

The Proof

The quarterly newsletter
of the Offices of the Court of Session

Court of Session



September 2011

Court of Session, Parliament House, Parliament Square, Edinburgh, EH1 1RQ
Telephone: 0131 225 2595 - email: officesofcourt@scotcourts.gov.uk

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DPCS Retires from SCS

Bob Cockburn retired from the Scottish Court Service (SCS) on 2 September after over eight years in post as Deputy Principal Clerk of Session and 33 years in various roles in the SCS, including Assistant Clerk of Session, Depute Clerk of Session & Justiciary, Accountant of Court, Keeper of the Rolls, Sheriff Clerk in Glasgow and Secretary to the Sheriff Court Rules Council.

Robert Jenkins will be covering the post of Deputy Principal Clerk of Session for the next few months after which Gillian Prentice will move over from her current role as Deputy Principal Clerk of Justiciary to become the Deputy Principal Clerk of Session.

Bob asked that his thanks and best wishes be passed on to all of those he has worked with and served as a clerk in the Court of Session. Looking back at his time, particularly as Deputy Principal Clerk of Session, Bob said:

"I consider myself fortunate and privileged to have come from a very humble working class background to serve the Court of Session, one of the oldest and most important public institutions in Scotland and where I have spent my happiest years in SCS. Supporting the efforts of such a hard working, talented and appreciative judiciary and group of practitioners has been a rewarding way to spend the bulk of my working career. Despite its unfortunate status as the 'Cinderella' of the court system, the Court of Session has always been to me the most interesting and rewarding place to work in the Court Service. One main reason for this is the incorporation of the College of Justice, which brings together the collective effort of the bench and practitioners, and court staff, in true joint working to serve the administration of civil justice. I have been lucky enough to see and be involved first hand in how this collective approach can be successful in supporting the operation of the Court. Establishing the commercial court and creating and implementing the Chapter 43 reforms of personal injury procedure are shining examples of what can be achieved by working together.

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The current/ongoing reforms of Inner House procedure are another credit to what joint working under the leadership of the Senators can secure. I am very proud to have played a small part in these changes and have no doubt that this process of improvement will continue. I have also been extremely fortunate to have worked with generations of hard working and upbeat clerk colleagues who have consistently delivered what needed to be done to help the Court perform its role while at the same time providing a supportive and friendly environment”.

Bob, his partner Helen and their daughter Florence are re-locating to Yorkshire early in the New Year.

Inner House Rules coming into force 27/9

INNER HOUSE REFORMS

On 5 April 2010 changes were made to the rules of court relating to reclaiming motions, applications for new trials or to enter jury verdicts and appeals from inferior courts.

By now all practitioners and counsel will have become familiar with the rules and procedures introduced in April 2010.

A further change comes into force on 27 September 2011 - Act of Sederunt (Rules of the Court of Session Amendment No.5) (Causes in the Inner House) 2011. All “Appeals Under Statute” (Chapter 41) lodged on or after 27 September 2011 will fall to be dealt with under the new rules.

The structure of the rules under the new chapter 41 remains largely unchanged. General provisions affecting all statutory appeals are outlined in Part I (with new or extended rules on urgent disposal and competency). Stated Case procedure is outlined in Part II. Appeal procedure in Form 41.25 is outlined in Part III and rules relating to appeals under particular statutes are outlined in subsequent Parts of the chapter.

I would ask that you take time to read the new Act of Sederunt and the new Practice Note. The court will be monitoring cases to ensure that parties comply with the time limits set out in the rules and timetables for lodging documents etc and where these are not complied with, will contact parties and request that the documents be lodged forthwith. It should be noted that any further failure may result in the case being put out By Order.

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I have noted some of the main changes below:

- Rule 41.2 Applications for Leave to Appeal
- Rule 41.3 (1)(a)(i) Service of the application to be made on the respondent etc within 7 days of the date of the interlocutor
- Rule 41.3(1)(a)(ii) Answers to be lodged within **14 days** after the date of service
- Rule 41.3(3) Evidence of service of the application to be provided to the court within 14 days from the date of service
- Rule 41.3(6) Within 14 days after expiry of the period within which answers may be lodged, the applicant may apply by motion to a procedural judge for the application to be granted
- Rule 41.25 Appeals
- Rule 41.27(1)(a) Service of the appeal to be made on the respondent etc within 7 days of the date of the interlocutor
- Rule 41.27(1)(a)(ii) Answers to be lodged within the period of notice
- Rule 41.27(2) Evidence of service of the appeal to be provided to the court within 14 days from the date of service
- Rule 41.4 Urgent disposal
- Rule 41.5 Competency of appeals
- Rule 41.52 Appeals to be heard in the Outer House

Copies of the new Act of Sederunt (2011 No.303) and the new Practice Note (No 3 of 2011) can be found on the SCS Website:

<http://www.scotcourts.gov.uk/innerhousereform>

Robert Jenkins
DPCS



Court User's Guide

The Court Users Guide continues to provide court users new and old with helpful information about court procedures, so please ensure you have the most up to date copy available, which currently is February 2011.

Meantime there are now some hard copies of the guide available at each section along with some spare copies placed on the desks. If you need any further assistance the counter staff will be more than willing to help. You can also obtain a copy of the guide from the following link:

<http://www.scotcourts.gov.uk/professional/index.asp>

Remember, this guide is especially helpful to new court runners and trainees, while at the same time, also proving to be very useful to the regular users of the court.

As always, I am happy to receive your comments and suggestions and the easiest way to do that is to contact me via email on CAnderson2@scotcourts.gov.uk.

Many Thanks
Craig Anderson

You said – we did

You Said	We Did
An anonymous comment was made regarding the need for repeated visits to the Keepers Office to check on allocation updates, and the possibility for electronic message boards being installed in the Parliament Hall area. (June 2011)	The idea of having a 'departures board' type system, like you would have in an airport, at Door 11 or the Box Corridor was discounted as unworkable as it would require someone to be available to continually update it. Also, to be legible, the screens would have had to be huge. To install such screens in the most important parts of a listed building would not have been acceptable to the Planners and Historic Scotland.



Customer complaints

There have been no formal customer complaints made in the Offices of the Court of Session during the period 1 June 2011 to 31 August 2011.

Confidential Waste

All customers can deposit papers no longer required confidentially, using the confidential waste bin which is situated in the general department waiting area.

If you choose to use this bin, please ensure you deposit confidential papers only.

Please ensure all papers have staples, bull dog clips, paperclips removed and that no papers are within any plastic wallets.

All papers in this bin are collected by Court of Session staff each Monday. This is then bagged and deposited in a secure area of the court. The contract holder then comes in mid week and shreds the bagged paper on site.

No-one goes through the waste to remove any metal or plastic attachments and these attachments can cause obstruction in the mechanical shredder.

The confidential waste bin also fills up quickly therefore can customers please ensure only confidential waste is deposited in this bin.

Any other waste for example, newspapers and magazines please deposit these in the recycling bin (orange triangle cardboard bin). This bin is also placed in the general department waiting area.

Thank you
Susan Brodie
Office Manager



Court Motions Team – When IT goes wrong....

If you encounter a problem with sending your e-motions to the Court Motion Team (CMT) please ensure that you notify the department of the problem as soon as possible. The following guidelines below should be followed if there are any problems with the normal procedures:-

Problems sending e-motions to the Court Motion Team

1. If you discover you have a problem sending your e-motions to court please phone the Court Motion Team on **0131 240 6882** as soon as possible to notify the team of the problem. If you receive voice mail please leave the following information:
 - **Your name and the name of the firm that you are phoning from**
 - **A contact telephone number**
 - **A brief description of what the problem is**
2. You will always receive an automated acknowledgement of receipt when you send an e-motion to the CMT. If you notice you have not received any automated acknowledgements please phone CMT to check that they have received your email as it is likely a problem may have occurred.
3. CMT will record the fault and contact SCS IT department immediately to ascertain the nature of the problem and aim to get it resolved. It is advisable that you also contact your IT department to ensure the problem is not with your IT services.
4. We will relate all feedback received from SCS IT department as soon as possible. If the problem cannot be resolved quickly, (within one hour) we will discuss arrangements with you regarding bringing up hard copies of the motions or sending them up by fax.

Problems when the server in the Court Motion Team is unavailable

1. The CMT will ascertain what the problem is with the server and what the anticipated recovery time is. Notice of any problems will be put on the SCS website.
2. If the server is going to be down for over an hour, CMT will contact the firms listed below by telephone to arrange for hard copies of motions to be sent up or faxed up. CMT will deal with any remaining e-motions when the server is back up and running.

Thompsons
Digby Brown
Andersons LLP
BTO
Lefevre Litigation
Harper Macleod

Simpson & Marwick
HBM Sayers
Balfour & Manson
Brodies
Drummond Miller

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If your firm is not on the list above and you have an urgent motion to lodge, please contact the CMT to discuss the nature of the motion, its urgency and information on how to effectively lodge.

If the server is going to be down for more than one day we will contact all solicitors who are on the CMT list of e-mail addresses by telephone and we will discuss the best option available for enrolling your motion. The most up to date list of email addresses can be found on the front page of the SCS Website by clicking on the link "New motions procedure commencing 1 February 2010". The link can also be found here - [List of email addresses](#)

3. If there is a delay in sending interlocutors CMT will email them to you as soon as the server is back up and running, but if you need to collect an interlocutor urgently please contact CMT and they will arrange to print one off and you can pick it up from the relevant section within the general department or it can be faxed to you.

Please feel free to contact the CMT at any time if you have any queries regarding this matter.

Thank you
Lorna Morgan
Court Motion Team



Court Motions Team

Practices and Procedures

Please follow these practices and procedures to ensure interlocutors can be drafted and distributed as quickly as possible.

🔗 **When enrolling a motion to discharge the proof in a Personal Injury Action** please remember that the motion requires consent from the other side. This should be marked in the body of your motion.

🔗 **When any changes are made to the intimation or opposition dates on your motion sheet** please remember that we require an email from the other parties in the action confirming that they are not opposing your motion.

🔗 **When enrolling a motion to continue the cause on the adjustment roll** please enrol your motion during the week commencing the date that the record is due to close and not any earlier than this time.

🔗 **When enrolling a motion to re-sist an action** please enrol your motion on the date that the sist is due to fall and not any earlier than that date.

CMT Report

	Lodged	Disposed	Dropped	Starred Motions	Average Time (motion received to interlocutor delivered)
June 11	1375	1214	161	96	15.47hrs
July 11	1278	1144	134	61	16.22hrs
Aug 11	1204	1100	104	41	13.07hrs

NOTICE

JUDICIAL STUDIES CONFERENCE WEDNESDAY 6TH JUNE – FRIDAY 8TH JUNE 2012

This gives the court users advance notice of the fact that the High Court of Justiciary and the Court of Session will sit for urgent business only on the abovementioned dates. In that week the Lord President has authorised the attendance of Senators at a conference organised by the Director of Judicial Studies.

In consequence:-

- There will be no appeal court sittings on these dates for either criminal or civil appeals
- The High Court of Justiciary will sit to deal with bail appeals and cases at first instance that require to run to a conclusion or would otherwise be time-barred only; and
- The Court of Session will sit only to deal with urgent motions, [and if necessary to conclude long proof hearings commenced in earlier weeks].

Where diets have already been fixed to commence during the week of 4th June 2012 parties should attend the Keeper's Office to make alternative arrangements.

It is hoped that by giving notice of this event at this stage court users will be able to make alternative plans for the use of their own time during the week in question.

Please note that Monday and Tuesday the 4th and 5th of June 2012 are public holidays on which the court shall not sit.

Any question regarding this notice should in the first instance be addressed to the Office of the Keeper of the Rolls.

Customer Liaison Group Meeting

The Customer Liaison Group Meeting took place on Wednesday 14 September 2011. The minutes were issued on **20 September 2011**.

The next Customer Liaison Group Meeting is set to take place on **7 December 2011** at **4pm** in Level -1 meeting room at the Court of Session.

Current customer representatives are:

Mary Galloway	Brodies LLP
Paula Moffat	Balfour & Manson LLP
Vicki Crawford	Scottish Government
Pamela Graham	Thompsons

If you would like to attend a meeting, become a regular customer representative and/or request a copy of any previous meetings, please contact Susan Brodie on 0131 240 6743 or at sbrodie@scotcourts.gov.uk



Offices of Court Report

Management Information & Workload

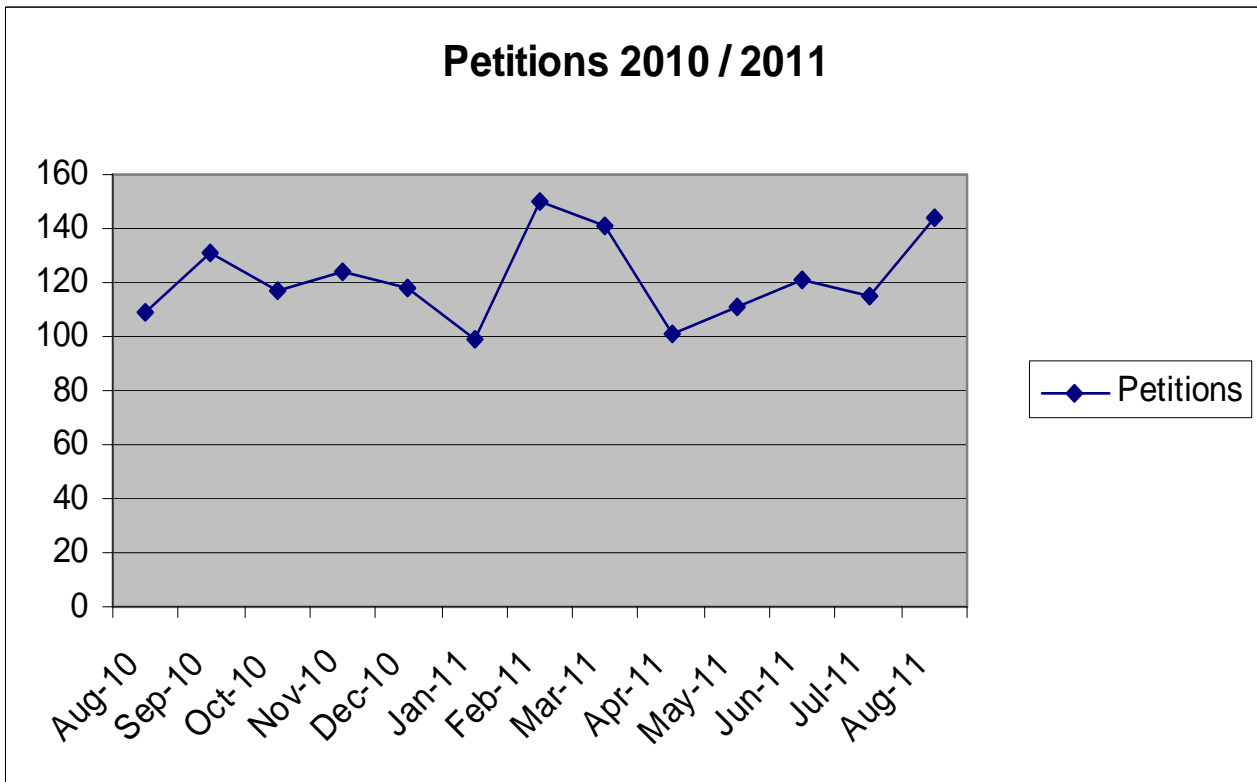
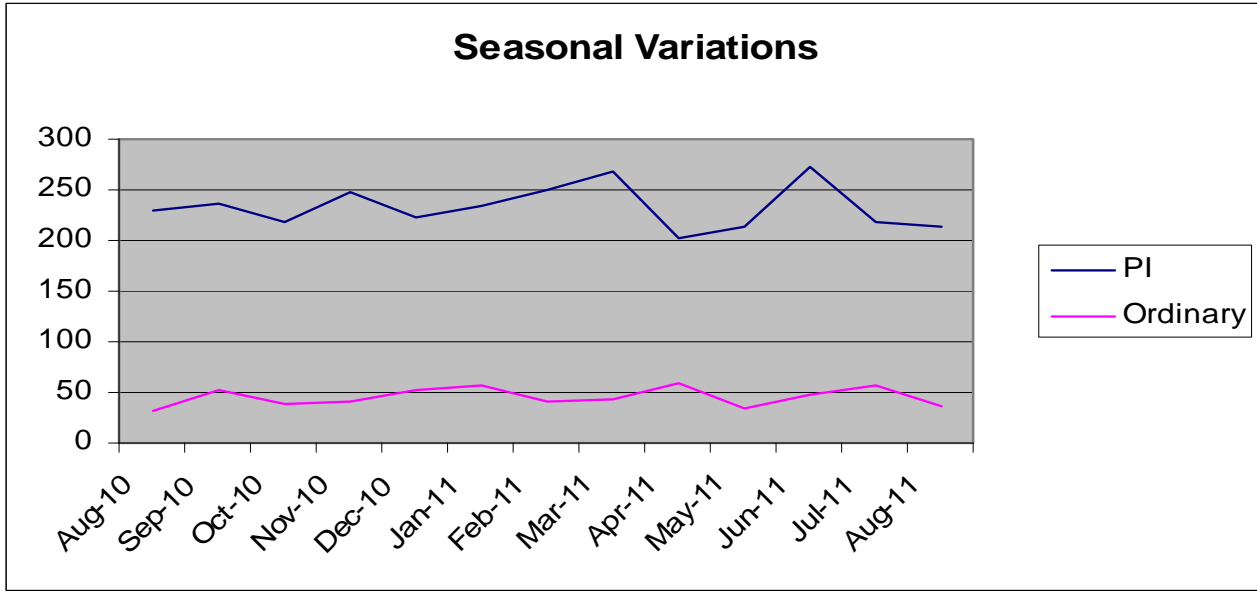
	June 2010	July 2010	August 2010		June 2011	July 2011	August 2011
Petitions lodged	99	125	109		121	115	144
Summons lodged	334	338	295		354	295	274
(PI)	(278)	(270)	(230)		(273)	(219)	(214)
(Ordinary)	(32)	(52)	(39)		(48)	(56)	(36)
(Family)	(7)	(3)	(13)		(18)	(9)	(16)
(Commercial)	(17)	(13)	(13)		(15)	(11)	(8)
Appeals lodged	27 (4 R/M's)	15 (4 R/M's)	22 (12 R/M's)		26 (15 R/M's)	14 (1 R/M's)	19 (5 R/M's)
Total Actions	460	478	426		501	424	437

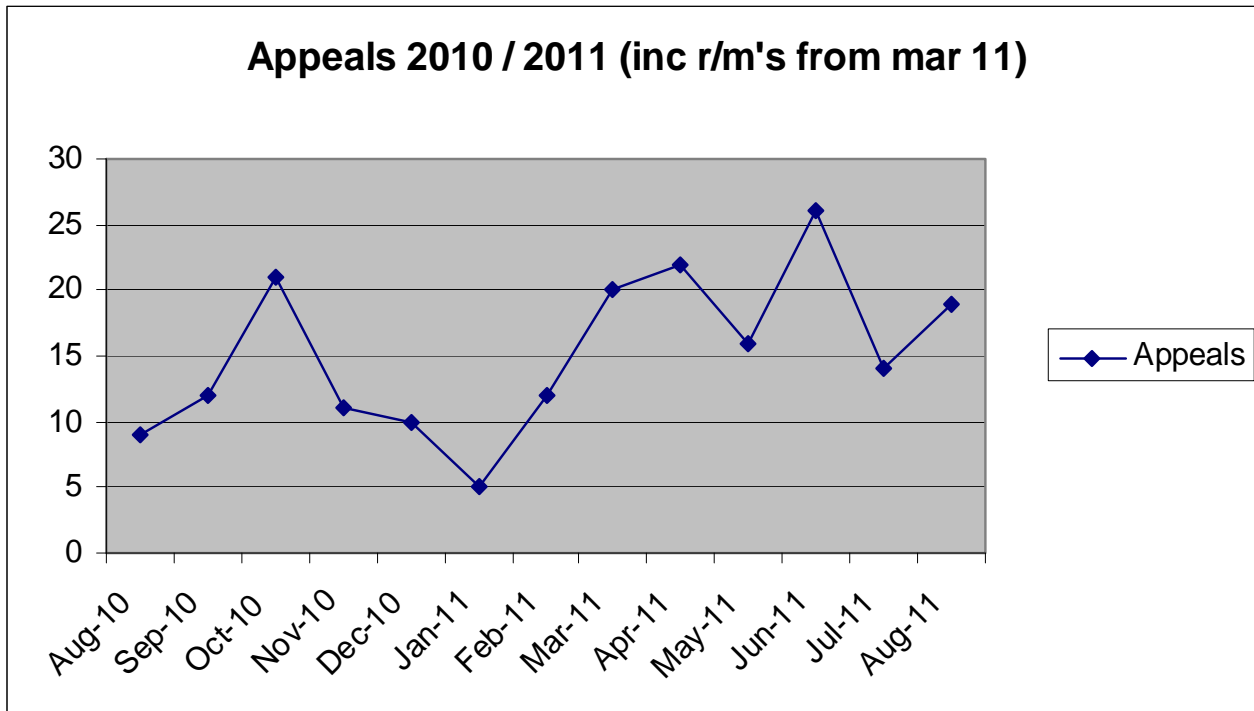
Waiting period (court service indicator) for 4 day PI Proofs stands at 12.5 months (from date defences lodged). We are currently allocating for 16 October 2012

The allocation of Civil Jury Trials has now been increased to 5 per week. The first available date for a Jury Trial is currently 12 February 2013.

Trends of Personal Injury, Ordinary & Appeals Lodged 2010/11

	PI	Ordinary	Family (inc simplified)	Appeals (inc's r/m's from mar 11)	Total (OH)	%PI
Aug 10	230	31	3	9	264	87%
Sept 10	237	53	8	12	298	80%
Oct 10	218	39	5	21	262	83%
Nov 10	248	42	2	11	292	85%
Dec 10	223	53	10	10	286	78%
Jan 11	234	56	3	5	293	80%
Feb 11	250	40	4	11	294	85%
Mar 11	268	44	9	20	321	83%
April 11	202	59	9	22	270	75%
May 11	214	35	10	16	259	83%
June 11	273	48	18	26	339	81%
July 11	219	56	9	14	284	77%
Aug 11	214	36	16	19	266	80%
Total	3030	592	106	197	3728	81%





General dept queue times

The average queue times on the public counters in the departments within the Offices of the Court of Session, over the past three months are:

	June	July	August
Ordinary/Family & Commercial	3	3	4
Personal Injury	9	11	8
Petitions & Inner House & Exts dept	4	4	4

The above times are calculated as the average waiting time of each section over each month, therefore customers may find they can wait a lot longer than the times shown. The sections within the department continually monitor the queue system and times and feedback from our customers is always greatly appreciated.



ST ANDREWS DAY

PUBLIC HOLIDAY - 28 NOVEMBER 2011

Please find below details of intimation, opposition and enrolment dates to accommodate the public holiday on **Monday 28 November 2011**.

Court Motion Team Timetable

<u>Intimation Date</u>	<u>Opposition Date</u>	<u>Motion Lodged Date</u>
23/11/11	25/11/11	29/11/11
24/11/11	29/11/11	30/11/11
25/11/11	30/11/11	01/12/11
29/11/11	01/12/11	02/12/11
30/11/11	02/12/11	05/12/11

Normal intimation resumes

Timetable for Callings and Motions over the counter

Motions

Enrolled	Opposed	Heard
Weds 23/11	Thurs 24/11	Fri 25/11
Thurs 24/11	Fri 25/11	Tues 29/11
Fri 25/11	Tues 29/11	Weds 30/11
Tues 29/11	Weds 30/11	Thurs 1/12

Normal intimation resumes

Callings

Callings lodged by

Weds 23/11 by 12.30
 Thurs 24/11 by 12.30
 Friday 25/11 by 12.30
 Tues 30/11 by 12.30
 Weds 30/11 by 12.30

Called on

Friday 25/11
 Tues 29/11
 Weds 30/11
 Thurs 1/12
 Friday 2/12



Parliament House Redevelopment Progress Update as at September 2011

Phase 2

Phase 2 of the Redevelopment project at Parliament House is nearing completion. Court 1 is to be ready and available for use to allow the ceremony for the start of the new legal year, on 27 September, to take place in the newly refurbished court.

At level 0, Courts 1, 2 and 3 have new air-conditioning, lighting and are fully fitted out for small power, IT and audio-visual use. The working surfaces of the benches used by the judges, court staff and counsel have been increased in size to provide the space required for the papers, books and IT used in their work.

Programme for occupation of Phase 2

The rooms which support Court 1 will also be prepared for use and this court will be back in use after the opening ceremony for the legal year on 27 September.

However, Courts 2 and 3 have further work to take place in them to bring them up to the required standard. It is proposed that these 2 courts will be available for use on 10 October 2011.

The final move weekend of Friday 7 October will bring all other areas of level 0 into use. This includes Courts 2 and 3 with their supporting accommodation, offices for Clerks of Court and witness rooms.

Phase 3

The completion of Phase 2 of the Redevelopment is of course not the end of the story for the upgrade of the Parliament House. Shortly after completion and occupation of the refurbished spaces it is intended that Phase 3 will commence. More details of this phase will be provided nearer the time.

Door 11

There will be a period when Door 11 needs to be closed to allow the works required to upgrade this space to take place. It is proposed that this will take place at the beginning of 2012. Whilst this is taking place access will be through Door 2 only. More details of this will be provided nearer the time.

Offices of Court Staff Changes

As you will see from our front page article Robert Cockburn retired from the service on 2 September 2011 and the post of Deputy Principal Clerk of Session is currently being temporarily filled by Robert Jenkins.

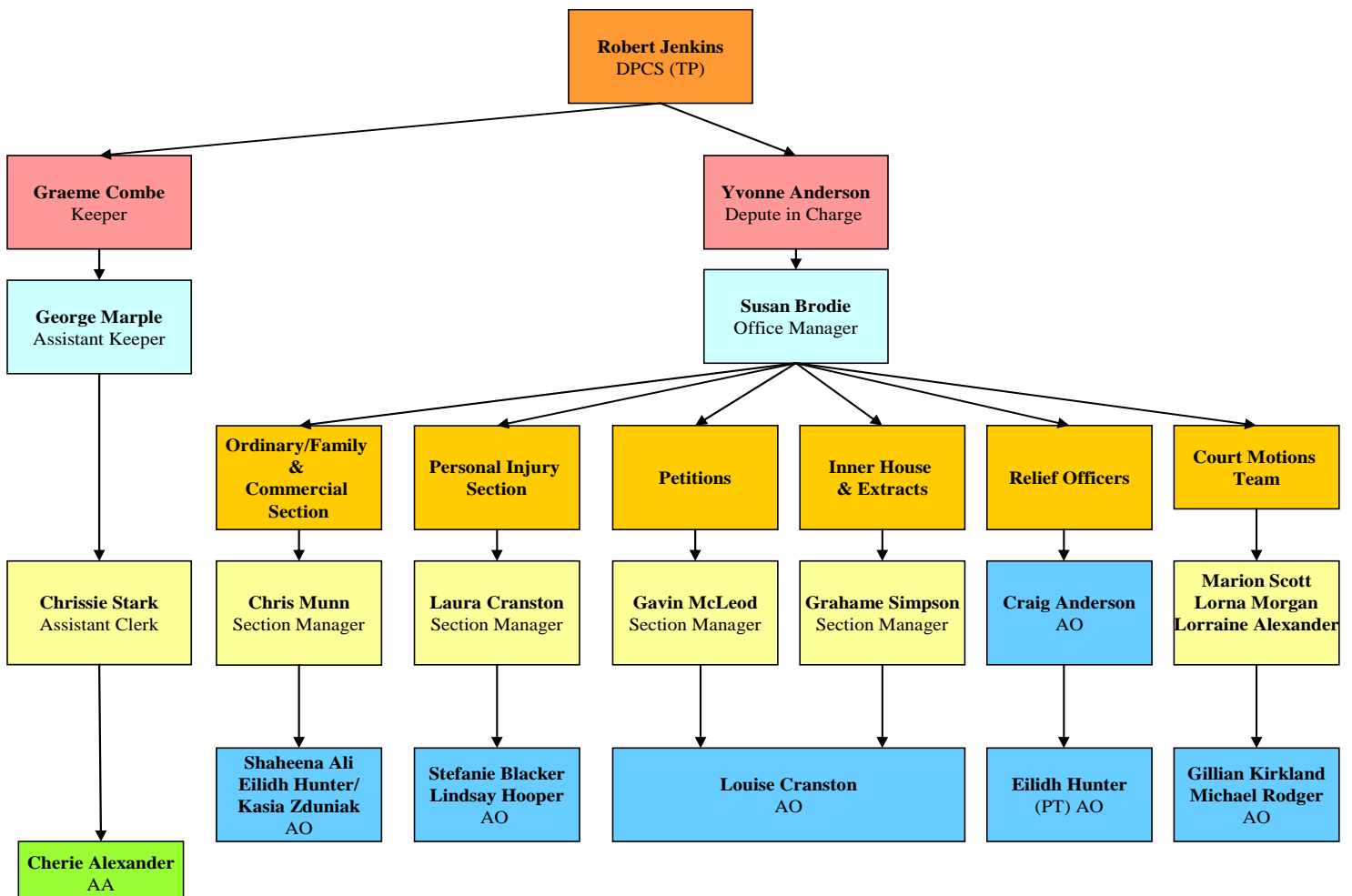
Gillian Prentice will, in the future move from her current post of Deputy Principal Clerk of Justiciary to take up post from Robert as the Depute Principal Clerk of Session, however no dates have been fixed for Gillian's move as yet.

Sarah Welsh previously of the CMT resigned in August 2011, Sarah's post in CMT will not be filled at this moment in time.

Kasia Zduniak is due to return from maternity leave and will take up her post within OFC as an AO counter clerk from 31 October 2011.

Cherie Fraser of the Keepers Office is now known as Cherie Alexander.

The current staff structure is set out below.



Telephone contact details

General Department

Depute in Charge

Yvonne Anderson 0131 240 6740

Office Manager

Susan Brodie 0131 240 6743

Personal Injury section

Manager	Laura Cranston	0131 240 6878
	Stefanie Blacker	0131 240 6853
	Lindsay Hooper	0131 240 6667

Ordinary/Family & Commercial section

Manager -	Chris Munn	0131 240 6741
	Shaheena Ali	0131 240 6669
	Eilidh Hunter/Kasia Zduniak from 31 Oct 2011	0131 240 6669

Petition and Inner House & Extracts department

Petition Manager	Gavin McLeod	0131 240 6747
Inner House & Extracts Manager	Grahame Simpson	0131 240 6748
	Louise White	0131 240 6874

Court Motions Team

Asst Clerk	Marion Scott	0131 240 6662
Asst Clerk	Lorna Morgan	0131 240 6658
Asst Clerk	Lorraine Alexander	0131 240 6658
	Gillian Kirkland	0131 240 6882
	Michael Rodger	0131 240 6882

Relief Officers

Craig Anderson 0131 240 6745

Keeper of the Rolls Office contact numbers

Keeper

Graeme Combe 0131 240 6736

Assistant Keeper

George Marple 0131 240 6737

Assistant Clerk

Christina Stark 0131 240 6738

Administration Assistant

Cherie Fraser 0131 240 6794



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:

Was the content of this newsletter clear?

To what extent does the information meet your needs?

Did it cover aspects which you are interested in or you feel are relevant?

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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Edinburgh
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