



## Scottish Civil Justice Council summary of actions arising from recommendations in Chapters 2 – 4 of Sheriff Principal Taylor's Review

### Background

1. At meetings in June, September and November 2013 and January 2014, the Council considered the creation of a Costs and Funding Committee ("the Committee"). On the 18 November 2013, the Committee was established and its membership and remit was agreed on 13 January 2014, giving effect to recommendation **14** of the Review.
2. In March 2015, the Council considered the Committee's proposals in its Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland. The report was a high-level response setting out what the Committee agreed with and identifying what merited further consideration. The Council approved the report for publication and remitted the matter back to the Committee to consider implementation. The Council's decisions about the recommendations of the Review are set out below:

The Council agreed the following recommendations **would** be taken forward:

- Additional fees (recommendations **1, 2, 3, 5, 6, 7, 9, 12** and **13**);
- Block table of fees (recommendations **4, 8** and **10**);
- Interest on Judicial Expenses (recommendation **15**);
- Account of expenses in sheriff court actions (recommendation **16**);
- Sanction for the employment of counsel in the sheriff court (recommendations **19, 20** and **21**);
- Notification of instruction of counsel (recommendation **23**);
- Expert Witnesses (recommendations **26, 27, 28** and **29**);
- Fixed Expenses (recommendations **30** and **32**); and
- Pilot schemes (recommendations **33, 34** and **35**)

The Council agreed the following recommendations **would not be** taken forward:

- Motions for an additional fee (recommendation **11**);
- Fees of Advocates and Solicitor Advocates (recommendation **17, 18, 22, 24** and **25**); and
- Fixed Expenses (recommendations **31** and **36**)

3. The report was published<sup>1</sup> on the Council website on 1 April 2015. Since then the Committee considered a series of themed discussion papers prepared by the Lord President's Private Office and has developed detailed policy proposals to implement the recommendations set out in Chapters 2 to 4 of the Review.
4. At its 11 July 2016 meeting, the Council considered the Committee's draft statement of policy for the implementation of the Review's recommendations and agreed that some of this work could be taken forward in advance of the Rules Rewrite Project. The Council's decisions about the proposals for each of the recommendations of the Review are set out below:

Work to commence on Recommendations –

- Block table of fees (recommendations **4, 8** and **10**)
- Interest on Judicial Expenses (recommendation **15**);
- Account of expenses in sheriff court actions (recommendation **16**);
- Sanction for the employment of counsel in the sheriff court (recommendations **20** and **21**);
- Expert Witnesses (recommendations **26**); and
- Fixed Expenses (recommendations **30** and **32**)

Work to be postponed on Recommendations –

- Additional fees (recommendations **1, 2, 3, 5, 6, 7, 9, 12** and **13**);
- Sanction for the employment of counsel in the sheriff court (recommendations **19**)
- Notification of instruction of counsel (recommendation **23**);
- Expert Witnesses (recommendations **27, 28** and **29**); and
- Pilot schemes (recommendations **33, 34** and **35**)

5. The Committee noted that, while the Taylor measures being adopted were relatively limited in scope, they would require extensive amendment of each set of rules that currently regulate the taxation of judicial accounts in the Court of Session, Sheriff Appeal Court and sheriff court. The Committee therefore decided that implementation of the Taylor recommendations should be combined with wider reform and rationalisation of all the related rules and tables and began development work in this regard.
6. While issues relating to the rules themselves were generally considered by the whole Committee, a working group was established to develop the tables of charges relating to solicitors fees. The working group comprised Kenneth Cumming (Auditor of the Court of Session), Drew Crombie (Auditor, Glasgow Sheriff Court), Stewart Mullan (Law Accountant), and John Thomson (LPPO).

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<sup>1</sup> [Costs and Funding Committee Report on Implementation of the Report and Recommendations of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland](#)

7. At its recent meeting in November 2018, the Committee considered and approved two draft instruments: Act of Sederunt (Rules of the Court of Session, Sheriff Appeal Court Rules and Ordinary Cause Rules Amendment) (Taxation of Judicial Expenses) 2019 and Act of Sederunt (Taxation of Judicial Expenses Rules) 2019; these draft instruments incorporated Taylor recommendations **15, 16, 20, 21 and 26**.
8. The Council, at its November 2018 meeting, approved the draft instruments for submission to the Court of Session to be made in due course.
9. The Council agreed by correspondence on the 17 December 2018 recommendation **30** is to be marked no further action. This is a matter governed by primary legislation (section 81(4) and (5) Courts Reform (Scotland) Act 2014 (“the 2014 Act”))
10. A full summary of all recommendations in chapters 2 – 4 is provided for in the [Annex](#) below.

## Sheriff Principal Taylor's Review Chapters 2 - 4 Recommendations Summary

Rec. No.	Taylor Recommendation	Responsible Body	Action taken	Next steps
<b>CHAPTER 2 COST OF LITIGATION - JUDICIAL EXPENSES</b>				
<b>Recovery of Judicial Expenses</b>				
<b>Commercial Actions</b>				
<b>1</b>	The present criteria for awarding an additional fee should be revised for commercial actions. This would involve listing a number of criteria to include i) complexity ii) specialised knowledge or skill iii) whether there is any legal precedent for the issues iv) urgency v) likely volume of paperwork or electronic material vi) number of parties with a distinct interest vii) net value of the claim viii) commercial status of the parties and ix) expert witness requirements. Each of these criteria should be given a weighting and solicitors required to complete a pro-forma setting out their assessment of the case under each of the criteria when arriving at their view on the level of additional fee which should apply.	SCJC	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. These recommendations were remitted it back to the Costs and Funding Committee to implement.</p> <p><b>11 July 2016</b> - Council approved the Costs and Funding Committee proposals not to implement</p> <ul style="list-style-type: none"> <li>• Additional fees (recommendations <b>1, 2, 3, 5</b>); and</li> <li>• Block fees (recommendation <b>4</b>) to be carried out in conjunction with the rules rewrite project</li> </ul>	Completed - rejected
<b>2</b>	The concept of an additional fee should be retained for commercial actions with the decision as to what the additional percentage should be falling to be made at the outset of the proceedings. The maximum percentage increase should be 100%.	SCJC		Completed - rejected

3	Any application for an additional fee in a commercial action should not have retrospective effect. The extent of any additional fee should be kept under review during the litigation but any review should also not have retrospective effect.	SCJC		Completed - rejected
4	The block table of fees should be framed to more fully reflect the procedure in commercial actions and should be designed to incentivise efficiency.	SCJC - Rules Rewrite		Pending
5	There should be an option available to parties and the court in commercial cases whereby the hourly rates used in the calculation of judicial expenses are the hourly rates which the solicitors for the successful party have charged their client.	SCJC		Completed - rejected
<b>Actions Subject to Judicial Case Management</b>				
6	The concept of an additional fee should be retained for all other litigations subject to active judicial case management with the decision as to what the additional percentage should be falling to be made at the outset of the proceedings. The maximum percentage increase should be 100%.	SCJC	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. These recommendations were remitted it back to the Costs and Funding Committee to implement.</p> <p><b>11 July 2016</b> - Council approved the Costs and Funding Committee proposals not to implement</p> <ul style="list-style-type: none"> <li>• Additional fees (recommendations <b>6, 7</b>); and</li> <li>• Block table of fees (recommendation <b>8</b>) to be carried out in conjunction with the rules rewrite project</li> </ul>	Completed - rejected
7	Any application for an additional fee should not have retrospective effect. The extent of any additional fee should be kept under review during the litigation but any review should also not have retrospective effect.	SCJC		Completed - rejected
8	The existing block tables of fees should be revised with a view to incentivising efficiency.	SCJC - Rules Rewrite		Pending

<b>Actions subject to case flow management</b>				
<b>9</b>	The issue of whether there should be an additional fee in actions subject to case flow management, such as personal injury actions, should be resolved at the conclusion of the proceedings, as is the case at present. The maximum percentage increase should be 100%.	SCJC	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. These recommendations were remitted it back to the Costs and Funding Committee to implement.</p> <p><b>11 July 2016</b> - Council approved the Costs and Funding Committee proposals not to implement</p> <ul style="list-style-type: none"> <li>• Additional fees (recommendation <b>9</b>); and</li> <li>• Block table of fees (recommendation <b>10</b>) to be carried out in conjunction with the rules rewrite project</li> </ul>	Completed - rejected
<b>10</b>	The block tables of fees for personal injury actions should be revised with a view to incentivising efficiency.	SCJC - Rules Rewrite		Pending
<b>Motions for an additional fee</b>				
<b>11</b>	The Judicial Institute for Scotland should include in its training programme guidance as to how to approach motions for an additional fee.	Judicial Institute for Scotland	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. Recommendation <b>14</b> falls to the Judicial Institute for Scotland and agreed not to be taken forward by Council.</p>	Completed - rejected
<b>12</b>	In actions subject to judicial case management the member of the judiciary in whose docket the case is placed should determine whether an additional fee is appropriate and what the percentage increase should be.	SCJC	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. These recommendations were remitted it back to the Costs and Funding Committee to implement.</p>	Completed - rejected
<b>13</b>	In actions subject to case flow management the member of the judiciary hearing the motion for an additional fee should determine whether an additional fee is appropriate and what the percentage increase should be.	SCJC	<p><b>11 July 2016</b> - Council approved the Costs and Funding Committee proposals not to implement</p> <ul style="list-style-type: none"> <li>• Additional fees (recommendations <b>12, 13</b>)</li> </ul>	Completed - rejected

<b>Review of level of fees for litigation</b>				
<b>14</b>	The Scottish Civil Justice Council should form a sub-committee to deal with the level of fees for litigation which may be recovered as expenses. Membership should include the users of the system (such as the existing members of the Lord President's Advisory Committee on Solicitors' Fees), the funders of the system (such as a representative of the insurance industry and also a representative of the Scottish Legal Aid Board), a sheriff court auditor, a sheriff, a law accountant, a lay person who may well be an economist and someone to represent the interests of the consumer.	SCJC	<p><b>18 November 2013</b> - The Council considered and agreed the establishment of a subcommittee, Costs and Funding Committee, and a remit was created.</p> <p><b>13 January 2014</b> - Costs and Funding membership and remit agreed by correspondence by Council members.</p> <p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. Recommendation <b>14</b> was remitted it back to the Costs and Funding Committee to implement.</p>	Completed implemented
<b>Interest on Judicial Expenses</b>				
<b>15</b>	The courts should have the power to award interest on judicial expenses from 28 days after an account of expenses has been lodged.	SCJC	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. This recommendation was remitted it back to the Costs and Funding Committee to implement.</p> <p><b>11 July 2016</b> - The Council the Costs and Funding Committee proposals and referred the matter back to the Committee for implementation. The Council agreed that these recommendations should be implemented in advance of the Rules Rewrite Project.</p> <p><b>23 July 2018</b> - Costs and Funding committee considered draft instruments and agreed further amendments to be made:</p> <ul style="list-style-type: none"> <li>- recommendation <b>15</b> - Taylor recommended that rules should be amended to make it possible for courts, in awarding interest on taxed expenses, to backdate the date from which interest runs to a date before the date of the auditor's report, but no earlier than 28 days after the date on which the account was lodged. Paragraphs 3(7) and 4(8) provide for</li> </ul>	Completed implemented

16	<p>An account of expenses in sheriff court actions must be lodged no later than four months from the date of the final interlocutor. If the party fails to comply with this time limit, leave of the court will be required to lodge the account late, subject to such conditions (if any) as the court thinks fit to impose.</p>	SCJC	<p>the inclusion of rules to that effect in the Rules of the Court of Session and the Ordinary Cause Rules.</p> <ul style="list-style-type: none"> <li>- recommendation <b>16</b> - In the Court of Session an account of expenses requires to be lodged for taxation within 4 months of the final interlocutor in which a finding in respect of expenses is made (8 month SLAB). Paragraphs 3(6) and 5(3) provide for the inclusion of such a provision in both the Ordinary Cause Rules and the Sheriff Appeal Court Rules.</li> </ul> <p><b>19 November 2018</b> - The Council approved the draft rule subject to amendments for submission to the Court of Session:</p> <ul style="list-style-type: none"> <li>- recommendation <b>15</b> is provided for in the Act of Sederunt (Rules of the Court of Session, Sheriff Appeal Court Rules and Ordinary Cause Rules Amendment) (Taxation of Judicial Expenses) 2019 32.5(2) and 42.4A(1)</li> <li>- recommendation <b>16</b> is provided for in the Act of Sederunt (Rules of the Court of Session, Sheriff Appeal Court Rules and Ordinary Cause Rules Amendment) (Taxation of Judicial Expenses) 2019 32.1A(1)(a) and 19.3(1)(a)</li> </ul>	Completed implemented
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## CHAPTER 3 COST OF LITIGATION - OUTLAYS

### Counsel's Fees

#### *The sheriff court*

17	The current test for granting sanction for the employment of counsel in the sheriff court should remain one based on circumstances of difficulty or complexity, or the importance or value of the claim, with a test of reasonableness also being applied.	SCJC	<b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council.	Completed - rejected
18	When deciding a motion for sanction for the employment of counsel in the sheriff court, the court should have regard, amongst other matters, to the resources which are being deployed by the party opposing the motion in order that no party gains an undue advantage by virtue of the resources available to them.	SCJC	<b>11 July 2016</b> - Council approved the Costs and Funding Committee proposals why recommendations <b>17</b> and <b>18</b> should not be taken forward by Council. The Committee confirmed that the test for granting sanction for the employment of counsel in the sheriff court has already been given effect in section 108 of the Courts Reform (Scotland) Act 2014.	Completed - rejected
<b><i>Actions subject to judicial case management in the sheriff court</i></b>				
19	For cases proceeding under active judicial case management in the sheriff court a motion for sanction for the employment of counsel should be made at the start of the proceedings or, at a later stage, on cause shown.	SCJC	<b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. These recommendations were remitted it back to the Costs and Funding Committee to implement.  <b>11 July 2016</b> - The Council approved the draft policy paper with detailed proposals of this recommendation and referred the matter back to the Committee for implementation. The Council agreed that the recommendation should be implemented in advance of the Rules Rewrite Project. In respect to recommendation <b>19</b> the Committee agreed that sanction for the employment of counsel should generally be sought before counsel's fees have been incurred. However, it does not consider that the rules should prescribe a particular stage in	Completed - rejected
20	Counsel's fees should be a competent outlay in a judicial account of expenses only from the date of an interlocutor sanctioning the employment of counsel.	SCJC		Completed implemented

21	<p>Where counsel is required to be instructed urgently, either before the raising of proceedings or during the proceedings, parties may apply for retrospective sanction provided that the application for sanction is sought as soon as is reasonably practicable following the instruction of counsel, which will normally be at the next case management hearing. Any refusal of a motion will be in hoc statu and a new motion can be enrolled in the event of there being a change in circumstances.</p>	SCJC	<p>proceedings at which, or by which, sanction must be sought. Rather, the Committee favours a general rule to the effect that fees to counsel will only be allowable as an outlay where sanction has been sought and granted before the relevant work has been carried out. Where counsel has carried out billable work before sanction is granted, the party seeking sanction would have to apply specifically to extend the sanction to that work, and would have to show cause for having not sought sanction in advance.</p> <p><b>23 July 2018</b> - Costs and Funding committee considered draft instruments and agreed further amendments to be made:</p> <ul style="list-style-type: none"> <li>- recommendations <b>20</b> and <b>21</b> - The allowance of counsel's fees as an outlay in the sheriff court and Sheriff Appeal Court is regulated by rules 4.3 and 5.4 of the draft Act of Sederunt (Taxation of Judicial Expenses Rules) 2019. The test to be applied on an application for sanction is not set out in the rules as it is prescribed by section 108 of the Courts Reform (Scotland) Act 2014.</li> </ul> <p><b>19 November 2018</b> - The Council approved the draft rule subject to amendments for submission to the Court of Session. Recommendations <b>20</b> and <b>21</b> are provided for in rule 4.3 and 5.4 of the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019.</p>	Completed implemented
22	<p>The amount of fees for counsel which can be recovered as an outlay in a judicial account should be stipulated by the sheriff at the hearing to sanction the employment of counsel.</p>	SCJC	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. This recommendation was agreed not to be taken forward by Council.</p> <p><b>11 July 2016</b> - Council approved the Costs and Funding Committee proposals not to implement</p> <ul style="list-style-type: none"> <li>• Fees of Advocates and Solicitor Advocates (recommendation <b>22</b>)</li> </ul>	Completed - rejected

<b><i>Court of Session</i></b>				
<b>23</b>	In actions in the Court of Session, an instructing solicitor should be obliged to inform the opposing party that junior and/or senior counsel has been instructed.	SCJC	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. This recommendation was remitted it back to the Costs and Funding Committee to implement.</p> <p><b>11 July 2016</b> - Council approved the Costs and Funding Committee proposals not to implement</p> <ul style="list-style-type: none"> <li>• Notification of instruction of counsel (recommendation <b>23</b>)</li> </ul>	Completed - rejected
<b><i>Recoverable charges for counsel</i></b>				
<b>24</b>	Counsel and solicitor advocates should be entitled to recover a cancellation fee where a case settles within two working days of the first scheduled day of a hearing. The fee should be determined by the number of days for which the hearing was set down. Equivalent provisions should apply if a case settles after a hearing commences. That is to say, the fee should be for one day if there are up to seven days of the hearing remaining; two days if there are up to eleven days remaining; and so forth.	SCJC	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. These recommendations were agreed not to be taken forward by Council.</p> <p><b>11 July 2016</b> - The Council approved the Costs and Funding Committee proposals of why recommendations <b>24</b> and <b>25</b> should not be taken forward. The power to regulate fees conferred on the Court of Session by sections 105 and 106 of the Courts Reform (Scotland) Act 2014 does not presently include the power to regulate the fees of advocates or solicitor advocates. These recommendations do not fall within the remit of the SCJC. Accordingly these recommendations cannot be implemented through rules at the present time.</p>	Completed - rejected
<b>25</b>	Save for fees to cover the three elements of preparation, appearance and cancellation, counsel and solicitor advocates should not be able to recover any other payment. The concept of a commitment fee should play no part in a judicial account.	SCJC		Completed - rejected

<b>Fees of expert witnesses</b>				
26	When assessing the reasonableness of instructing an expert and what that expert should be paid, the court should have regard to the proportionality of instructing the expert and his or her charges.	SCJC	<b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. These recommendations were remitted it back to the Costs and Funding Committee to implement.	Completed implemented
27	Certification of an expert witness should be obtained prior to his or her instruction in cases proceeding under active judicial case management in the Court of Session and in the sheriff court or, where that is not possible, such as when an expert has to be instructed before the raising of the action, as soon as reasonably practicable after proceedings are initiated. In most circumstances, this will be at the first case management hearing. Any refusal of a motion will be in hoc statu. The test to be applied will be whether that instruction at that time was reasonable.	SCJC	<b>11 July 2016</b> - The Council approved the draft policy paper with detailed proposals of this recommendation and referred the matter back to the Committee for implementation. The Council agreed that the recommendation should be implemented in advance of the Rules Rewrite Project. Council approved the Costs and Funding Committee proposals not to implement recommendations in respect of Expert Witnesses (recommendations <b>27, 28, 29</b> ).  <b>23 July 2018</b> - Costs and Funding committee considered draft instruments and agreed further amendments to be made. Recommendation <b>26</b> is regulated by rule 5.3 of the draft Act of Sederunt (Taxation of Judicial Expenses Rules) 2019.	Completed - rejected
28	For cases proceeding under active judicial case management in the Court of Session and in the sheriff court, expert witnesses' fees should be recoverable from the date of certification. For parties who seek retrospective sanction of expert witnesses instructed prior to the commencement of litigation, any fees reasonably incurred would become a competent outlay at this stage. Should a party fail to obtain certification as soon as reasonably practicable after proceedings are initiated, they should not be able to recover in a judicial account any fee charged by the expert witness during the period between when it would have been reasonably practicable to obtain certification and when it was achieved.	SCJC	<b>19 November 2018</b> - The Council approved the draft rule subject to amendments for submission to the Court of Session. Rules 4.5 and 5.3 adopts the Taylor recommendation ( <b>26</b> ) that the court may only grant such an application if satisfied that the person is a skilled person, and that it is, or was, reasonable and proportionate for that person to be employed.	Completed - rejected

29	For cases proceeding under active judicial case management in the Court of Session and in the sheriff court, the amount of expert witnesses' fees that can be recovered as an outlay in a judicial account should be stipulated by the presiding judicial officer at the hearing for the certification of an expert witness.	SCJC		Completed - rejected
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#### CHAPTER 4 PREDICTABILITY

##### *Fixed Expenses*

30	The court should have a discretion to restrict recoverable expenses in a small claim in cases where a defender, having stated a defence, has decided not to proceed with it. This should be reflected in the rules for the new simple procedure.	SCJC	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. This recommendation was remitted it back to the Costs and Funding Committee to implement.</p> <p><b>07 September 2018</b> - Recommendation 30 has been identified as outstanding. This matter is already governed by primary legislation of the Courts Reform (Scotland) Act 2014, section 81(4) and (5).</p> <p><b>05 November 2018</b> - The Costs and Funding Committee agreed that as this is a matter already governed by primary legislation, recommend no further action is to be taken.</p> <p><b>10 December 2018</b> – An item by correspondence was sent to Council for approval.</p> <p><b>17 December 2018</b> – Council approved the item by correspondence; recommendation <b>30</b> is to be marked no further action.</p>	Completed - rejected
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31	With the exception of personal injury actions, recoverable expenses in actions under the simple procedure should be fixed.	Scottish Government	<b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. Recommendation <b>31</b> was agreed not to be taken forward by Council but for the Scottish Ministers to implement. Section 77 of the Courts Reform (Scotland) Bill proposes similar powers for the Scottish Ministers under the simple procedure.	Completed - rejected
32	When a case is remitted from the simple procedure to the ordinary cause roll, the scale upon which expenses should be assessed should be a matter for the discretion of the court that allows the remit and should be determined at the time the remit is made.	SCJC	<b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. These recommendations were remitted it back to the Costs and Funding Committee to implement.	Pending
33	A model along the lines of the Patents County Court should be introduced for cases proceeding under Chapter 47 of the Rules of the Court of Session (commercial actions).	SCJC	<b>11 July 2016</b> - Council approved the Costs and Funding Committee proposals not to implement Pilot schemes (recommendation <b>33</b> ) <b>07 September 2018</b> - Recommendation <b>32</b> has been identified as outstanding and to be taken forward by the Costs and Funding Committee.	Completed - rejected
<b>Summary assessment of expenses</b>				
34	A procedure for the summary assessment of expenses should be introduced as a pilot for commercial actions in the Court of Session and sheriff court.	SCJC	<b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. Recommendations ( <b>34, 35</b> ) were remitted it back to the Costs and Funding Committee to implement.	Completed - rejected
35	A system of expenses management should be introduced as a pilot scheme for commercial actions in the Court of Session.	SCJC	<b>11 July 2016</b> - Council approved the Costs and Funding Committee proposals not to implement Pilot schemes (recommendations <b>34, 35</b> ).	Completed - rejected

**Expenses management**

<b>36</b>	One of the sheriff courts where commercial procedures have been available for some time, such as Glasgow where commercial procedures have been available since 1999, should participate in the expenses management pilot.	SCJC	<p><b>16 March 2015</b> - The Costs and Funding Committee Report on Implementation of Sheriff Principal Taylor's Review of Expenses and Funding of Civil Litigation in Scotland was considered and approved by Council. This recommendation was agreed not to be taken forward by Council.</p> <p><b>11 July 2016</b> - The Council considered and approved the draft policy paper with detailed proposals of why recommendation <b>36</b> should not be taken forward. After consultation with the Consultative Committee on Commercial Actions and Commercial Judges, it was found that this may jeopardise the current success of the Commercial Court.</p>	Completed - rejected
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## Further information and contacts

Full information about the Council and its activities are 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.

The Council publishes a newsletter, *Update*, providing information about ongoing work. *Update*, is published around six times per year and can be accessed via the [publications](#) page of the website. If you would like to be added to our email list to receive links to future editions, please contact us.

You can also follow us @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:

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November 2018

