

MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL

MONDAY, 20 OCTOBER 2025, AT 10:30

Judges Conference Room, Parliament House, Edinburgh

Present: Lord President (*Chair*)
Lady Carmichael
Lord Ericht
Malcom Graham (*SCTS*)
Nicola Irvine
Colin Lancaster (*SLAB*)
Sheriff Martin Brown
Sheriff McCartney
Iain MacRae (attended by Webex)
Sheriff Principal Ross
Sheriff Way

In attendance: Chris Fyffe (*Court of Session*)
Rachel Grant (*LIT*)
Jonathan Hodges (*LPPO*)
Edward McHugh (*LPPO*)

Support: Craig McCorkindale (*Secretariat*)
Sarah Jane McNicol (*Secretariat*)
Paula Preston (*Secretariat*)
Graeme Welsh (*Secretariat*)

Apologies: Thomas Docherty
Fiona Drysdale KC
Denise Swanson (*SG*)

Item 1: Introduction, welcome, apologies and agreement of private papers

1. The Chair welcomed members to the meeting. Apologies were noted.

Members agreed that all papers on the agenda will be published.

Item 2: Items by Correspondence (Paper 2.1)

2. The Chair introduced paper 2.1 and summarised items 2025.9 and 2025.10 as approved by correspondence. Those items approved the minutes of the meetings held on 16 June 2025 and 08 August 2025.

Members noted this update.

Item 2.2: ACCC Update

3. The Chair introduced paper 2.2 which updates members on the publication of the ACCC 2025 Compliance Report which supersedes the previous 2021 Compliance Report.

Members noted the update and that the strategy for progressing Aarhus compliance is on the agenda for the next meeting of the Council.

Item 3 Work Programme

Item 3.1 – Group procedure – call for evidence

4. The Chair introduced paper 3.1 and invited Lord Ericht to update members on the working group's progress and provide some background to the proposal for the call for evidence. Points to note included:
 - Helpful feedback has been provided on the rules contained in Chapter 26A by practitioners involved in the Court of Session group procedure opt-in cases. This has identified potential procedural improvements;
 - The call for evidence asks a wide range of open questions to gather feedback from anyone interested in group proceedings in Scotland;
 - It is important not to prejudge the issues and to keep an open mind while considering the options and the results of the call for evidence; and
 - Any future rules would be subject to a full public consultation.

Members approved the launch of a call for evidence, the proposed questions and the press release.

Item 3.2 – Mental Capacity in Civil Proceedings

5. The Chair sought members' views on paper 3.2 given the recommendations contained in the Civil Justice Committee's Report on mental capacity in civil proceedings.
6. Members discussed the scale of the issue in Scotland recognising the procedural differences between the jurisdictions and that the recommendations in that report are not directly applicable in Scotland.
7. It was suggested that the Access to Justice Committee could look at this matter in more detail.

Members agreed to remit this item to the Access to Justice Committee.

Item 3.3 - Electronic Signature and Electronic Transmission of Documents

8. The Council considered the Act of Sederunt (Electronic Signature and Electronic Transmission of Documents) 2025, and accompanying Policy Note.
9. That Act of Sederunt provides for the continuation of electronic transmission of documents and acceptance of electronic signatures upon the expiry on the Coronavirus (Recovery and Reform) (Scotland) Act 2022.

Members approved the Act of Sederunt and the Policy Note for submission to the Court of Session subject to any stylistic and typographical changes.

Item 3.4 - Intimation and Service

10. The Council considered the Act of Sederunt (Intimation and Service) 2025, and the accompanying Policy Note.
11. This Act of Sederunt provides the option for online intimation and service, the online publication of abbreviated information, and changes to the requirements for intimation in relation to dative petitions.

Members approved the Act of Sederunt and Policy Note for submission to the Court of Session subject to any stylistic and typographical changes.

Item 4 Any other business

12. No additional items were raised. Members noted the next meeting is scheduled for 8 December 2025.

**SCJC secretariat
October 2025**