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SHERIFF COURT RULES COUNCIL

Consultation Paper

on proposals for further extension
of the use of information technology
in civil cases in the sheriff court.

**Response From
AMA Consultancy
November 2004**

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Respondent information

AMA Consultancy specialises in socio-legal research. Most of the work we carry out involves looking at court procedures and court records to assess changes to current legislation or proposed changes. The company has conducted research in the following Scottish Sheriff Courts:

- Cupar
- Dingwall
- Dunfermline
- Edinburgh
- Falkirk
- Glasgow
- Inverness
- Linlithgow
- Dumfries
- Dundee

Research has included scrutiny of court records, analyses of court procedures, interviews with court officials, sheriffs, solicitors and parties to court actions.

Court records form an important part of analysis. Both the Scottish Courts Management System and paper records form our main data sources in court research. Information is generally sought from paper and electronic records and recorded for further analysis.

Based on our court experience our responses are as follows.

Recommendation 3

The system should be operated by use of a website that provides positive confirmation of receipt.

- 3.1 We agree with the option of using a website.
- 3.2 The likely advantages may well include structured submission of information which would enable more efficient searches of cases to be carried out. These advantages are discussed in more detail below.
- 3.3 In general the limitations of electronic recording of information in court records and the non-standardised information contained in paper and electronic records can both limit the scope of research that can be readily carried out and can increase the time it takes to conduct research, incurring extra costs centrally and creating greater inconvenience to court staff. Such limitations may well hamper the ability to assess fully, access to justice.
- 3.4 The electronic Court Management System (CMS) database has been developed over time to suit the needs of the courts. It is a powerful administrative tool but has not been designed with research purposes in mind. Currently there are around 450 fields in the database. Courts may well have developed their data keeping to suit their particular needs and perhaps to mirror how their ledger records were once kept. The databases has been described as “burdensome” by court staff.

Within the hierarchy of the CMS database there are Action Types, such as Family Actions and Ordinary Actions, which are subsequently divided into Case Types. Where exactly a particular court case is held in the database depends on the current practice in each court. An understanding of where particular types of action may be held within the database is necessary for research.

Recording of Craves

The practice of recording craves in CMS and the manner of recording craves can hamper case searches.

The practice of recording craves in CMS differs between courts. Some courts records all craves to an action while others record the main crave. Some courts may only record the first crave and note that there are further craves, using a crave description such as “divorce & others”. In these courts, more time is required for manually searching through paper records for Initial Writ confirmation.

There is an area within Case Type where craves can be recorded in a comments-type field. Some courts record in this area every crave in the Initial Writ. There is adequate room to do this - around 2000 characters – and this can be very useful for subsequent analysis. For example, this field can be examined in printouts from the database, where cases with a specific crave are being sought, to select records.

Inputting of information

It is possible to search for cases using free text in CMS. However searches of this type require information to be systematically input from the Initial Writ and spelling mistakes avoided. It is our experience that there is no standardised inputting of information to CMS which reduces the efficiency of this search technique. A simple word such as “divorce” may be spelt in a variety of ways, none of which would confuse a human observer of the record but all of which would fail to be found in a computer search for that keyword.

It would be very helpful for researchers if all craves were recorded from Initial Writs in a consistent way. The possibility of using numeric fields to indicate craves rather than a text field may well improve efficiency. A compromise might be reached by leaving the database unaltered but asking all courts to have all the craves in an initial writ systematically recorded in the crave section of CMS. The suggestion made by some court staff that the search facility within the crave section actually under-records the number of cases could be tested and any necessary corrections made.

What is of tremendous help, however, is the ability of the database to record cases disposed within a particular timeframe. The computerised search method allows accurate identification of cases so that a true cross section of cases can be examined.

There are no mechanisms which currently exists in CMS to store information relating to particular topics such as domestic abuse, children, ethnicity, and such like, all of which would be expected of a modern and forward –looking electronic system.

Recommendation 5

The electronic system should be operated by the Scottish Court in parallel with a paper system for a period of 2 years...

5.1 We agree with the principle

5.2 Parallel systems would allow access for researchers of paper case records while these were “out” with solicitors - sometimes for periods of time.

5.4 Eighteen months to two years to allow a bedding in period, assessing the practices of individual courts, ironing out electronic difficulties, training and operating new systems and testing.

Recommendation 7

Consideration should be given to the provision of other facilities such as parties being able to view cases on line.

7.1 The names of parties, type of action, date of next hearing.

7.2 Could there be a tiered access system whereby general access will have limited information such as the above? More detailed information could be gained through the use of commercial security IDs and more complex logging on procedures. Though the latter may well benefit some parties more than most.

7.3 First access could well relate to an automatic electronic response built around Frequently Asked Questions (possibly some research needed on this) and minimal information. This could include the above information in 7.1 alongside date and time of next court appearance, motions made, interim decisions, sheriff hearing the case, court room assigned, special services required – language, physical access, hearing loop etc.

7.4 In general it is our impression that parties want to know what is happening when and what is required of them. Many seem to want to know the most basic of information – where to sit, where to put their coat, if there is a lift, how long will they have to wait and where will they wait.

All responses may be quoted.

Ann McGuckin

11 November 2004