

## **ADVISORY COUNCIL ON MESSENGERS-AT-ARMS AND SHERIFF OFFICERS**

**Meeting – 11 December 2017, 2.15pm at Parliament House, Edinburgh**

### **Present**

The Hon. Lady Wolffe (Chair)  
The Right Hon. the Lord Lyon (Dr Joseph Morrow)  
Sheriff Principal Murray  
Sheriff Principal Turnbull  
Mr Roderick Macpherson – Officer of Court  
Mr Stuart Hamilton – Officer of Court  
Mr Walter Drummond-Murray – Scottish Government  
Ms Pauline Allan- Citizens Advice Scotland  
Ms Yvonne MacDermid - Money Advice Scotland  
Mr Frank McConnell, solicitor  
Ms Rachel Grant, solicitor

### **Secretariat**

Mr Roddy Flinn - Legal Secretary to the Lord President  
Mr Edward McHugh – Deputy Legal Secretary to the Lord President

### **Apologies**

Ms Eileen Blackburn, CA

### **Item 1: Welcome**

1. The Chair welcomed members to the meeting.

### **Item 2: Minutes of the meeting on 3 October 2016 and matters arising**

2. The 3<sup>rd</sup> October 2016 meeting minutes were approved. Mr Macpherson proposed that the draft minutes of the December 2017 meeting should be approved by correspondence. The Council agreed with that proposal.
3. Matters arising. The Council noted that:
  - Scottish Civil Justice Council (“SCJC”) received a request from SMASO regarding an amendment to court rules about proof of delivery. The SCJC decided not to progress

it at this stage as the issue of service of court documents is to be looked at as a whole under the ongoing work of the Rules Rewrite Project.

- the changes to advertising requirement when applying for commission as a sheriff officer have been made and the relevant instrument (SSI 2017/240) came into force on 2 October 2017
- Eileen Blackburn has been appointed as the CA member of the Council.

### **Item 3: SMASO Memorandum**

4. The Council considered paper 2 (SMASO memorandum) and paper 3 (LPPO comments on retirement age of messengers-at-arms).

5. So far as the SMASO memorandum was concerned Mr Macpherson informed the Council that he had been advised that the general review of Sheriff Officers fees by the Cost and Funding Committee of the SCJC was due to commence in 2018. Mr. Macpherson, in response to a question from Sheriff Principal Murray about the memorandum's paragraph about CPD, stated that there had, for the first time, been 100% compliance from the sheriff officers in returning satisfactory CPD records this year; however, he regretted that the Society's website was not yet issuing receipts of completed CPD returns. Mr Macpherson informed the Council that SMASO had commissioned a briefing from solicitors on the General Data Protection Regulation, for the benefit of their members.

6. The Council considered issues around commissions of messengers-at-arms which contain a condition that the office is to become vacant when the messenger reaches the age of 70. Members noted that a messenger who continued to practice after 70, without a valid commission, would be exposed to significant personal and professional liabilities. The Lord Lyon informed the Council that he would liaise with SMASO to work on a communication to SMASO's members alerting them to

the fact that messengers whose commissions expired at age 70 and who wished to continue working would as matters stood require to apply for readmission as messengers. Members agreed that, given the high proportion of messengers who held such a commission, a long term solution should be sought. They agreed that this was an issue for the Lord Lyon to resolve. The Lord Lyon indicated he would take advice on the options. The Chair commented that finding a comprehensive solution may not be straightforward.

#### **Item 4: Scottish Government Update**

7. Mr Drummond-Murray informed the Council that the Civil Litigation Funding Bill and the Damages Bill are progressing through Parliament. He confirmed Simple Procedure commenced, for the first tranche of court actions, in November 2016. The Accountant in Bankruptcy plans to publish the consultation responses to the diligence review by the end of 2017. Diligence statistics are due to be published by the AiB on 20 December 2017.

#### **Item 5: AOCB**

8. The Council secretariat was contacted by the Public Records (Scotland) Act 2011 Assessment Team at the National Records of Scotland (NRS). That team is looking into whether any eligible public authorities not currently on the Schedule to the 2011 Act should be added. ACAMSO is a body which is being assessed for inclusion. This is for information at present as NRS have not confirmed that ACMASO is to be added to the schedule.

9. Mr McConnell informed the Council that he was submitting his resignation as member. The Chair thanked Mr McConnell on behalf of the Council for his valuable contribution during the years of his membership.

10. Once they are identified, the secretariat will intimate dates for the proposed meetings in spring and autumn 2018.