

MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL

MONDAY 22 MAY 2023 AT 10.30AM

JUDGES CONFERENCE ROOM, PARLIAMENT HOUSE, EDINBURGH

Present: Lord President (Chair)
Catherine Smith KC
Ryan McRobert (Scottish Government)
Lady Carmichael
Fiona Drysdale
Sheriff Martin-Brown
Eric McQueen (SCTS)
Iain MacRae
Lord Ericht
Nicola Irvine
Colin Lancaster (SLAB)
Lady Wise (for item 3.2)

In attendance: Carolyn Magill (LPPO)
Chris Fyffe (DPCS)
David Smith (LIT)

Support: Graeme Welsh (SCJC)
Paula Preston (SCJC)
Kelly Jack (SCJC)

Apologies: Sheriff Way
Jacqueline Harris
Thomas Docherty
Sheriff Principal Ross

Item 1: Welcome, apologies and agreement of private papers

1. The Chair welcomed members to the fifty-first meeting of the Council and noted:
 - Welcome to Fiona Drysdale as a newly appointed member; and
 - Thanks to Sheriff Hughes as a member of Council and the Costs and Funding Committee who has recently stood down.
2. The Council agreed not to publish papers 3.1, 3.1A-B, 3.2A-D, 3.3, 3.3A, 3.4, 3.4A-B, 4.1, 4.1A, 4.2, 4.2A and 4.3

Item 2: Previous meeting

Item 2.1 - Items by correspondence (Paper 2.1)

3. The Chair introduced Paper 2.1 on the 5 matters considered by correspondence since the last meeting:

Administrative Matters

4. **Paper 2023.7/7A** was issued on 27 February 2023 and invited members to approve draft minutes of the Council meeting held on 20 February 2023. Responses were invited by close of business on 07 March 2023. Two responses were received. Final minutes were approved and published on the Council's website.
5. **Paper 2023.15** was issued on 27 April 2023 and invited members to consider and approve the appointment of two new members (Sheriff Varney and Susan Ower) and the reappointment of an existing member (Alan Rodgerson) to the Costs and Funding Committee. Responses were invited by close of business 04 May 2023. Two responses were received. All three members were appointed to the Committee for a period of three years.

Inner House Rules Consultation

6. **Paper 2023.08** was issued on 01 March 2023 inviting members to approve the publication of the Consultation Response Document which conveys the decisions that will be taken forward. Responses were invited by close of business 15 March 2023. Two responses were received. The Consultation Response Document was published and consultation respondents notified.

Consultation Response – Modes of Attendance at Hearings

7. **Paper 2023.10** was issued on 16 March 2023 and invited members to approve the publication of the Consultation Report. Responses were invited by close of business 23 March 2023. One response was received. The Consultation Response Document was published online.
8. Members were invited to consider the necessity for a practice note given how the new rules generally reflect current practice. **The Council agreed that that a practice note is not required.**

National Security Bill

9. **Paper 2023.13** was issued on 04 April 2023 and invited members to consider two requests from the Home Office in respect of implementing the National Security Bill. Responses were invited by close of business 17 April 2023. One response was received. Draft rules have been instructed.

10. The Council noted the paper.

Item 2.2 - Age of Criminal Responsibility:

11. An oral update confirmed that no applications have been lodged since the commencement of the Act on 17 December 2021.

12. The Council noted the update.

Item 3: Work Programme

Item 3.1 – Electronic Transmission of Documents (Papers 3.1 and 3.1A)

13. The Chair introduced papers 3.1 and 3.1A. Members discussed and considered the Coronavirus (Recovery and Reform) (Scotland) Act 2022 which expires on 30 November 2023 unless extended by Ministers. To maintain legal coverage for electronic transmission, permanent rules should be drafted in line with the paper. In removing the need for a Court of Session summons to pass the signet, there is a need to inform the Writers of the Signet etc. before doing so.

14. The Council approved the issue of drafting instruction to the Lord President's Private Office.

Item 3.2 – Age of Criminal Responsibility – Child Friendly Forms (Papers 3.2 and 3.2A-D)

15. Lady Wise introduced papers 3.2 and 3.2A to D and discussed the work of the Family Law Committee in developing child friendly forms to support the Age of Criminal Responsibility (Scotland) Act 2019.

16. Members noted the following points:

- The approach taken by the FLC and its working group to develop the 3 forms of notification and 3 forms of order;

- If wording within the new forms in relation to appeals could be incorporated into the forms already created by Police Scotland, it would reduce potential confusion for the child; and
- That a speech and language specialist should be involved in the next stages of developing the forms.

17. The Council agreed:

- **To approve the use of forms used for notification of hearings; and**
- **That the secretariat liaise with Police Scotland on amalgamating wording in the Form of Order into the Police Scotland forms.**

Item 3.3 – Annual Programme

18. The Council considered the SCJC's annual report for 2022/23 and the annual work programme for 2023/2024 as agreed at the Council's strategy day in February 2023.

19. The Council approved that the Annual Report, subject to typographical amendments, be published on the SCJC website and be submitted to the Scottish Parliament.

Item 3.4 – Solicitors Fees (Papers 3.4 and 3.4A-B).

20. The Council considered the draft rules and the amended fees table for Solicitors fees. The following points were noted:

- That a 9.75% uplift to both the unit costs instrument, and the schedules of fees tables for cases commenced prior to 29 April 2019, is appropriate as recommended by the Costs and Funding Committee.
- The Council is not in favour of any future uplifts being made to the fee tables applying to actions raised before 29 April 2019. If any future requests are received, the Costs and Funding Committee should consider taking an alternative approach.

21. The Council approved the solicitors fees instrument as tabled.

Item 4.1 – Register of Interest (Paper 4.1)

22. The Chair invited members to review their records to ensure the information on the Council's register of interests is up to date, and to liaise with the secretariat if necessary.

23. Members noted the paper.

Item 4.2 – Review of Standing Orders (Paper 4.2A)

24. The Chair invited members to consider the Council's standing orders, which require to be reviewed on an annual basis.

25. Members noted the paper with no amendments to the Standing Orders suggested at this time.

Item 4.3 – Review of Committees (Paper 4.3)

26. The Chair invited members' views on the remits of each committee, and on disbanding the Information and Communications Technology Committee, which has not met since 2018.

27. Members agreed that:

- **The ICT Committee be disbanded and;**
- **A technology / ICT element is included in the remits of all other committees.**

Item 5: AOB

Civil Justice Statistics

28. Members were invited to consider the Civil Justice statistics that were published by Scottish Government in April 2023.

29. Members noted that the Scottish Crime and Justice Survey would no longer include a section on civil justice.

30. Members agreed that the Council would write to the Scottish Government regarding the potential gap in civil justice data.

Item 6: Dates of Future Meetings

- 04 September 2023
- 11 December 2023

**Scottish Civil Justice Council Secretariat
May 2023**