



Scottish  
Civil Justice  
Council



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# Scottish Civil Justice Council

## Annual Report 2024/2025 and Annual Programme 2025/2026

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ISBN: 978-1-9996970-6-8

Report number: SCJC/2025/01

Laid before the Scottish Parliament by the Scottish Civil Justice Council in pursuance of section 5(4) of the [Scottish Civil Justice Council and Criminal Legal Assistance Act 2013](#) on 25 June 2025.

Scottish Civil Justice Council  
Parliament House  
Edinburgh  
EH1 1RQ

T: 0131 240 6776

E: [scjc@scotcourts.gov.uk](mailto:scjc@scotcourts.gov.uk)

Published by the Scottish Civil Justice Council

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## Chair's Foreword

It is a pleasure to introduce the twelfth Annual Report of the Scottish Civil Justice Council, covering the period from 1 April 2024 to 31 March 2025. The Council plays a key role in ensuring that the system of civil justice in Scotland's courts and tribunals is kept up to date. A modern and efficient civil justice system helps to promote economic and social stability.



During this reporting period seven draft rules instruments were proposed by the Council and given legal effect by the Court of Session. There were three public consultation exercises progressed to inform the development of our policy positions regarding the use of online intimation when intimating general public notices; the simplified procedures for divorce and dissolution of relationships; and the way in which a Court of Session summons will “pass the signet” (i.e. be formally authorised) in future. Two research reports were published and the Council received updates on the Aarhus Convention and the future transfer of tribunal rules.

As the newly appointed chair of the Council, I am grateful for the support of all Council and Committee members for the voluntary time they contribute to progressing such a wide-ranging programme of work. I also want to thank the staff in the Council's Secretariat and the staff of the Lord President's Private Office for their hard work and commitment over the course of the year.

Looking ahead, the Council has decided to pursue a far-reaching programme of work, as explained in this report. Central to this will be ensuring that the civil justice system fully reflects the fundamental principle of open justice. This is of vital importance in order to maintain public trust and confidence in the country's courts and tribunals.

**The Rt. Hon. Lord Pentland**  
**Lord President**  
**Chair of the Scottish Civil Justice Council**

# About us

## Introduction

The Scottish Civil Justice Council was established with effect from 28 May 2013 under the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (*the 2013 Act*).

Under section 2 (1) of that 2013 Act, the Council's key functions are:

- Keeping the civil justice system under review;
- Reviewing the practice and procedure followed in the Court of Session and in civil proceedings in the Sheriff Appeal Court or the sheriff court;
- Reviewing the practice and procedure followed in inquiry proceedings under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016;
- Preparing and submitting to the Court of Session: draft civil procedure rules, draft fees rules and draft inquiry procedure rules;
- Providing advice and making recommendations to the Lord President on the development of, and changes to, the civil justice system in Scotland; and
- Providing advice on any matter relating to the civil justice system that may be requested by the Lord President.

## Guiding principles

Under sections 2 (2) and 2 (3) of the 2013 Act, the Council must have regard to the following statutory guiding principles when carrying out its functions:

- The civil justice system should be fair, accessible and efficient;
- The rules relating to practice and procedure should be as clear and easy to understand as possible;
- Practice and procedure should, where appropriate, be similar in all civil courts; and
- Methods of resolving disputes which do not involve the courts should, where appropriate, be promoted.

In order to ensure that these statutory guiding principles are built into the work of the Council an assessment of compatibility with each of the principles is carried out every time the Council considers new rules proposals. These principles are also incorporated into the individual remits of each Council committee and members must have regard to the principles when formulating rules proposals.

## Who we are

### Membership

The Scottish Civil Justice Council is to have not more than 20 members, encompassing a range of interests and experiences across the civil justice system. The categories of membership provided for in the 2013 Act are:

### Judicial members

- The Lord President (Lord Justice Clerk may deputise) (Chair)
- At least 4 judges, with a minimum of 1 judge of the Court of Session and 1 sheriff principal or sheriff

### Standing appointments

- The Chief Executive of the Scottish Courts and Tribunals Service
- The principal officer of the Scottish Legal Aid Board
- 1 member appointed by the Scottish Ministers

### Legal members

- At least 2 practising advocates (“advocate members”)
- At least 2 practising solicitors (“solicitor members”)

### Other members

- At least 2 persons (“consumer representative members”)
- Up to 6 other persons considered by the Lord President to be suitable to be members of the Council (“LP members”).

The current members of the Council are:

Category	Position	Name
<b>Chair</b>	The Lord President and Lord Justice General, by virtue of that office	The Right Hon. Lord Pentland
<b>Ex officio members</b>	Chief Executive of the Scottish Courts and Tribunals Service, by virtue of that office	Malcolm Graham
	Principal officer of the Scottish Legal Aid Board, by virtue of that office	Colin Lancaster
	1 member appointed by the Scottish Ministers	Denise Swanson
<b>Judicial members</b> Appointed by the Lord President	At least 4 judges including a minimum of:  1 judge of the Court of Session, and  2 sheriffs principal or sheriffs	The Hon. Lord Ericht  The Hon. Lady Carmichael  Sheriff Principal Ross  Sheriff McCartney  Sheriff Way
<b>Advocate members</b> Appointed by the Lord President in consultation with the Faculty of Advocates	At least 2 practicing advocates	Fiona Drysdale KC  Vacancy
<b>Solicitor members</b> Appointed by the Lord President in consultation with the Council of the Law Society of Scotland	At least 2 practicing solicitors	Iain MacRae  Nicola Irvine
<b>Consumer representative members</b> Appointed by the Lord President in consultation with the Scottish Ministers	At least 2 persons who, between them, appear to the Lord President to have — (i) experience and knowledge of consumer affairs, (ii) knowledge of the non-commercial legal advice sector, and (iii) an awareness of the interests of litigants in the civil courts, and	Thomas Docherty  Vacancy
<b>LP members</b> Appointed by the Lord President in consultation with the Scottish Ministers	Up to 6 other persons considered by the Lord President to be suitable to be members of the Council	Sheriff Jillian Martin-Brown

The Council has nominated a number of observers to attend Council and committee meetings in order to assist in the carrying out of its functions. The following observers attended Council meetings during 2024-25:

Rachel Grant	Legislation Implementation Team, Scottish Courts and Tribunals Service
Chris Fyffe	Deputy Principal Clerk of Session, Scottish Courts and Tribunals Service

## Committees

The Council has established the following committees to assist it in carrying out its work:

Committee	Chair	Remit & Functions
<b>Access to Justice</b>	The Hon. Lady Carmichael	This Committee monitors the effect on access to justice and the operation of the civil justice system; to keep relevant rules under review; to develop and consider proposals for modification and reform and, where appropriate, to draft rules for SCJC consideration.
<b>Costs and Funding</b>	The Hon. Lord Harrower	This Committee is concerned with matters that can be regulated by the Court of Session Rules in civil matters including award of expenses and fees provisions. The Committee keeps the relevant rules, tables and fees under review; It considers proposed reforms and puts forward recommendations and draft rules when applicable, to the SCJC.
<b>Family Law</b>	The Hon. Lady Wise	This Committee is concerned with family actions and cases involving children. It keeps the family law civil rules under review; makes proposals for change; aims to ensure, via court rules and guidance, that cases are dealt with expeditiously and efficiently; reviews, develops and promotes a case management structure; reports to the SCJC with recommendations for change and drafts new rules where required. At its core, the Committee has, as a paramount consideration, the welfare of children.
<b>Personal Injury</b>	The Hon. Lady Haldane	This Committee keeps the relevant personal injury civil rules under review; makes proposals for change; develops rules relating to action to be taken before proceedings are brought and encouraging fair, just and timely settlement of disputes; makes provision for any type of personal injury claim of any value at any stage of proceedings; and reports to the SCJC with recommendations for change and new rules where necessary.
<b>Rules Rewrite</b>	The Rt. Hon. Lord Pentland, Lord President	This Committee oversees the management of the Rules Rewrite Project (RRP); develops a framework for reviewing new rules prepared under RRP & the reforms under the Courts Reform (Scotland) Act 2014; and considers issues that do not fall under remit of any other Committee.



## Table of meetings for 2024 – 2025

	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
SCJC meetings												
Access to Justice Committee												
Costs and Funding Committee												
Family Law Committee												
Personal Injury Committee												
Rules Rewrite Committee												

## Support

The Scottish Courts and Tribunals Service (SCTS) holds the statutory function for providing the property, services and staff for the Council, under section 62 of the Judiciary and Courts (Scotland) Act 2008. The following table indicates the budgeted level of resources.

Budget 2024/25	
Payroll	£487,130
Supplies and Services	£29,985
Office & Other Costs	£1,200
Travel & Subsistence	£1,800
TOTAL	£520,115

### *Policy Support:*

The Scottish Courts and Tribunals Service (SCTS) provides funding for 7 posts within the secretariat including: 1 Director Strategy, 1 Secretary to the Council, 1 Business Manager, 1 Policy Manager, 2 Policy Officers and 1 Executive Officer.

### *Legal Support:*

The ad hoc legal support for the drafting of rules instruments is provided by the Lord President's Private Office (LPPO). To provide career development options the LPPO is normally staffed by lawyers seconded from the Scottish Government Legal Directorate.

# Key achievements and ongoing work

## Summary of the new rules made in 2024-25

The following is a summary, by date made, of the seven sets of rules instruments submitted by the Council to the Court of Session during this reporting period.

### Court Rules:

- The [Act of Sederunt \(Rules of the Court of Session 1994 and Sheriff Appeal Court Rules 2021 Amendment\) \(United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024\) 2024](#) (SSI 2024/195) was made on **27 June 2024** and came into force on 16 July 2024. Incorporating the UN treaty within domestic law enables those treaty rights to become legally enforceable in Scotland. This instrument amends the rules to make provision for any compatibility questions that arise under that Act to be handled in the same manner as devolution issues.
- The [Act of Sederunt \(Rules of the Court of Session 1994 Amendment\) \(Protective Expenses Orders\) 2024](#) (SSI 2024/196) was made on **27 June 2024** and came into force on 1 October 2024. The 3 amendments made further support environmental actions being raised, by implementing 3 suggestions originally raised by consultation respondents in 2017. In 2021 those suggested changes were reframed as potential compliance issues by the Aarhus Convention Compliance Committee.
- The [Act of Sederunt \(Proceedings for Determination of Compatibility Questions Rules\) 2024](#) (SSI 2024/197) was made on **27 June 2024** and came into force on 16 July 2024. If a UNCRC compatibility question was to arise during proceedings then these rules set out the procedure to be applied by the court when responding.
- The [Act of Sederunt \(Rules of the Court of Session 1994, Sheriff Appeal Court Rules 2021 and Ordinary Cause Rules 1993 Amendment\) \(Taxation of Judicial Expenses\) 2024](#) (SSI 2024/323) was made on **6 November 2024** and came into force on 1 January 2025. This instrument resets the time limit for a paying party to lodge an objection in a diet of taxation to 1600 hours on the fifteenth day prior to a diet of taxation. That procedural change will in turn provide 14 calendar days for the entitled party to consider their response to each of the objections made, which is a more practical timeframe for practitioners to evaluate the objections made, provide advice to their clients, take instructions, and prepare for attendance at the diet of taxation.

- The [Act of Sederunt \(Rules of the Court of Session 1994, Sheriff Appeal Court Rules 2021 and Sheriff Court Rules Amendment\) \(Statutory Interveners\) 2024](#) (SSI/2024/353) was made on **21 November 2024** and came into force on 1 January 2025. It creates a generic procedure for use by those existing public authorities that hold a specific statutory power to intervene in civil court proceedings as of right. Previously a separate chapter of rules was provided for each public authority. Those multiple chapters have been withdrawn and replaced by this one generic procedure. That future proofs the rules to cover any additional public authority that may be granted such statutory powers in future.
- The [Act of Sederunt \(Rules of the Court of Session 1994 Amendment\) \(Nautical Assessors\) 2025](#) (SSI/2025/61) was made on **7 March 2025** and came into force on 11 April 2025. It removed the requirement for a list of nautical assessors to be kept and also removed the bar on leading a skilled witness on nautical matters where a nautical assessor would otherwise have been assisting the court.
- The [Act of Sederunt \(Rules of the Court of Session 1994 and Ordinary Cause Rules 1993 Amendment\) \(Miscellaneous\) 2025](#) (SSI/2025/80) was made on **19 March 2025** and came into force on 30 April 2025. It updates the rules to reflect changes made to the Hague Convention of 2nd July 2019, which covers the Recognition and Enforcement of Foreign Judgments. It also removes the redundant need for a party to lodge a currency conversion certificate from the Bank of England when seeking decree for payment in a foreign currency.

## Consultations progressed

During this reporting period the Council ran three public consultation exercises:

### Online Intimation

Between 31 October 2024 and 25 April 2025 the Council sought feedback on the procedures that are already in use for online intimation, which are to become the permanent replacement for advertising those same public notices on the walls of court. The feedback received from respondents is now supporting an amending instrument being prepared for enactment later in 2025/26.

### Simplified Divorce

Between 19 November 2024 and 9 May 2025 the Council sought feedback on a set of draft rules and forms that would allow those with children under the age of 16 to use the simplified procedures for divorce and dissolution, subject to having agreed appropriate arrangements for the welfare of their children. The feedback received is now supporting the finalisation of that set of draft rules and forms. The Council would expect those rules to be enacted in due course, to coincide with the prerequisite changes to the primary legislation that are being progressed by the Scottish Government.

### Modernisation of the Signet

Between 4 December 2024 and 21 May 2025 the Council sought feedback on the introduction of an “order for service” to communicate more clearly that the Court of Session had authorised the service of a summons. That interlocutor would contain the signet as a digital watermark, as a modern digital option for meeting the legal requirement for a summons to have “passed the signet”. The feedback received is now supporting an amending instrument being prepared for enactment later in 2025/26.

## Other rules requests progressed by letter or report

### Monitoring Reports

An “Update on the Aarhus Concerns for Scotland” was discussed to help inform the next steps to be taken by the Council to improve compliance with the Aarhus Convention.

An “Annual update on the transfer of Tribunal Rules” was discussed to monitor the likely timing of the expected ‘transfer of function’ order under the Tribunals (Scotland) Act 2014.

### Practice Notes

A rules request logged from the Independent Monitoring Authority (IMA) was closed by the issue of Practice Note 2 of 2024 – on Citizens Rights following withdrawal from the EU.

### Research Papers

To inform the ongoing review of the Protective Expenses Orders (PEO) Rules 2018; the Council issued two research reports: “Research on the cost caps used in practice” and “Research on the type of cases seeking a PEO”. That informs preparation of draft rules on extending the availability of environmental PEOs to proceedings within the Sheriff Appeal Court and the sheriff courts; with a public consultation to follow later in 2025.

## Formal Recommendations Made

One of the statutory functions of the Council is to advise and make recommendations on the development of, and changes to, the civil justice system in Scotland. The 2013 Act provides the Council with the power to take such action as it considers necessary or desirable in pursuance of this function<sup>1</sup> and requires a summary of any such recommendations to be included in the Council’s Annual Report<sup>2</sup>.

During the reporting year from 1 April 2024 to 31 March 2025 the Council made no such formal recommendations under Section 3 (2) (f) of the 2013 Act.

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<sup>1</sup> Section 3

<sup>2</sup> Section 5(3)

# Annual Programme for 2025/2026

Under section 5 of the 2013 Act, the Council must prepare an annual plan that sets out its business priorities for each financial year, before the start of that period (“the programme”).

## The current pipeline of rules requests

As at 1 April 2025, the total pipeline of all rules requests formally logged for consideration by the Council consisted of 44 items:

### COURT RULES (37):

Count	Status	Category	Description
1	Existing	Review	Personal Injury Pre Action Protocol
2	Existing	Review	Withdrawal of Agents (RCS Chap. 30)
3	Existing	Review	Inner House Rules
4	Existing	Review	Protective Expenses Orders (PEO's)
5	New	Review	Modes of Attendance Rules
6	New	Review	Mandatory use of Civil Online
1	Existing	Modernise	Lay representation, lay support and party litigants
2	Existing	Modernise	Pre Action Protocol - Clinical negligence
3	Existing	Modernise	Pre Action Protocol - Disease
4	Existing	Modernise	Caveats
5	Addition	Modernise	Electronic Recording of Evidence ( <i>new item</i> )
1	Existing	Maintain	Public Interest Interventions
2	Existing	Maintain	Appointment of assessors under the Equality Act
3	Existing	Maintain	Extension of Simplified Divorce
4	Existing	Maintain	Historic Abuse – Nominal Defenders
5	Existing	Maintain	E-Motions
6	Existing	Maintain	Pursuers offers (for PI cases under £5k)
7	Existing	Maintain	Inhibition in execution
8	Existing	Maintain	Postal copies ( <i>of documents served</i> )
1	Existing	Reform	Rules Rewrite ( <i>the New Civil Procedure Rules</i> )
2	Existing	Reform	Simple Procedure Special Claims (SPSC)
3	Existing	Reform	Group Proceedings Part 2 ( <i>opt out procedure</i> )
4	Existing	Reform	Civil Litigation (Expenses & Group Proceedings)(S) Act 2018 - Sec 9
5	Existing	Reform	Civil Litigation (Expenses & Group Proceedings)(S) Act 2018 - Sec 10
6	Existing	Reform	Civil Litigation (Expenses & Group Proceedings)(S) Act 2018 - Sec 11
1	Existing	Comply	Damages (Investment Returns and Periodical Payments) (S) Act 2019
2	Existing	Comply	Civil Partnership (Scotland) Act 2020
3	Existing	Comply	Children (Scotland) Act 2020
4	Existing	Comply	Defamation and Malicious Publication (Scotland) Act 2021
5	Existing	Comply	Domestic Abuse (Protection)(Scotland) 2021
6	Existing	Comply	Coronavirus (Recovery and Reform) (Scotland) Act 2022
7	Existing	Comply	Child Support (Enforcement) Act 2023
8	Existing	Comply	Moveable Transactions (Scotland) Act 2023
9	Existing	Comply	Hunting with Dogs (Scotland) Act 2023
10	Existing	Comply	Trusts and Succession (Scotland) Act 2024
11	Addition	Comply	Bankruptcy and Diligence (Scotland) Act 2024
12	Addition	Comply	Judicial Factors (Scotland) Act 2025

**FEES RULES (4):**

Count	Item	Category	Description
1	Existing	Judicial Expenses	Fee structure - for Clinical Negligence PAP
2	Existing	Judicial Expenses	Fee structure - for Disease PAP
3	Existing	Regulated Fees	Simplified 'Table of Fees' for Officers of Court
4	Addition	Judicial Expenses	Reduction of Inclusive Charges – taxation rule 3.7

**INQUIRY RULES (1):**

Count	Item	Category	Description
1	Existing	Maintain	To seek COPFS views (on the FAI rules)

**TRIBUNAL RULES (2):**

Count	Item	Category	Description
1	Existing	Reform	To monitor the jurisdictions transferred ( <i>per the 2014 Act</i> )
2	Existing	Modernise	To establish the judicial objectives ( <i>for progressing a tribunals Rules Rewrite</i> )

## The key priorities for 2025-26

From that total opening balance of 44 rules requests, the Council has taken a clean sheet approach to prioritisation and agreed 11 items as its priorities for the coming year:

Consultations – to be published:

- A consultation - on a simplified Table of Fees (*for officers of court*);
- A consultation – on extending PEOs to the sheriff court; and
- A consultation – on Simple Procedure Special Claims (SPSC).

Consultations – to be analysed:

- On the extension of simplified divorce;
- On the use of online intimation
- On the modernisation of the signet.

Facilitating working groups:

- Group Procedure Working Group

Rules Reviews:

- On the Mandatory use of Civil Online Rules
- On the Modes of Attendance Rules

Rules instruments to be laid and made:

- Inner House rules;
- Covid Recovery and Reform (Scotland) Act 2022

To fulfil its statutory function for keeping the wider civil justice system under review the Council will also be reviewing: how it captures the operational data needed to inform rule making; along with how it sources 'user experience' data for selected rules in use.

## Further information and contacts

Full information about the Council and its activities is available at [www.scottishciviljusticecouncil.gov.uk](http://www.scottishciviljusticecouncil.gov.uk). The website is updated regularly with news about the Council and provides full details of Council and committee meetings, publications, draft rules under consideration and new rules made.

You can also follow us on X (formally Twitter) @ScottishCJC for the latest updates.

The Council welcomes all feedback in relation to the practical workings of the rules of court. You can contact us as follows:

Email	<a href="mailto:scjc@scotcourts.gov.uk">scjc@scotcourts.gov.uk</a>
Telephone:	0131 240 6776
Post:	Scottish Civil Justice Council Parliament House Edinburgh EH1 1RQ

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Scottish Civil Justice Council  
Parliament House  
Parliament Square  
Edinburgh  
EH1 1RQ

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