



## **PARTY LITIGANTS IN THE COURT OF SESSION**

### **Statement of Service Standards**

#### **1.1 Introduction**

This statement sets out the arrangements for the provision of services to party litigants by the staff of the Court of Session, principally the staff based in the Offices of the Court.

A party litigant is a user of the Court of Session who is involved in the legal process but, for one reason or another, is not receiving advice from, nor are they represented, by a legally qualified professional. A party litigant is an individual representing their own interests in the litigation in which they are a party. A party litigant cannot seek to represent the rights of another individual or another legal entity such as a registered company. A person involved in a partnership may in some circumstances be able to represent that partnership.

The Offices of Court are as defined in Rule 3.1 of the Rules of the Court of Session, namely:

- (a) the General Department
- (b) the Petition Department
- (c) the Rolls Department (more commonly known as the Keeper's Office)
- (d) the Inner House/Extracts Department; and
- (e) the Teind Office (although this office now serves little practical purpose) .

The statement recognises that the party litigant is a particular category of court user who will require dedicated services not normally offered to, or required by, the professional court user.

This statement has been subject to a comprehensive consultation process which included:

Members of the Judiciary

Party Litigants

Staff with roles and responsibilities under the statement

CAB/Faculty of Advocates/Law Society/Society of Solicitor Advocates

SCS Policy and Strategy Directorate

Sheriff Clerks

## **2.1 Purpose**

The purpose of the statement is to assist party litigants by providing a clear statement of the services that will be provided to them by court staff and how those services will be delivered. It also makes clear which services are outwith the responsibilities and competence of court staff.

## **3.1 Scope**

The statement is for the guidance of:

- unrepresented civil litigants or prospective civil litigants (referred to in this statement as party litigants) who are seeking information about, and practical assistance to enable them to comply with, the rules of court and the procedures and practices of the Court of Session;
- Scottish Court Service (SCS) staff working in the Court of Session, so that they are aware of the level of service they are expected to provide to party litigants and;
- others who need to understand the services provided by court staff to party litigants.

*This statement does not seek to interfere with the functions of the Judiciary or the Auditor of Court. It makes no provision for the giving of legal advice and assistance by court staff on matters of law such as evidence or the legal competence of particular orders, which a party litigant may wish to seek from the Court. It does not seek to advise party litigants on issues of legal representation and rights of audience in court proceedings. These are matters that are outwith the responsibility of court staff.*

#### **4.1 The functions of the staff of the Court of Session.**

A Party Litigant will come into contact with various members of court staff. The title and functions of the main groups/individuals are briefly summarised below:

#### **4.2 Assistant Clerks of Session**

An Assistant Clerk of Session, or Executive Officer, is a section manager in the Offices of the Court. Each party litigant will be assigned a designated Assistant Clerk of Session as an adviser for the purposes of this statement, who will not only be a point of contact for the party litigant, but who will also be responsible for the provision of most of the services outlined in this statement. These Assistant Clerks of Session are fully trained to meet the needs of party litigants. There will be continuity of service whenever possible, but party litigants will be provided with alternative contact details should the designated Assistant Clerk of Session be absent from duty for any reason.

#### **4.3 Depute Clerks of Session**

A Depute Clerk is a clerk of court. Their role involves managing what happens in the courtroom. A Depute Clerk works closely with the Judiciary and is authorised to deal with certain incidental matters on their behalf. They are expected to have expert knowledge of Court of Session practice and procedures.

#### **4.4 The Deputy Principal Clerk of Session**

The DPCS is the senior official responsible for the administration of the Court of Session. He is responsible for court staff and the services they provide and also has a number of official responsibilities to the Court under the Rules of the Court of Session.

#### **4.5 Cashier**

Issues invoices and collects court fees, will enforce fees which are not paid on time.

#### **4.6 The Offices of Court (General Department, Petition Department, Inner House/Extracts Department and Keeper's Office)**

The General Department is responsible for ordinary civil actions (such as compensation claims arising from personal injury, commercial & family actions).

The Petition Department is responsible for cases that are raised by way of petition to the Court (such as applications for judicial review of decisions of public bodies). Petitions before the Inner House (such as nobile officium, solicitor discipline tribunal and some trusts) are dealt with by the Inner House/Extracts Department.

The Inner House/Extracts Department is responsible for all appeals from the sheriff court & statutory bodies, all reclaiming motions and Inner House Petitions as above, issuing extracts of court orders, normally for the purposes of enforcement of the order.

The Keeper's Office is responsible for fixing court hearings and allocating cases to particular Courts.

#### **5.1 Rights and Responsibilities of parties**

Every individual who operates within the framework of this statement, which includes both party litigants and members of the court staff, has certain rights. These rights can be insisted upon and will be respected by others.

### **5.2 Each individual has a right to:**

- Be treated with respect
- Be provided with accurate information
- A degree of privacy
- Safety
- Complain
- Manage their time effectively
- Document meetings
- Refuse unreasonable requests
- Terminate a meeting in the face of unreasonable conduct.

### **5.3 Responsibilities**

Parties who operate within the framework of this statement have different levels of responsibility.

### **5.4 Designated Assistant Clerks of Session have a responsibility to:**

- Effectively arrange and conduct appointments with a party litigant
- Provide practical assistance on practice and procedure (which is based on a full and accurate knowledge and understanding of the Rules of the Court of Session)
- Receive, check and give feedback on documents
- Record meetings and discussions
- Collect court fees and advise on fee exemptions under the Court Fees Order currently in force and approved by the Scottish Parliament
- Respond to enquiries according to agreed timescales

- Advise party litigants on their rights and responsibilities under this statement.
- Provide accommodation for meetings.

#### **5.5 Party Litigants have a responsibility:**

- For the content and presentation of their case
- To proceed with their action in accordance with the Rules of Court
- To attend appointments and hearings on time
- To bear their own expenses subject to orders of court
- To pay court fees or claim exemption
- To submit documents in a legible format (preferably typed) and in the correct form
- To respect the rights of others under this statement.

#### **5.6 Depute Clerks of Session have a responsibility to:**

- Give advice and practical assistance in complex cases
- Provide guidance on in-court procedures and protocols
- Fee and collect fees from party litigants
- Draft accurate interlocutors (the formal orders of the court) and summarise in appropriate terms, in the Minutes of Proceedings, the important steps in the history of the particular case
- Provide advice to Assistant Clerks of Session and other staff
- Issue opinions of court (a written judgment setting out a decision of the court and the reasons for that decision).

#### **5.7 Reception staff have a responsibility to:**

- Welcome party litigants
- Guide them through security checks
- Direct them to the appropriate court or office
- Make enquiries of the relevant department if a party litigant is unclear of their destination with the Parliament House.

### **5.8 The Cashier has a responsibility to:**

- Recover court fees by issuing accurate invoices
- Follow recovery procedure for all outstanding fees.

### **5.9 Senior Management of the Court of Session have a responsibility to:**

- Deal promptly with complaints
- Provide resources e.g. trained staff, good accommodation, copying facilities
- Provide security to court users and staff
- Effectively support the process, and
- Staff involved in the process.

### **6.1 Staff of the Court of Session are committed to providing the following services to party litigants:**

- You will be directed and escorted within the building by a trained member of our security staff;
- You will be assigned a designated Assistant Clerk of Session who will be fully trained to deal with the processes referred to in this statement;
- You will meet the designated Assistant Clerk of Session by appointment within 7 days of your initial approach to the Court;
- Appointments will normally take place on a one to one basis;
- At an initial appointment the contents of this statement will be explained;
- Advice will normally be given by appointment only, although contact by telephone and in writing, will also be possible where necessary and appropriate;
- Appointments will take place within safe and comfortable accommodation and in private, where appropriate;
- You will be provided with templates and guidance on legal procedure;
- You will be given access to photocopying facilities;
- We guarantee safe custody of the Court Process (your file);

- We will provide information on the progress of your case and give you copies of written orders of Court (interlocutors);
- We will provide a copy of the Court's Opinion in your case within 24 hours of signature by the Judge;
- You will be given, if you wish, the details of contacts who may provide you with legal advice;
- You will be treated with courtesy and respect at all times, however
- Court staff will not tolerate any form of abusive behaviour.

### **7.1 Lay Support**

Under Rule of Court 12A a Party Litigant may apply by motion to the court for permission to have an individual named, to assist in the conduct of the proceedings. The Assistant Clerk of Session will be able to provide a copy of and give advice regarding this Rule of Court.

### **8.1 Complaints**

Any complaints under the statement will be dealt with under the normal Scottish Court Service (SCS) customer complaints procedure, details of which can be found within the court building or provided on request.

Deputy Principal Clerk of Session  
last updated March 2011

I agree to the aforementioned Service Standards.

Signed: .....  
(Party)

Print Name: .....

Date: .....

Signed: .....  
(Assistant Clerk of Session)

Print Name: .....

Date: .....