

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL**

**RULES REWRITE COMMITTEE**

**MONDAY, 25 MARCH 2024**

**Judges Dining Room, Level +1, Parliament House**

**MINUTES**

**Present:** Lord President (*Chair*)  
Mark Boni  
Sheriff Kenneth Campbell KC  
Joel Conn  
Ian Dickson  
Summary Sheriff Roddy Flinn  
Duncan Hamilton KC (*by video*)  
Lord Richardson  
Walter Drummond-Murray

**Apologies:** Sheriff Principal Dowdall  
Jonathan Brown (*Parliamentary Counsel Office*)

**In Attendance:** Nil

**Support:** Craig McCorkindale (*Secretariat*)  
Jessica Flynn (*Secretariat*)

**Item 1 - Welcome, apologies and agreement of private papers**

1. The Chair welcomed the members present and noted the apologies.
2. The Committee agreed not to publish the papers marked as private (3.1, 3.1A-C, 3.2, 3.2A-D and 3.3).

**Item 2 - Updates since the last meeting**

*Item 2.1 - Items by Correspondence (Paper 2.1):*

3. The Committee noted the two items considered by correspondence:

**Paper 2023/28** – approved the minutes of the previous meeting on 20 November 2023, which have been published online; and

**Paper 2023/29** – approved the publication of the Consultation Analysis for the Ordinary Procedure Rules, which has been published online.

### **Item 3 - Work Programme:**

#### *Item 3.1 – Consulting on withdrawal of the signet (**Papers 3.1 & 3.1A-C**):*

4. Prior to publishing this proposed consultation the Lord President will issue letters to provide advance notice and seek the initial views of the Lord Clerk Register (as keeper of the signet), the WS Society and representatives of the King. Members considered the working drafts as circulated and the following points were noted from that discussion:
  - The Union with England Act 1707 will be inserted into the bibliography; and
  - The narrative on future digitisation could be stated more succinctly.
5. **Members agreed to the publication of a 12 week consultation on the withdrawal of the signet.**

#### *Item 3.2 – Consulting on withdrawal of the walls of court (**Papers 3.2 & 3.2A-D**):*

6. Members considered the working drafts as circulated for this proposed consultation on withdrawing the walls of court. The following points were noted from that discussion:
  - There is a need to strengthen the narrative:
    - To avoid the withdrawal of the walls of court being conflated with the total removal of advertising; and
    - To reflect that for individual cases judicial office holders are still expected to direct advertising by any means they consider appropriate, which includes the ongoing use of newspapers;
  - Respondents will suggest improving the ability to search for names within the current digital service that is in use;
  - Insolvency appointments may warrant being shown as an additional feature;
  - A policy position on “the right to be forgotten” could be added; and
  - The BRIA could more strongly convey the costs exposure shifted onto those applying to be an Executor Dative.
7. **Members agreed to the publication of a 12 week consultation on the withdrawal of the walls of court.**

#### *Item 3.3 – Amending the Ordinary Procedure Rules (**Papers 3.3 & 3.3A**):*

Online intimation – of “other appointments”

8. The proposed consultation on the walls of court makes reference to the “other appointments” where “online intimation” via the SCTS website is mandatory. The draft Ordinary Procedure Rules are intentionally silent on that category of court business at present, which is considered appropriate whilst defining the core of the new ordinary procedure.
- 9. Members noted that mandatory advertising of “other appointments” will be revisited once the draft rules move beyond the core ordinary procedure.**

Online intimation – to support open justice

10. The proposed consultation on the walls of court notes that blanket advertising is mandatory for “all petitions lodged” in the Court of Session where there is no obvious contradictor. The intention is to alert others who may wish to join proceedings as a third party or selected public bodies who may wish to exercise their power to intervene. One consequence of the Committee’s existing policy decision to consolidate petitions procedure and ordinary procedure is to remove the use of “petitions procedure” as an umbrella term. When that decision is implemented the categories of business that warrant mandatory online advertising will need to be explicitly defined.
- 11. Members agreed to add a consultation question on the categories of business that may warrant mandatory online advertising.**

**Item 4 - Any other business**

12. There was no other business raised.

**Item 5 – Dates of future meetings**

13. The next meeting is scheduled for 13 May 2024.