

**MINUTES OF MEETING OF THE IT COMMITTEE OF THE SHERIFF  
COURT RULES COUNCIL HELD ON FRIDAY 6 FEBRUARY 2004**

Present: Sheriff I A S Peebles, QC, Chairman  
Sheriff M J Fletcher  
Mr J d'Inverno, Solicitor-Advocate, TD ADC WS  
Mr J McCormick, Solicitor  
Mrs E Laing, Assistant Area Director  
Mr D Morris, IT Manager, SCS  
Mr D Bruton, Court of Session  
Mr A Adams, Lay Member

Mrs G McKeand, Secretary  
Mr G Halligan, Assistant Secretary

Apologies: Mr R Cockburn, Court of Session (Mr Bruton attending in his place)

**Item No 2 on the Agenda – Minutes of Previous Meeting**

The minutes of the meeting held on 21 November 2003 were approved.

**Item No 3 on the Agenda – Paper from David Morris on Civil Case Management System**

The Chairman explained the view that the Committee members had reached at the previous meeting, namely, that the aim was to enable the electronic lodging of – The Initial Writ, Notice of Intention to Defend, Defences, Record, Motions, Minute of Amendment and Answers. The Chairman had initially been inclined to a less radical approach but had been convinced by the rest of the Committee. The conclusion had been that by offering a wider service there would be a larger take up by customers. The Chairman was of the view that we already had a superior IT system to the one at Preston Magistrates Court.

The second main aim was to introduce the facility across all of Scotland rather than running a pilot scheme.

The third aim was to have a back-office system for summary cause actions. Sheriff Principal MacPhail was of the view there was no problem with having this facility held centrally.

The Chairman suggested putting a paper on the proposals to the Rules Council at the next meeting on 19 March 2004.

Mr d'Inverno agreed it would be better to do everything now and encounter any problems from the outset.

The Chairman agreed the Committee should offer the whole service which should be an advantage to solicitors.

Mrs Laing stated that there would have to be two systems running in tandem, namely, the electronic system and the present manual one.

The Chairman agreed but pointed out that initially the costs would be greater because of running two systems.

Mr Morris asked Mr Bruton if he could advise the Committee about the Commercial Court in the Court of Session.

Mr Bruton advised that the Commercial Court had been using an e-mail system for documents for about 2 years. They now send out interlocutors to solicitors agents electronically. Ninety per cent of firms provided the court with a generic e-mail.

They hope to introduce electronic processes, only experimentally, and 4/5 firms are very keen to come on board.

At the Case Management Hearing the Judge will decide if it is an appropriate case for the Commercial Court. There should then be a facility to send documents to an electronic file.

The Law Society are hopeful of advances in this area.

*For an experimental period*  
~~At present~~ the Court of Session sends interlocutors to Thompsons Solicitors on a daily basis electronically. This has apparently saved Thompsons one and a half hours per day. Legal firms will have major savings in this area.

Mr Bruton acknowledged that the commercial court in the Court of Session was a small unit, but possibly an ideal test bed. The system can use up to sixty solicitors firms. Mr Bruton advised that the Commercial Court Unit averages about 1500 e-mails per year.

Mrs McKeand advised that this related to around 120 active cases per month.

Mr Morris acknowledged it was a good model but stated it would be difficult to manage with the significant number of solicitors firms that use the Sheriff Court.

Mr d'Inverno suggested that agents should be able to access information and if possible to access the case file. Increased access would inform usage and improve take-up.

Sheriff Fletcher advised the Committee that the current system used by the Police and Crown Office did not work effectively.

The Chairman agreed and stated that the electronic transfer of custody cases from the Procurator Fiscal's Office to the Sheriff Clerk is actually slower than the manual system.

The need to allow solicitors access to the Court's electronic files was questioned by Mrs McKeand. If solicitors were sending and receiving electronic files then they could retain their own record.

Mr Morris acknowledged that this would be precisely the problem the Committee would have with putting the electronic system to the public.

Mr d'Inverno suggested being able to access criminal cases also.

Mr Morris explained that the problems with the criminal systems was partly caused by the Crown, Police and Court Service having separate IT systems. The difference with civil applications would be the onus will be on the users to lodge their documents.

Mr d'Inverno asked if agents should be able to access the process.

Mr Bruton explained that the Court of Session was waiting to see what the software engineer could do, as it may be possible to allow firms access if they have a unique password and an electronic signature.

Mr Morris advised that the Law Society had finished a pilot project and decided not to proceed.

If these civil documents are sent electronically a help desk will have to be provided.

Mr Adams suggested that if there was any problem with the electronic sending of a document it could be faxed.

The Chairman explained the aspiration was to move towards an electronic system.

The Chairman asked if the Committee should put forward its position ie e-mail system or a website.

Mr Morris preferred the website option. The website option cuts down on what people can submit and it would also be easier for the Scottish Court Service to take data. Also the user would get a response from the website, showing that the submission was accepted.

Mrs Laing was of the view that it would be far more user friendly if forms are provided.

Mr Morris advised the Committee that England has two systems, moneyclaim online and a back office system. The larger solicitors firms may not like an interactive system.

Mr McCormick stated there would be consumer resistance to having to type a writ on the website.

Mrs Laing suggested that the Ordinary Cause Committee could look at some of these implications.

Mr Morris was of the view it should be kept simple.

Mrs Laing suggested taking a look at what we want to have and a look at the Ordinary Cause Rules.

The Chairman explained the Committee may have to move away from the current Ordinary Cause Rule system as the Ordinary Cause Committee are looking at possibly altering the rules.

Mrs McKeand advised that there was a project ongoing reviewing civil judicial statistics and she suggested that it would be helpful if the system would allow civil judicial statistics to be recorded without any manual input.

**There was general agreement by the Committee that the preferable option was to use a website.**

Mr Morris explained there would have to be a web-mail box for those users lodging documents or an e-mail address.

The Chairman asked what would happen if the writ was not competent and if something would flag up cases which required to be dealt with urgently.

Mrs McKeand stated this would be significant in cases with a triennium.

The Committee agreed that in these circumstances the onus would have to be on the agent.

The Chairman suggested this would have to be stated in a rule.

Mr Morris advised that using a website would avoid having attachments that could not be opened.

The Committee agreed the aim should be to have interlocutors sent electronically.

The Chairman asked if productions could be sent electronically and Mr Morris advised how this could happen.

Mr Morris advised the Committee that court rooms can display productions electronically and that every sheriff court has this facility. At the moment it is centred on criminal business but does not need to be.

As an example the documents for the Piper Alpha Inquiry were scanned onto CD roms and those involved given a laptop to view them.

Mr McCormick stated that the Faculty of Advocates have the facility to lodge productions on CD rom.

The Chairman asked if the original would be required, should there be a rule to say if the document was not challenged within "x" days it would be treated as an original.

Mr Adams asked who would be liable for the cost of the scanning.

Mr Morris advised that the larger law firms normally store these documents on CD rom anyway.

Mr McCormick asked the position with certificates in family actions.

The Chairman could not see a problem in this regard.

Mrs McKeand suggested quite a lot of rules would have to be changed.

The Chairman suggested putting proposals to the Council and those would hopefully be approved. After that the Committee could wait and see how the commercial court works in the Court of Session. The need for consultation was also discussed.

Mrs McKeand suggested a general paper to the Council seeking approval of the proposals. The capability of the Scottish Court Service to manage system changes would need to be carefully considered.

Mrs Laing explained that in principle the management board of the Scottish Court Service would be in favour of this.

Mr Morris advised that it was workable operationally, but possibly rules would have to be changed to accommodate this.

Sheriff Fletcher stated that it may require changes to the law, particularly relating to evidence if electronic copies were to be received in lieu of originals.

The Chairman suggested the Committee could decide on changes to rules and substantive law as necessary.

Mrs Laing asked who would pay for all of this.

The Chairman explained the matter of costs was not an issue for the Committee. Electronic transmission would result in savings in the long term.

**Mr Morris explained money is available to the IT Unit to upgrade and enhance systems.**

**The Chairman agreed to prepare a paper on the general propositions for the Sheriff Court Rules Council meeting on 19 March 2004.**

**Mrs McKeand agreed to put together a project plan for the next meeting of the IT Committee.**

**The next meeting can involve drafting the consultation document if the proposition is approved.**

**The Committee agreed to hold the next meeting on Thursday 6 May 2004 at 10.30 am.**