 5 SEPTEMBER 2016 AT 4.15PM
JUDGES CONFERENCE ROOM, PARLIAMENT HOUSE**

MINUTES (APPROVED)

Members Present: Lord Burns (Chair)

Ian Dickson (SLAB)

Brandon Malone (SCJC member)

Sheriff Charles Stoddart (Retired)

James Mure QC (Advocate)

Kenneth Cumming (Auditor of the Court of Session)

Alan Rogerson (Claims Manager, Aviva)

Stewart Mullan (Law Accountant)

Gillian Prentice (Deputy Principal Clerk of Session)

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

Luke McBratney (Rules Rewrite Drafting Team)

Susan Brodie (Policy Officer, Scottish Civil Justice Council)

Apologies: Denise Swanson (Manager of Policy & Development, Scottish Government)

Sheriff Thomas Hughes (SCJC member & Dundee Sheriff Court)

Iain Nicol (Solicitor)

Yvonne MacDermid (Chief Executive, Money Advice Scotland)

Item 1: Welcome, apologies and agreement of private papers

1. The Chair welcomed all in attendance to this the fifth Costs and Funding Committee meeting this year and noted apologies received.
2. **The Committee agreed not to publish the following papers: 2.2, 4.2, 5.1, 5.1A, 5.2, 5.2A, 5.3, 5.3A, 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 Chair noted the resignation of Kenneth Cumming from the Costs and Funding working group and thanked Kenneth for his contribution to the group.
5. **The Committee noted the progress that had been made on actions since the last meeting and approved the proposed amendment at part 3 of Paper 2.2.**

Item 3: Proceedings

Item 3.1 – Membership (Oral)

6. The Chair provided an update on Committee memberships in relation to future tenures, which are due to expire this year. He advised that Council will be considering Committee tenures at its meeting on 3 October 2016.

Item 3.2 – Committee Remit

7. The Chair informed the Committee that the Council has approved the revised Committee remit and this has been updated on the Council website.

Item 4: Work programme

Item 4.1 – Update from the Scottish Government on legislative developments (Oral)

8. No update provided, as apologies received from members of Scottish Government.

Item 4.2 CAFC Work Tracker

9. **The Committee noted this paper and approved the proposed amendments.**

Item 5: Proposals for rules

Item 5.1 Pursuers' Offers (Papers 5.1 and 5.1A)

10. The Committee considered **Papers 5.1 and 5.1A**, which set out proposals for revised draft rules, to introduce a system of Pursuers' Offers to the Rules of the Court of Session. These rules were prepared on the instruction of the Committee at its previous meeting on 27 June 2016. The Committee was generally content with the revised draft rules.

11. **The Committee discussed the draft rules and subject to a minor amendment, agreed they be submitted to the Council for consideration and approval.**

Item 5.2 Pre-litigation Fees (Papers 5.2 and 5.2A)

12. The Committee considered **Paper 5.2** which incorporates draft proposed amendments to the sheriff court table of fees. Under the proposed amendments the pre-litigation fee would be calculated on a different basis in those ordinary cause and summary cause cases in which the personal injury pre-action protocol applied.

13. **Following discussions the Committee agreed that the draft proposed amendments to the sheriff court table of fees, including amendments from today's meeting, be placed before the Council for consideration and approval. This is with a view to the amendments to the sheriff court table of fees, being made and brought into force, at the same time as the personal injury pre-action protocol.**

Item 5.3 Fees of Solicitors in the Sheriff Court – Simple Procedure draft SSI (Papers 5.3 and 5.3A)

14. The Committee were invited to consider and approve **Paper 5.3A**, a draft instrument relating to Fees of Solicitors in the sheriff court in relation to the core Simple Procedure Rules. It is intended that the fees instrument will come into force at the same time as the Simple Procedure Rules on 28 November 2016.

15. **The Committee discussed the draft instrument and subject to agreed minor amendments, approved that it be submitted to the Council for consideration and approval.**

Item 6: AOCB

Item 6.1 Scottish Government Consultation Paper re: Court Fees (Papers 6.1 and 6.1A).

16. The Committee considered **Papers 6.1 and 6.1A** which relates to the Scottish Government's consultation paper regarding Scottish civil court fees.

17. The Committee discussed the matters arising and concluded that it was not within its remit to respond to the consultation. It was noted that individual Committee members may wish to respond either as individuals or as part of their organisations.

Item 7: Dates of future meetings

18. **The Committee noted the dates of future meetings:**

- Monday 7 November at 4.15pm
- Monday 19 December at 4.15pm
- 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

September 2016