

**MINUTES OF MEETING OF THE CRIMINAL COURTS RULES COUNCIL  
IN PERSON AND VIA WEBEX WEDNESDAY 11 FEBRUARY 2026**

- Present:** Lord Justice Clerk (Chair)  
Lord Matthews  
Frances McMenamin KC  
Stuart Munro  
Ian Dickson  
Sheriff Iain Fleming  
Sheriff Paul Brown  
Kate Wallace  
Lord Mullholland  
Richard Goddard KC  
Sheriff Ian Cruickshank  
Dr Gabrielle Watson  
Andrew Laing
- In attendance:** Zach Conway in place of the Clerk of Justiciary  
Lisa McCloy, SG  
Gulnar Mehmood, SCTS  
Megan Anderson (LPPO) - Observer  
Laura Tait (LPPO) - Observer
- Secretariat:** Elaine McHugh (LPPO)  
Edward McHugh (LPPO)  
Esther Tatton (LPPO)

**Apologies:** Anna Donald  
Wendy Robertson  
Michael Gallen  
Laura Buchan

**Item 1: Welcome and apologies**

1. The Chair welcomed Members and noted apologies.
2. The Chair welcomed Richard Goddard KC to his first meeting.

**Item 2: Minutes and matters arising [Paper 1].**

3. At the last meeting Anna Donald confirmed that the rule-making power for the Sexual Offences Court is retained by the High Court and that the Scottish Government only envisage section 55 of the Victims, Witnesses and Justice Reform (Scotland) Act 2025 being used for matters out with the powers of the High Court. The Chair updated the Council that Anna Donald had confirmed that position in writing on behalf of the Scottish Government.
4. At the last meeting the Council asked LPPO to draft an Act of Adjournment amending rules in relation to notification of reporting restrictions. The Chair updated the Council that an SSI addressing that matter, and a subsequent matter about sexual offence notification requirements, had been approved by correspondence. The instrument was made on 15th January 2026 as S.S.I. 2026/11. It comes into force on 21st February 2026.
5. The minutes of the meeting of 8 October 2025 were approved, and it was agreed that papers 2-7 were to be treated as private.

**Item 3: Scottish Government update [Paper 2 – private]**

6. Lisa McCloy updated the Council on behalf of the Scottish Government, highlighting various pieces of legislation which may impact on the work of the Council.

**Item 4: Draft Act of Adjournal for approval: Affirmations and Oaths [Papers 4, 4A, 4B and 4C – private].**

7. Members considered the draft Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Affirmations and Oaths) 2026 and discussed points arising.
8. There was discussion about whether the Judge or the clerk should swear in a communication supporter for jurors. The Council agreed that the Judge ought to swear in a communication supporter and that the instrument should be amended to reflect that.
9. The instrument was approved by Members in principle, subject to the aforementioned amendment and two stylistic changes.

**Item 5: Rules Request: Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025 [Paper 6 private].**

10. Members discussed the request for rules in relation to three provisions of the Criminal Justice Modernisation and Abusive Behaviour Reviews (Scotland) Act 2025. Members agreed that rules should be drafted in relation to section 5 and section 7 of the Act.

11. Members discussed section 11 of the Act and whether it was necessary to create rules and forms to govern the procedure in relation to amendment of the indictment. There was consensus among Members that introducing forms could bring some rigour and precision to the procedure. Kate Wallace commented that this could also ensure clarity for witnesses involved.
12. To aid the Council's decision making, the Council asked LPPO to draft potential rules and forms for consideration at the next meeting.

**Item 6: Rules Request: Female Genital Mutilation (Protection and Guidance) (Scotland) Act 2020 [Paper 7 and 7A - private].**

13. The Council discussed the rules request contained in Paper 7. Members considered whether rules were necessary to give effect to the legislation and whether it would be proportionate to make rules at this stage.
14. The Council decided that it was not necessary to progress the rules request.

**Item 7: Scottish Government Discussion Paper: Review of Communications to Witnesses and Victims [Paper 3 and 3A]**

15. The Council considered Paper 3 and discussed matters arising. It was agreed that Scottish Government would discuss how to progress matters with LPPO. There were no action points arising for the Council at this time.

**Item 8: SG Discussion Paper: Commencement of Section 16 of the Children (Care and Justice) (Scotland) Act 2024 [Paper 5 and 5A - private].**

16. The Council discussed the points raised in paper 5.
17. The Council discussed that there may be an issue regarding social workers being excluded from closed court rooms. It was noted that admission to a closed court is a judicial decision. Members discussed how this issue might best be addressed, including whether training or a practice note would be useful.
18. It was noted that Paper 5 did not contain a rules request but that views may be forming on whether they are required. It was agreed that Scottish Government would take this matter back to the working group to consider whether they wished to submit a rules request to the Council.

**Item 9: AOB**

19. The Chair noted that this was the first afternoon meeting of the Council and that attendance was at its highest since he had become Chair. Meetings will continue to take place at 4:15 pm.

**Item 10: Date of next meeting**

20. The next meeting is due to take place on 26 May 2026.