

## **SIMPLE PROCEDURE REVIEW – UPDATE ON REVIEW AND SUMMARY OF CONSULTATION RESPONSES PAPER**

### **Purpose**

1. To invite the Scottish Civil Justice Council ('the Council') to:
  - Note an update from the Access to Justice Committee ('the Committee') on the progress of its review of the Simple Procedure Rules; and
  - Consider and, if content, approve a draft summary of consultation responses (**Paper 2018.17A**) for publishing.
2. **Paper 2018.17A** was approved by the Committee by correspondence on 23 August 2018.

### **Background**

3. Members will recall that as part of the Committee's review of the Simple Procedure Rules, the Council approved the following by way of an item by correspondence in February 2018: a draft consultation paper; a draft research specification commissioning research into the experiences of party litigants who have used Simple Procedure; and proposals for focus groups to be carried out with interested parties who have experience of using Simple Procedure.

### *Consultation*

4. The consultation ran from 27 February 2018 to 31 May 2018. The consultation document set out some overarching questions for consultees to consider in connection with the Simple Procedure Rules. It was intended to facilitate discussion, but was not exhaustive. The questions focused on the most commonly used parts of the Rules (e.g. making and responding to a claim). However, participants were afforded an opportunity to comment on any part of the Simple Procedure Rules not specifically covered by the other consultation questions, or to make any general comments.
5. 25 responses were received to the consultation. These responses were published on the SCJC website on 16 July 2018 and can be viewed [here](#). Two individual consultees asked to remain anonymous and two organisations and one anonymous individual asked for the content of

their responses not to be published.

6. The Secretariat and the Lord President's Private Office have considered these responses in the first instance and a draft summary of responses paper is provided at **Paper 2018.17A**. Given that the Committee will not be in a position to fully consider what changes should be made to the Simple Procedure Rules until the research report has been received, **Paper 2018.17A** is intended to provide only a summary of the responses and does not include a 'changes made' section. However, upon conclusion of the review, the Committee may propose publishing a paper outlining the output from the review and the policy reasons behind the changes. The Committee will consider whether or not it wishes to publish such a paper at a future meeting.
7. **The Council is invited to note this update and, if content, approve that the draft summary of responses paper at Paper 2018.17A be published.**

#### *Research*

8. Members may recall that the aim of the research specification approved by the Council in February 2018 was to canvass the views of party litigants who have used Simple Procedure since it commenced. It is envisaged that this will help ascertain the accessibility of Simple Procedure from the perspective of party litigants and identify any rule, form or standard order improvements that can be made.
9. Following Council's approval of the draft research specification, the Secretariat carried out a procurement exercise in March and April 2018 with assistance from the SCTS procurement team. This exercise resulted in Professor Tom Mullen and Ms Halle Turner of the University of Glasgow being appointed in May. Professor Mullen is currently a Professor of Law at the University and Ms Turner is a postdoctoral research assistant who has recently completed a PhD thesis entitled '*The Party Litigant in the Scottish Civil Courts*.'
10. The Research Advisory Group ('RAG') is comprised of Lauren Keillor from the Secretariat, Norman Munro from the Lord President's Private Office (Rules Rewrite Drafting Team) and Committee member Professor Frances Wasoff. The RAG met with Professor Mullen and Ms Turner in June 2018. The Secretariat had obtained some statistics from the Management Information and Analysis Team in SCTS in relation to the number of Simple Procedure cases which had been registered in local sheriff courts. Following consideration of this information, it was agreed

that the researchers should visit Edinburgh, Glasgow, Aberdeen and Dunfermline sheriff courts. The Lord President and Sheriffs Principal approved these proposals and the researchers are currently liaising with the local sheriff courts as to when they would be best placed to attend to conduct the research.

11. Following the RAG meeting, the researchers developed a draft questionnaire for consideration by the RAG. The Secretariat also agreed with SCTS that a link to the questionnaire would be published on the SCTS website to target party litigants who may wish to participate. This link can be accessed [here](#) and a copy of the final questionnaire is available for ease of reference in the **Annex** to this paper.
12. In relation to timings, Professor Mullen and Ms Turner have undertaken, subject to any unavoidable delay, to submit the final research report to the Committee in time for the Committee meeting scheduled for 26 November. It is envisaged that this will assist the Committee in its consideration of an options paper from the Secretariat and the Lord President's Private Office which it is intended will inform the focus group aspect of the research. It is hoped that the focus groups will be carried out in December or January.
13. **The Council is invited to note this update.**

### **Recommendations**

14. **The Council is invited to:**
15. **Note an update from the Committee on the progress its review of the Simple Procedure Rules; and**
16. **Consider and, if content, approve the draft summary of consultation responses paper at Paper 2018.17A for publishing.**

**Scottish Civil Justice Council Secretariat  
October 2018**

## Annex – Simple Procedure Questionnaire

The purpose of this questionnaire is to gather information about how well people using Simple Procedure in the sheriff court who do not have a solicitor or other legal representation are able to use the process, the forms and the rules.

**This questionnaire can also be completed and submitted online at:**  
**<https://glasgow.onlinesurveys.ac.uk/simple-procedure-questionnaire-2018>**  
**If you prefer to complete the questionnaire on paper, please follow the instructions below and return it to us at this address:**

**Professor Tom Mullen, School of Law, University of Glasgow, Glasgow G12 8QQ**

Please tell us about your Simple Procedure case

**For most of the questions in this questionnaire, several options are given for the answer. You should circle the answer you want to give.**

1. Are you the Claimant or Respondent in your case?

Claimant

Respondent

2. What is your case about?

Payment of money

Delivery or recovery  
of an item of  
property

An order to do something

3. Is there/was there a solicitor or legal representative acting for the other side in your case?

Yes

No

Don't Know

They did not  
respond to the  
claim

Please tell us about the forms you completed to begin or respond to the claim

4. Which of the following forms did you complete?

Form 3A:  
Claim Form

Form 4A:  
Response Form

Form 5A:  
Time to Pay Application

5. Where did you get the form?

The Sheriff Court

SCTS Website

The forms were  
served on me

\*Other

\*If other - please tell us where:

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6. The form was easy to complete

Strongly  
Agree

Agree

Neither agree nor  
disagree

Disagree

Strongly  
Disagree

7. I understood what information I was being asked to provide on the form

Strongly  
Agree

Agree

Neither agree nor  
disagree

Disagree

Strongly  
Disagree

8. The guidance provided on the form was helpful

Strongly  
Agree

Agree

Neither agree nor  
disagree

Disagree

Strongly  
Disagree

I did not read  
the guidance

9. Did you get any help from someone else in completing the form or with any other aspect of your case?

No help

help from a  
lawyer

help from a non-  
lawyer adviser

help from a  
relative or friend

10. If you did get help from someone else, please tell us who helped you and how they helped you.

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11. Please write any comments you want to make about the forms here. For example, tell us if any parts of the form were easier or more difficult to complete, and why.

**Please tell us about your experience using the Simple Procedure Rules and the procedures:**

12. Where did you find information about the simple procedure? [Please circle all the options that apply]:

The Simple Procedure Rules	Speaking with court staff	Guidance on the Scottish Court Service Website	Advice Agencies, such as Citizen's Advice
Guidance on the Simple Procedure Forms	*Other		

\*If other - please tell us where:

13. The format of the Simple Procedure Rules was clear and easy to follow

Strongly Agree	Agree	Neither agree nor Disagree	Strongly Disagree	I did not read the rules
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14. I was able to find the information that I was looking for in the Simple Procedure Rules

Strongly Agree	Agree	Neither agree nor Disagree	Strongly Disagree	I did not read the rules
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15. I understood my responsibilities and the responsibilities of the other parties in my case

Strongly Agree	Agree	Neither agree nor disagree	Strongly Disagree	I did not read the rules/that part of the rules
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16. I understood the steps I was required to take in the timetable fixed by the court.

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
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17. I understood when I was required to take the steps in the timetable fixed by the court.

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
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18. I understood orders received from the Sheriff on paper and what I was required to do (for example, attend a hearing or provide a document).

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
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This doesn't apply to my case

19. I was able to find easily any forms I needed to make an application for an order in my case (such as an application for a decision or a change to the timetable).

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
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I did not make an application

20. The forms required to make an application for an order were easy to understand and complete

Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree
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I did not make an application

21. Overall, how would you rate the Simple Procedure Rules, guidance and forms?

Excellent	Good	Fair	Poor
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22. Please comment on any part of the Rules, guidance or procedure that you wish to tell us about, especially anything you found helpful or difficult in your case.

23. What parts of the Simple Procedure worked well in your experience?

24. What changes might make the Simple Procedure easier for you to use?

Please tell us about yourself.

[These questions are optional. Please leave them out if you prefer not to answer them]



1. Your age:      18—24          25—39    40—59          above 60
2. Gender:          Male    Female          Prefer not to say
3. What is your highest educational qualification?  

No secondary school qualifications	Secondary school qualifications e.g. standard grade/Higher	College certificate or Diploma e.g. HNC, HND, BTEC	First Degree	Postgraduate Degree
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4. Is English your first language?  

Yes	No
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**We would like to hear more about your experience using the Simple Procedure. If you would be willing to participate in an interview with us (either by telephone or in person), please provide your details below. This information will only be used to get in touch with you. In consideration of any inconvenience, you would receive a £20 store voucher for participating in an interview.**

Name:

Phone number:

Email address:

Postal Address: