

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL – RULES  
REWRITE WORKING GROUP**

**29 MAY 2014 AT 16.15 PM**

**JUDGES' CONFERENCE ROOM, PARLIAMENT HOUSE**

**MINUTES**

**Members present:** Lord Menzies (Chair)  
Lady Wolffe – from item 3.1  
Duncan Murray (Solicitor)  
Jonathan Brown (OSPC, Scottish Government)  
Professor Fran Wassoff (LP member)  
Sheriff Principal Scott ( Sheriff Principal of Glasgow  
and Strathkelvin) – via video link

**In attendance:** Kenneth Htet-Khin (head of Rules Rewrite Drafting  
Team)  
Neil Robertson (Policy Officer, SCJC)

**Apologies:** Lord President (Gill)  
Andrew Stewart QC  
Kenneth Forrest (Advocate)

**Item 1: Introduction, welcome, private papers and apologies**

1. The Chair welcomed those present and noted apologies.
2. **The Committee agreed not to publish the following papers: 4.1, 4.1A, 4.2 and 4.2A**

**Item 2: Previous Meeting**

*Item 2.1 – Minutes of Previous Meeting [Paper 2.1]*

3. **Members agreed the minutes from the previous meeting.**

*Item 2.2 – Action points from previous meeting [Oral]*

4. Neil Robertson advised that all action points from the previous meeting had either been taken forward or were tabled for discussion at the meeting. **Members noted the position.**

Item 3: Making Justice Work / SCJC Update

5. Neil Robertson provided an oral update on developments under the Making Justice Work programme, outlining in particular the progress of the Courts Reform (Sc.) Bill through Parliament.

*Item 3.1 Remit and Membership [Paper 3.1]*

6. **Members noted that the Council has agreed that following the publication of its final report, the RRWG's remit would be extended as noted in Paper 3.1, that it would be renamed the Rules Rewrite Committee and that its role and remit would be reviewed after a period of two years. It was also noted that membership of the Rules Rewrite Committee will be considered further at the Council's next meeting on 30 June 2014.**
7. Members discussed the extended remit [Paper 3.1] and suggested that rules around Appeal Sheriffs might sit better within part 1a of the remit and that part 1d of the remit might be simply "case management". **The Group asked the Secretariat to bring these suggested amendments to the Councils attention.**
8. The Group discussed the Council's responsibility for the care and maintenance of the rules and noted that this was not expressly contained with the new remit. **The Secretariat to seek clarification from the Council as to where responsibility for the general care and maintenance of the rules will sit.**

## **Item 4: Rules Rewrite Project**

### *Item 4.1 Style Guide [Papers 4.1 and 4.1A]*

9. The Group considered the draft style guide for the drafting of new rules under the Rules Rewrite Project [Paper 4.1]. The draft style guide incorporated members' comments from the previous meeting and recommendations made to the group by the ICT Committee [Paper 4.1A]. **Subject to a number of minor amendments, Members approved the draft style guide. Members noted, with thanks, the report of the ICT Committee.**
10. Members discussed the need for consistency of approach across the sheriff court and Court of Session rules and were of the view that the Courts Reform (Sc.) Bill as currently drafted would see sheriff court rules fall under the Interpretation and Legislative Reform (Scotland) Act 2010 whilst Court of Session rules would remain under the Interpretation Act 1978.
11. **Members noted that in the interests of harmonisation and consistency of the rules it would be desirable that both sheriff court and Court of Session rules fall under the Interpretation and Legislative Reform (Scotland) Act 2010 and asked the Secretariat to raise this matter with Scottish Government officials.**

### *Item 4.1 Process for instructing rules [Papers 4.2 and 4.2A]*

12. The Group discussed the process for instructing rules [Paper 4.2] and suggested that when instructing rules the Council and its committees adopt an inclusive approach, encouraging communication and comment between committees to ensure that there is a free exchange of views. Members also considered **Paper 4.2A** which provided an overview of the structure and remit of the Council and its committees, highlighting what rules each committee will be preparing under the rules rewrite project.
13. **Members noted both papers and recommended that they be circulated to the Council and its committees.**

14. It was suggested that development of new rules could be supported by an online facility that would allow Council and committee members access to all policy proposals and draft rules. **The Secretariat to explore options for a members' area of the SCJC website.**

**15. Agenda Item 5: A.O.C.B**

**Agenda Item 6: Date of Next Meeting**

16. The Secretariat was asked to take forward arrangements for a meeting during August/September and confirm the proposed date in due course.

**Scottish Civil Justice Council Secretariat June  
2014**