

## MINUTES OF MEETING OF THE CRIMINAL COURTS RULES COUNCIL

PARLIAMENT HOUSE, MONDAY 19 FEBRUARY 2018

- Present:** Lord Justice Clerk (Chair)  
Lord Turnbull  
Lord Matthews  
Sheriff Norman McFadyen  
Sheriff William Gilchrist  
Stuart Fair JP  
Professor James Chalmers, University of Glasgow  
Catriona Dalrymple, COPFS  
Peter Lockhart, Solicitor  
Branislav Sudjic, Solicitor  
Dennis McCall, Sheriff Clerk  
Claire Mitchell, Faculty of Advocates  
Kate Wallace, Victim Support  
Willie Cowan, Scottish Government
- In attendance:** Alex McKay, High Court of Justiciary
- Secretariat:** Edward McHugh, Deputy Legal Secretary to the Lord Justice General
- Apologies:** Lord Justice General  
The Clerk of Justiciary  
Sheriff Frank Crowe  
Murdo MacLeod, Q.C.  
Anthony McGeehan, COPFS

### **Item 1: Welcome and private papers**

1. The Lord Justice Clerk welcomed Kate Wallace to her first meeting of the Council. It was agreed that Papers 2, 2A 2B and 3 be treated as private papers.

### **Item 2: Minutes and matters arising**

2. The minutes of the meeting of 23 October 2017 were approved. With regard to matters arising, the Council noted with reference to *Item 4:* ( courts rules arising from the Criminal Finances Act) that both of these instruments have been made and have come into force (SSI 2017/ 429 on 21 December 2017 and SSI 2108/12 on 31 January 2018)

### **Item 3: Scottish Government Update**

3. Willie Cowan provided members with an update from SG highlighting various pieces of legislation set out in the Programme for Government which may impact on the work of the Council. In particular,

- *Management of Offenders Bill*
- *Minimum Age of Criminal Responsibility Bill*
- *Domestic Abuse (Scotland) Bill* – this has passed stage 3 and is likely to be commenced in early 2019.

He also mentioned that Part 1 of the Criminal Justice (Scotland) Act 2016 was commenced on 25 January 2018 with the anticipated reduction in custody cases. In addition, he highlighted the possibility of future legislative change to support the complex case management protocol.

### **Item 4: European Investigation Order: Request for court rules and draft instrument**

4. The Council considered the revised draft instrument. LPPO was asked to review further the drafting in Rules 67.2 and 67.10 and in Form 67.4C. The instrument will be circulated in a revised form for approval by correspondence once it has been reviewed and gone through LPPO's internal styling process.

### **Item 5: Brexit update [Paper 3]**

5. The Council noted the paper on Brexit prepared by LPPO.

### **Item 6: Records Management Plan (RMP)**

6. The Council noted the draft information asset register prepared by LPPO and that LPPO is working with SCTS to finalise the RMP for the Council. A further update will be provided at the next meeting in June 2018.

### **Item 7: A.O.C.B**

7. Catriona Dalrymple of COPFS raised the issue of whether, in appropriate cases, a professional witness might give evidence using a remote link. After discussion the Council agreed that this was not a matter for court rules at present. Willie Cowan offered to take this matter his Scottish Government colleagues who are considering more generally the possible ways that technology can be deployed so that participation in the criminal justice system can be made more user-friendly for all witnesses (not just professional witnesses).

### **Item 8: Next meeting**

8. The next meeting is on **Monday 18 June 2018**.

**February 2018**