

APPROVED

Minutes of Joint Meeting of Court of Session and Sheriff Court Rules Council IT Committees

Held within Parliament House, Edinburgh on 30 January 2008

1. Present

The Hon Lord Macphail (Joint Chair)
Sheriff Peebles QC (Joint Chair)
Scott Graham
Duncan Murray
Mike Wood
D Bruton
Steve McCourt
D Morris
G McKeand

Apologies

Sheriff Fletcher, R Cockburn, R Macpherson, P Cackette, Alan Johnston, Karen Stewart, Sian Warren

Scott Graham was welcomed to the joint meeting of both Committees, Scott now represented Thompsons instead of Danny Boyle.

2.Scottish Civil Courts Review

Lord Macphail informed the Joint Committee that reference was made to the joint committee in paragraphs 5.29-5.34 of the Lord Justice Clerk's report. Lord Macphail had spoken with the LJC and the review committee did not have sufficient resources at their disposal to look at the use of IT and accordingly he was content to leave it up to the Joint Committees to make recommendations at a later stage. Sheriff Peebles was of the view that the CJRT should be encouraged to be positive about the use of IT when making representations to ministers. It was agreed that Lord Macphail would submit a revised report to the Civil Justice Review Team at the end of March 2008. Sheriff Peebles agreed to draft same and forward it to Lord Macphail who would circulate it to committee members for comment.

3. Business case update

Mrs McKeand informed the Joint Committee that a high line statement of requirement for an e transmission system had been prepared and this was currently out for an estimate of costs. Once these estimates had been received she would be in a position to finalise the business case. It was hoped that such a system would be operational by the end of 2008. A payment on line system was also being procured and this would be available for use in relation to Fines payment and some fees by the end of this financial year.

4. Further discussion and recommendations

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4.1 Large users of the small claims and summary cause courts had been consulted regarding the possible use of a “virtual court”. Mrs McKeand observed that the Money Claims on line system in England and Wales served documents. Sheriff Clerks currently serve summonses for party litigants. If Sheriff Clerks were able to do so this for all parties who used the virtual court this would achieve a saving for the paying client. The Joint Committees agreed to lend their support to a proposal that Sheriff Clerks should be authorised to serve small claims summonses and summary causes and that **this proposal should now go forward for consideration and necessary approval by the Sheriff Court Rules Council at their next meeting.** The Joint Committees noted that if this proposal was approved, consideration would have to be given to the possibility of a centralised automated service being the way forward but appreciated that further consultation on this issue would be required, particularly with solicitors, messengers-at-arms and sheriff officers. The question of electronic service would also require to be revisited.

4.2 Rules 25.1(2) and 35.1(2) of the Small Claims and Summary Cause Rules respectively, currently restrict the use of e transmission of documents. The Joint Committees recommended this restriction should either be revisited or removed. **This matter should now go forward for consideration and by the Sheriff Court Rules Council at their next meeting.**

4.3 Rule 4.4 of each of the small claims and summary cause rules requires authentication of a summons by the sheriff clerk as a precursor to service on the defender. The Joint Committees expressed their support for this necessity being reviewed by the SCRC. **The issue should now be raised with the SCRC with a view to them considering if the allocation of a court number and the return and calling dates would suffice as an appropriate form of authentication.**

4.3 Rule 5.1 of each of the Small Claims and Summary Cause Rules requires a register of small claims and summary causes to be maintained and sub paragraph 4 of these rules requires the respective registers to be authenticated by the sheriff. The Joint Committees recommended that the need for such authentications should be reviewed. **This recommendation should now go forward for consideration and necessary approval by the Sheriff Court Rules Council at their next meeting.**

4.5 Currently all principal documentary productions are lodged in courts in hard copy. The Joint Committees agreed that there was scope for productions to be lodged electronically and questioned whether or not there should a Rule of Court introduced to allow this. Consideration would have to be given as to, and in what circumstances, electronic production of documents would be cost effective. The format would require to be agreed and there would also be issues regarding presentation. To take this matter forward it was agreed that Sheriff Peebles would approach the Sheriff Principal Taylor and Donald Bruton would approach Lord Glennie, Principal Commercial Judge, to see whether or not the lodging of productions in CD Rom could be “test bedded” in both commercial jurisdictions.

5. AOB

Membership of the committee.

The Joint Committees noted that Sheriff Peebles was no longer a member of the Sheriff Court Rules Council and it was considered, that if in agreement, the SCRC should use their powers to co-opt him onto their IT Committee and that thus his membership and joint chairmanship of the Joint Committees could continue. It was noted that his replacement on the SCRC had not yet been

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formally announced. Mr McCourt agreed to raise this matter at the next meeting of the SCRC.

Mr Bruton supplied an update as to the use of video links in the Court of Session.

6. Date of next meeting

No date was fixed, a meeting would be called as necessary