



The Proof

The quarterly newsletter
of the Offices of the Court of Session

December 2009

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Telephone: 0131 225 2595 - email: officesofcourt@scotcourts.gov.uk

Full roll out for the Court Motions Team

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The pilot scheme for the disposal of motions has been building strength over the last few years and is now ready for full roll out.

The new procedure was considered by the Court of Session Rules Council at its meeting on 28 September 2009. A draft Act of Sederunt was before the Council recommending the formalisation and extension of the pilot arrangements. The Act of Sederunt has since been formally made by the Court. This means that from 1 February 2010, email will become the normal method of enrolling motions - except in cases initiated by petition, commercial cases and cases before the Inner House. In these cases, the existing arrangements will continue to apply.

The Deputy Principal Clerk of Session issued letters to all agents who currently have an account and register on the Court Management Systems. So far there has been a good response and agents have provided us with designated email addresses for the new procedure. Some firms have still to respond.

The closing date for this was 30 November 2009 and agents should be reminded if no email address is provided, motions/opposition will not be able to be enrolled on or after 1 February 2010.

[See page 8 for further information about the Court Motions Team.](#)

Offices of the Court of Session – Customer Charter

In the September edition of The Proof we gave you a link to our [Customer Charter](#). This sets out the quality of service you can expect from us.

It is important that we meet the standards and we must have ways of measuring our performance. Some aspects of our service are easy to measure, for example, timescales. Others, such as behaviours, are trickier to evaluate and so we need your help with this.

If you find that we are not meeting the standards of performance or behaviour set down in the Charter then we need you to let us know. This gives us the opportunity to take action. Of course, you can also tell us when we do well!

Please use the yellow cards in the department to tell us what you think. Alternatively you can speak to, call or write to Susan Brodie. You'll find her details on page 13.

Thank you for your help.

*We need your help to
measure our
performance*

Opening hours over Christmas and New Year



The Offices of the Court of Session will be closed on the following days -

Thursday 24 December 2009 from 12.30pm
Friday 25 December 2009 - all day
Monday 28 December 2009 - all day

Friday 1 January 2010 - all day
Monday 4 January 2010 - all day

See page 3 for further information.

Arrangements over the festive period

The Court will be in vacation from Saturday 19 December 2009 until Tuesday 5 January 2010.

As mentioned above, the Offices of Court will be closed on Thursday 24 December 2009 from 12.30pm, Friday 25 December and Monday 28 December 2009, Friday 1 January and Monday 4 January 2010.

Papers due to be lodged on the last four mentioned days will be accepted on the following Tuesday. The ordinary business of the Court will be done on, and the Court will sit on, Wednesday 23 December 2009 at 10.00am and Wednesday 30 December 2009 at 10.00am.

SOLICITORS ARE REMINDED THAT THESE COURTS ARE INTENDED ONLY FOR THE DISPOSAL OF URGENT BUSINESS AND ANY MOTION WHICH IS NOT SO CLASSED WILL BE HELD OVER UNTIL WEDNESDAY 6 JANUARY 2010.

Motions for Wednesday 23 December 2009 must be enrolled by 4.00pm on Monday 21 December 2009 and may be opposed up until 12.30pm on Tuesday 22 December 2009.

Wednesday 23 December 2009 will be a calling day. Summonses due to be lodged for calling must be lodged no later than 12.30pm on Monday 21 December 2009.

Motions for Wednesday 30 December 2009 must be enrolled by 12.30pm on Thursday 24 December and may be opposed until 12.30pm on Tuesday 29 December 2009.

Wednesday 30 December 2009 will be a calling day. Summonses due to be lodged for calling must be lodged no later than 12.30pm on Thursday 24 December 2009.

Motions for Wednesday 6 January 2010 must be enrolled by 4.00pm on Thursday 31 December 2009 and may be opposed up until 12.30pm on Tuesday 5 January 2010.

Cases lodged for calling after 12.30pm on Thursday 24 December 2009 until 12.30pm on 31 December 2009 will call on Wednesday 6 January 2010.

Cases lodged for calling after 12.30pm on Thursday 31 December 2009 until 12.30pm on Tuesday 5 January 2010 will call on Thursday 7 January 2010.

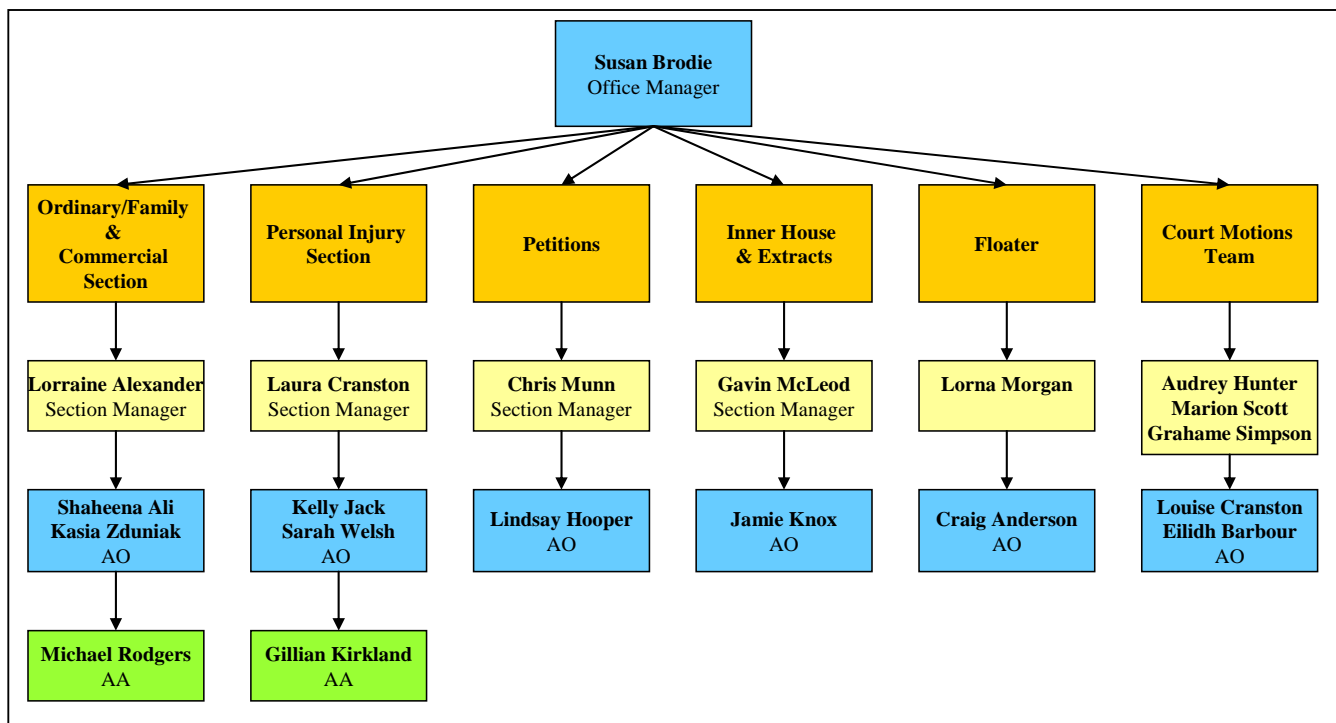
Staffing in the Offices of the Court of Session

There have been a few staff changes within the general department recently. Kasia Zduniak and Sarah Welsh have swapped roles. Kasia is now a counter clerk on the Ordinary section and Sarah is a counter clerk on the Personal Injury section.

Congratulations to Laura Cranston who has recently passed an Executive Officer promotion board. Laura took up her post as Personal Injury section manager on 7 December 2009. Lorna Morgan will become the departmental Executive Relief Officer until 11 January 2010 when she will take up her new post in the Court Motions Team as trainee Clerk.

There are two new Administrative Assistants in the general department. Gillian Kirkland started with us on 5 October 2009 replacing Pamela Jackson in the Personal Injury section. Michael Rodger started with us on 2 November 2009 and has taken up post within the Ordinary section.

An up-to-date organisational chart is shown below.



You said – we did

You said	We did
Basement computer not working	<p>IT recently installed a new server and the basement machine was missed from the new server.</p> <p>The problem has now been sorted.</p> <p>Due to the volume of data this new computer will not run any faster than before.</p> <p>Please be patient.</p>
Can the vending machines be re-installed on level -1?	<p>These machines were moved for Health and Safety reasons.</p> <p>Unfortunately this is outwith our control.</p>

Your feedback is important to us. It gives us the opportunity to put things right or tell you why we can't change the situation.

Please continue to give us your comments by filling in the yellow comment cards in the department - and remember to give us your contact details if you'd like a personal response.

Customer Liaison Group Meeting

The next Customer Liaison Group Meeting will be held at 4 o'clock on Wednesday 3 March 2010 in the meeting room on -1 Parliament House. All customers are welcome to attend.

The next meeting will be held 3 March 2010

If you would like more information please contact Yvonne Anderson or Susan Brodie.

Lodging productions

On a few occasions recently, agents have been faxing productions and inventories to the general department to be lodged in process.

This causes various problems within the department, for example, originals were not always being received, it took staff away from their counter duties etc.

At the Customer Liaison meeting on 2 December 2009, the procedure of lodging productions was raised and it was agreed that all agents should follow the Rules of Court.

Rule of Court 4.5.1 states “that no productions should be lodged unless they are required with a motion” and Rule of Court 23.2.9 states that “ if faxing productions up for a motion it can be no longer than 4 pages” .

Please follow these Rules. Thank you for your corporation.

*Please follow the
Rules of Court
when lodging
productions*

Note in respect of applications in terms of Section 204 of the Insolvency Act

In response to a query from Sheriff Holligan at Edinburgh Sheriff Court, the judges of the Commercial Court within the Court of Session have discussed the practice in dealing with applications for early dissolution under Section 204 of the Insolvency Act 1986.

The section establishes two tests which have to be applied before the Court can grant an order for early dissolution: (1) that there are insufficient funds to cover the expenses of winding up; (2) it appears to the court that it is appropriate to do so.

In general there is often material in relation to the first test, but seldom any in relation to the second. It is often unclear as to whether the application has been intimated to anyone other than the petitioning creditor, and sometimes it is not clear whether that has happened. It may be that, other than the Registrar, intimation of the final interlocutor will also not take place.

It is understood that there is a desire to reduce expense, but it is thought that the Court should consider the position of creditors and, in particular, that of the petitioning creditor.

In order to assist the Court, it is now requested that applications for early dissolution should be accompanied by: (1) confirmation from the liquidator that the petitioning creditor is aware of the liquidator’s intentions; and (2) a statement that the liquidator is not aware of any circumstances which would make it inappropriate for the Court to make an order for early dissolution.

Protocol for the lodging of documents in Commercial Court

Since the issue of the last protocol on 22 February 2008, a number of issues have arisen necessitating a reminder of parties obligations and an alteration to current practice.

1. Agents should ensure that documentation is lodged within the timescales provided for by the relevant interlocutor, or by the relevant Rules of Court as appropriate;
2. Documentation **will not** be accepted after 1.00p.m. on the day preceding the hearing unless there is an interlocutor to the contrary. Any documentation sought to be lodged after this deadline will have to be lodged by Counsel at the bar with an appropriate explanation;
3. All documents will be marked on the front page with the appropriate case number.

Tendering/Lodging documents:

4. **Productions** will no longer be accepted by e-mail, and will have to be lodged in hard copy at the Commercial section of the General Department:
 - a. Productions will not be accepted by the Commercial Clerks where they have been rejected by the Commercial section of the General Department;
 - b. All Productions must be: marked as having been intimated; paginated; bound; and, have the production number and case number on front of each of the productions;
 - c. An inventory of productions must be lodged both in process and with each separate folder;
5. **All other documents** may be tendered either in hard copy or by e-mail to commercial@scotcourts.gov.uk ;
6. **Initial Defences, Affidavits and Joint Minutes** will not be accepted without a signature. Scanned signed documents will be accepted by way of e-mail, in line with Outer House e-mail motion procedure.

If documents are sent by e-mail (where permitted):

7. No hard copy should be produced unless subsequently requested by the court;
8. The documents should be sent in Microsoft Word .doc format;
9. All e-mails containing documents to be lodged in process **must** be sent to commercial@scotcourts.gov.uk to ensure that they are available to be lodged in the absence of a specific Commercial Clerk;
10. An automated return e-mail acknowledging receipt will be sent from the Commercial Inbox. If this is not received within a reasonable time, and in any event within 24 hours or the latest time for lodging the document (whichever is earlier), Agents should telephone (0131-225-2595) to have a message passed to the appropriate Commercial Clerk to check receipt;
11. It will be the responsibility of the Commercial Clerk to ensure that any documents sent by e-mail in accordance with this protocol are printed off and lodged in process. He/she may discharge this function (a) personally, or (b) by forwarding the e-mail either to the Commercial section of the General Department, or to the appropriate Commercial Clerk, with a request that they print off and lodge the attached documentation in process;
12. These procedures shall come into force as from 1 January 2010.

Court Motions Team

Participating Firms

The participating firms of the pilot scheme are:

Anderson Strathern	motions@andersonstrathern.co.uk
Balfour & Manson	ph@balfour-manson.co.uk
Biggart Baillie	ph@biggartbaillie.co.uk
Brodies LLP	motions@brodies.com
BTO	motions@bto.co.uk
Burness	motions@burness.co.uk
Digby Brown	phteam@digbybrown.co.uk
Drummond Miller	motions@drummond-miller.co.uk
Dundas & Wilson	motions@dundas-wilson.com
HBM Sayers	courrunner@hbmsayers.com
HBJGW	motions@hbj-gw.com
McGrigors	motions@mcgrigors.com
Simpson & Marwick	motions@simpmar.com
Thompsons	motions@thompsons-scotland.co.uk

Burness and HBJ Gateley Waring joined the pilot scheme in October 2009 and BTO joined in November 2009.

Court Motions Team

Further staff changes have taken place within the Court Motions Team.

Audrey Hunter has now joined the team and works Tuesday to Thursday.

The team now consists of two full time Motion Clerks - [Marion Scott](#) and [Grahame Simpson](#) - one part time Motion Clerk - [Audrey Hunter](#) - one full time Assistant Motions Clerk - [Louise Cranston](#) - and one part time Assistant Motions Clerk - [Eilidh Barbour](#). [Craig Anderson](#) will be assisting periodically as an Assistant Motions Clerk.

COURT MOTIONS TEAM

Queries

If you have any queries about any items in this newsletter or any area of the Pilot Scheme for Disposal of Motions or you wish an item to be placed on a future newsletter, please contact any member of the CMT.

Motion Clerks

Marion Scott
Grahame Simpson
Audrey Hunter

Assistant Motions Clerks

Louise Cranston
Eilidh Barbour
Craig Anderson

call on

0131 240 6882
0131 240 6662

email us at

courtofsession.motions@scotcourts.gov.uk



Offices of Court Report – November 2009

Management Information & Workload

	November 08	November 09
Petitions lodged	134	155
Summons lodged	357 (245 PI) (80 Ord) (6 Family) (26 Comm)	304 (242 PI) (47 Ord) (3 Family) (12 Comm)
Appeals lodged	20	10
Total Actions	511	469

See Appendix A below for trends from year to year.

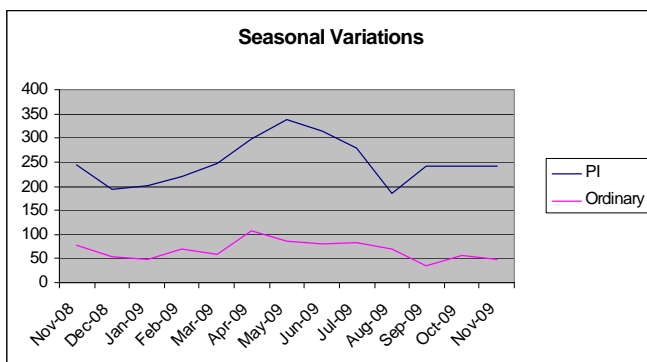
Waiting period (court service indicator) for 4 day PI Proofs stands at 11 months (from date defences lodged). We are currently allocating for 23 November 2010.

Civil Jury Trials have now increased to five per week. The Keepers Office is currently backfilling to take account of this increase. The next available date for a Jury Trial is January 2011.

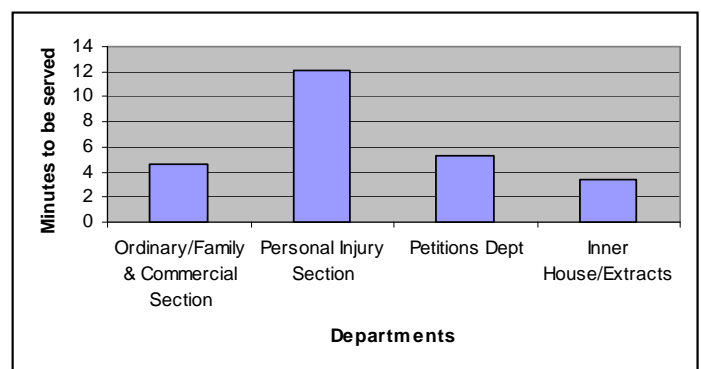
**Appendix A -
Trends of Personal Injury, Ordinary & Appeals Lodged 2009/10**

	PI	Ordinary	Family	Appeals	Total (OH)	%PI
Nov 08	245	77	6	20	328	75%
Dec 08	193	55	2	16	250	77%
Jan 09	202	47	7	17	256	79%
Feb 09	219	69	9	24	297	74%
March 09	247	58	6	11	311	79%
April 09	299	107	4	17	410	73%
May 09	337	87	5	14	429	79%
June 09	315	80	10	17	405	78%
July 09	280	83	9	22	372	75%
Aug 09	185	71	0	11	256	72%
Sept 09	242	36	4	16	282	86%
Oct 09	241	56	6	19	303	80%
Nov 09	242	47	3	10	292	83%
Total	3247	873	71	214	4191	77%

Seasonal Variations



Average queuing times - November 2009



Telephone contact details

Offices of the Court of Session

All numbers should be preceded with 0131 240

Personal Injuries Section

Laura Cranston	6878
Kelly Jack	6853
Sarah Welsh	6667
Gillian Kirkland	6742

Ordinary, Family and Commercial Section

Lorraine Alexander	6741
Kasia Zduniak	6879
Shaheena Ali	6880
Michael Rodger	6669

Inner House and Extracts Department

Gavin McLeod	6874
Jamie Knox	6748

Relief Officers

Lorna Morgan	6745
Craig Anderson	6745

Petitions Department

Chris Munn	6747
Lindsay Hooper	6747

Court Motions Team

Marion Scott	6882
Grahame Simpson	6882
Audrey Hunter	6882
Eilidh Barbour	6662
Louise Cranston	6662

Office Manager for the Offices of the Court of Session

Susan Brodie	6743
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Depute in Charge of the Offices of the Court of Session

Yvonne Anderson	6740
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What do you think?

The Offices of the Court of Session continually seek to improve the service and choice for its customers and partners. In order to improve the quality of information we provide about our performance we would like to offer you the opportunity to comment on the content of this document. Please read the following questions and pass your views and comments to us by fax, email or letter using the details given below:

1. How well did you understand the contents of this report?
2. How well does this information meet your needs?
3. Did it cover aspects which you are interested in or you feel are relevant?
4. What other relevant issues or information do you feel you should be included or covered in the next quarter's issue?

Send your views to:

Letter

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Court of Session
Level -1
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EH1 1RQ

Email

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Fax

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