



## Response

to the Sheriff Court Rules Council Consultation Paper on proposals for further extension of the use of information technology in civil cases in the sheriff court.

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## Questions and responses

### 1 Electronic transmission, lodging and storage of documents

Question	Response
1.1 Do you consider this proposal to be a step in the right direction?	Yes.
1.2 What would the advantages be?	<p>Speed and efficiency improvements. Court actions would be faster from beginning to end.</p> <p>Cost savings. The proposal would reduce litigation costs.</p> <p>Less paper. The proposal would make it easier to work towards a paper-free office.</p> <p>Certainty and security. Electronic transmission is more secure and certain than the traditional post, DX and Legal Post.</p> <p>Increased access to justice. All the advantages would translate into making the courts and court system more accessible to the public.</p>
1.3 What would the disadvantages be?	None
1.4 What impact do you think this proposal would have on the litigant?	<p>Litigants should benefit from the advantages shown in our answer to 1.2.</p> <p>Also, litigants may feel more comfortable with a court system embracing the ways of the wired world we live in. In other words, this should improve the way litigants see our courts and court system.</p>
1.5 Do you have any general comments to make?	It is unfortunate – some would say short-sighted – there’s no proposal to deal with electronic storage of productions. The technology to do this is widely available. Very few cases involve large or bulky productions and these are already treated in a different way procedurally.

## 2 Electronic transmission of interlocutors

Question	Response
2.1 Do you consider this proposal to be a step in the right direction?	Yes.
2.2 What would the advantages be?	Speed and efficiency improvements.  Cost savings.  Less paper.  Certainty and security.  [For more, see the answer to question 1.2]
2.3 What would the disadvantages be?	None.
2.4 What impact do you think this proposal would have on the litigant?	Same answer as for question 1.4.
2.5 Do you have any general comments to make?	None.

### 3 A website based system

Question	Response
3.1 Do you agree with the option of using a website?	Yes
3.2 Do you have any comments on any advantages ?	The automatic generation of a receipt would be a great help in keeping litigants (clients) up to date with progress on cases. For example, we would be able to add a function to our case management software which automatically (i) tracked the receipt and (ii) instantly updated our client. So our clients would always know the exact up to date position with the litigation with virtually no delay in getting the message to them.
3.3 Do you any comments on any disadvantages?	<p>One possible disadvantage would be that a single site would be an obvious high profile attack for hackers or cyber criminals. For example, an effective DoS* assault would bring the court system to a halt. So the main disadvantage is that there would need to be the highest standards of security and contingency planning.</p> <p>*DoS = denial of service. Typically an attack on a web site by trying to drown it in more traffic than the site can handle.</p>
3.4 Do you have any general comments to make?	For the best delivery of this service it will not be good enough to involve experts in technology and separate experts in litigation and separate experts in volume processes. Instead, we believe you will need to involve those who have true multi-capability practical expertise in all these areas. To put it another way, you need to get input from those who really know about how everything works together. You will not be surprised if we say that we believe we can help you with this and we say more about that at the end of this Response.

**4 Pilot scheme then universal introduction**

<b>Question</b>	<b>Response</b>
4.1 Do you agree that the system should be introduced across the whole of Scotland?	Yes
4.2 Do you have any comments on any advantages?	Consistency. It surely must be better to have the same system operating in all the courts. Apart from anything else, for example, litigants and practitioners in rural areas have as much to gain, if not more. So restricting the use of the scheme would not be good.
4.3 Do you have any comments on any disadvantages?	None. The only disadvantages would be if the system were not to be introduced across the whole of the country.
4.4 Do you have any general comments to make?	Given our answers to the next question (about running parallel paper systems) we are unsure about a "short" pilot scheme. It would be better to run the pilot scheme for longer and reduce the time during which there were a parallel paper system.

**5 Parallel paper systems**

<b>Question</b>	<b>Response</b>
5.1 Do you agree with using parallel systems initially?	No. If the pilot scheme is good enough there is no need for a parallel paper system.
5.2 Do you have any comments on any advantages?	The only advantages would be to catch any shortcomings in the pilot scheme. As we have already said, we prefer and recommend a longer pilot scheme to highlight all the issues before universal application.
5.3 Do you have any comments on any disadvantages?	A parallel paper system – after the pilot - would be a waste of time and money.
5.4 What period of time would you suggest?	None. [See answer to 5.1.] But, if absolutely necessary and unavoidable the time period should certainly not be longer than 1 year.

Question	Response
<p>5.5 What should the exceptional circumstances be?</p>	<p>One obvious exceptional circumstance would be if the system suffered a lasting meltdown for whatever reason.</p> <p>Another exceptional circumstance would be in a case where a party litigant was unable – for any reason – to access the internet and the court system.</p> <p>We agree with your statement that party litigants should not be required to use the electronic system but we firmly believe that they should be able to do so if they wish. Indeed, we believe the default position should be that they will use it unless they otherwise request.</p> <p>However:</p> <ul style="list-style-type: none"> <li>● This should not be an automatic right but should be on (personal!) application to the court and only if thought fit by the Sheriff.</li> <li>● There may require to be public funds made available – perhaps a special category of legal aid – so such party litigants would have access to the internet and the court system.</li> <li>● There should be a deadline by which this right must be asserted after which the right to apply would fall.</li> <li>● Under no circumstances should a lawyer be able to opt out of the system.</li> </ul>
<p>5.6 Do you have any general comments to make?</p>	<p>None.</p>

## 6 Removing the need for a manual signature

Question	Response
6.1 Do you agree with this proposal?	Yes
6.2 What do you see as advantages?	Improved efficiency and convenience. It would help the other modernisations in the proposal and lay the foundation for future computerisation of the courts and court system.
6.3 What do you see as disadvantages?	None.
6.4 Do you have any general comments to make?	The system should ensure every solicitor in Scotland has his own unique electronic signature. For the future every solicitor should have his electronic signature set up when admitted to practice.
6.5 Can you highlight any areas of primary or subordinate legislation that will require to be altered in order to achieve this intention?	Sheriff Courts (Scotland) Act 1971

## 7 Viewing cases online

Question	Response
<p>7.1 What information should be displayed?</p>	<p>Preferably all information that would be available by, today, examining the process at the Sheriff Clerk's office.</p> <p>If that is not possible or feasible, at the very least this information should be available:</p> <ul style="list-style-type: none"> <li>● Case number</li> <li>● Full names and designation of all the parties to the action.</li> <li>● Name, address, contact details and reference of the solicitor for each party.</li> <li>● The pleadings.</li> <li>● The date the case was warranted and of all hearings – including future hearings.</li> <li>● Interlocutors.</li> </ul>
<p>7.2 What degree of security do you think is required to protect individual parties' interests?</p>	<p>A username and password should be sufficient. This should be personal to every solicitor [see answer to 6.4] rather than every firm.</p>
<p>7.3 Any other general comments?</p>	<p>No.</p>

## 8 Summary cause and small claim virtual court

Question	Response
8.1 Do you consider this proposal to be a step in the right direction?	Yes.
8.2 What would any advantages be?	<p>Speed and efficiency improvements. Court actions would be faster from beginning to end.</p> <p>Cost savings. The proposal would reduce litigation costs.</p> <p>Less paper. The proposal would make it easier to work towards a paper-free office.</p> <p>Certainty and security. Electronic transmission is more secure and certain than the traditional post, DX and Legal Post.</p> <p>Increased access to justice. All of the advantages would translate into making the courts and court system more accessible to the public.</p>
8.3 What would any disadvantages be?	None.
8.4 What impact do you think this proposal would have on the litigant?	It should make litigants think more favourably towards the court system believing it be more modern and forward thinking. If properly resourced the improvements in speed and efficiency should create some pride in the facility, too.
8.5 Do you have any general comments to make?	We have considerable experience of a virtual court being extensive users for some time of the English virtual court system. That is a good system. But we would hope the opportunity, here, to start with a clean sheet of [virtual!] paper would mean Scotland could get an even better system by learning from that experience.

**9 Summary cause and small claims service by Sheriff Clerk**

Question	Response
9.1 Do you consider this proposal to be a step in the right direction?	Yes.
9.2 What would the advantages be?	Provided the Sheriff Clerk is given the right resources and support, these actions should be served more quickly after being raised. And there would be no chance of the papers being lost between court and any outside office.
9.3 What would the disadvantages be?	More work for the Sheriff Clerk. Also, pursuers would be relying on the Sheriff Clerk to quickly effect service and deal with returned citations.
9.4 What impact do you think this proposal would have on the litigant?	Beyond the general advantages given, none.
9.5 Do you have any general comments to make?	This proposal should, simultaneously, be extended to ordinary court payment actions.

**10 Changes in legislation**

<b>Question</b>	<b>Response</b>
10.1 Do you have any suggestions on where changes should be made?	None other than that already stated.

## **11 Other comments and suggestions**

### Email address

We believe the proposal would need every firm in Scotland to have and maintain one email address for official service and notices. This address should probably be available from the anticipated court service website as well as being generally well published. [However, firms will at the very least need to make sure they have the best spam filters available!]

### Available information

We believe the relevant bodies should also be looking at the potential for using the data held in a more electronic civil court and exploiting this as appropriate. For example, it should be possible to impose service standards on solicitors for adhering to the rules which could then be measured and the results published. It should also be possible to measure the efficiency of each court in processing cases, sheriffs in making judgements and so on. Further, there may be opportunities for sale of the information to businesses or others interested in analysing this or for onward sale.



## **12 Response status**

We are interested in these proposals as solicitors and business people. We are the number 1 rated firm for debt recovery in Scotland. [Source: [www.legal500.com](http://www.legal500.com)] We also have one of the largest insurance litigation practices in Scotland. Together, we are sure these departments make us one of the largest users of civil courts in Scotland.

As we have said, we are already users of the English virtual court system, having opened an office in Manchester last year. Within that time, we have issued thousands of applications to the virtual court.

Moreover, we are generally recognised as being the firm leading the way in the integration of legal services and technology. This year alone we were awarded Innovation and Technology Firm of the Year at the Scottish Legal Awards and Best Use of IT at the Law Awards of Scotland.

We have our own in-house designed and maintained case management software. We, probably uniquely, have our own computer programmers whose full time job is writing software for the continual development of our case management and other custom-made information technology services.

We would very much welcome the opportunity to work with you to develop your recommendations into practical applications.