

CHARLES
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CASE MANAGEMENT



QUESTIONS

- What is it ?
- Is it desirable ?
- How does it work ?
- Will we get more ?
- What if we don't like it ?

SCOTTISH CIVIL COURTS REVIEW

- Report in 2009 – Chapter 5 – A new case management model.
- Delay
- Expense
- Resources
- Proportionality
- Fairness

PROPOSALS

Court should control the conduct and pace of all cases.

One single model of case management not appropriate.

Active judicial OR case flow.

A docket system.

An early case management hearing – by appointment and by electronic means.

Judicial continuity.

Specialised judges for particular types of case.

MODELS OF CASE MANAGEMENT

Active case
management.

Case Flow
management

Hybrid
models.

COMMERCIAL ACTIONS

ACTIVE CASE MANAGEMENT

- Chapter 47 RCS.
- Chapter 40 OCR.
- Different structures.
- Practice Notes.
- Slightly different specific powers re proofs.

PERSONAL INJURY ACTIONS

CASE FLOW

- Chapter 43 RCS
- Chapter 36 OCR

Only difference is information about the likely duration of proof.

CERTAIN PI ACTIONS

ACTIVE CASE MANAGEMENT

“likely complexity...efficient determination...”

- Chapter 42A RCS ;
- Chapter 36A OCR.

- Case Management hearing / Procedural Hearing: 22 specific matters about which orders can be made...
- Plus – “ *such orders as necessary to secure the efficient determination of the action.*”

FAMILY ACTIONS

- Child Welfare Hearing gives power to make any procedural order.
- Report to SCJC in October 2018 on Case management of such actions.
- 13 recommendations.
- New case management structure for all family actions and greater judicial control over proceedings.
- Proposals include an Initial Case Management Hearing (ICMH) and a Full Case Management Hearing (FCMH). Also a pre hearing meeting.
- October 2021 - rules being drafted.
- 95% of family actions originate in the Sheriff Court.

SIMPLE PROCEDURE

- Case Management Discussion is an option – SPR 7.7

In a court room - by video – conference call – or any other form or location.

Should comply with the principles of simple procedure Rule 1.2.

ORDINARY ACTIONS

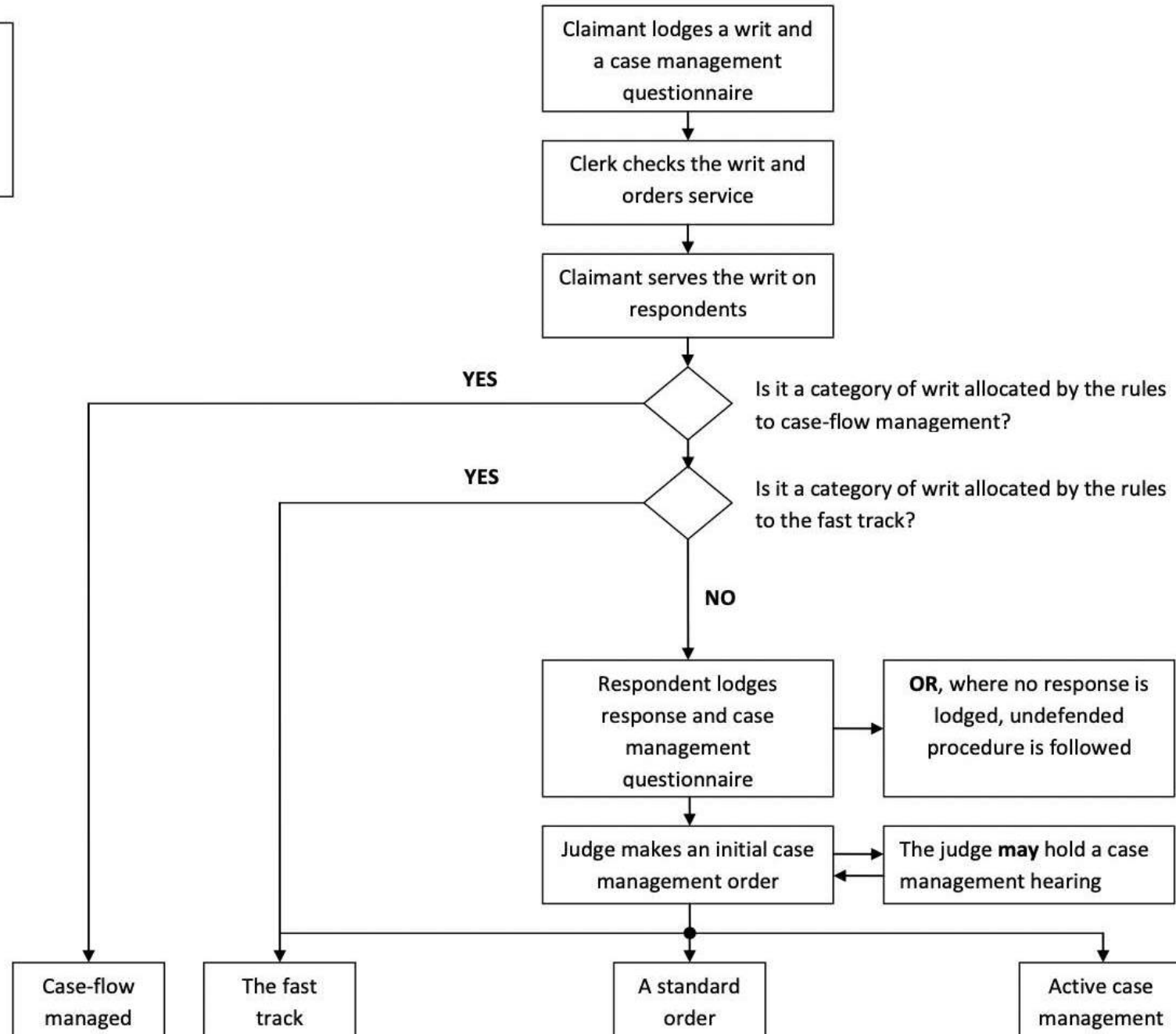
- Case Flow i.e. Form G 5 dates.
- Active Case management - Options Hearing.
- Alternatives ?
- The Glasgow Covid model – Rule 9.2A of OCR.

SCJC REPORT

- The Rules Rewrite Project
- MAY 2017 “The New Civil Procedure Rules – First Report”. - 80+ pages.
- Statement of principle.
- Initial case management.
- Case Management powers.
- Management of Evidence.

A CASE MANAGEMENT MODEL FOR ORDINARY PROCEDURE IN THE COURT OF SESSION AND SHERIFF COURT

Note: no decisions have been taken about terminology. This table uses 'claimant' for the party bringing the action, 'respondent' for all other parties, and 'judge' for the Lord Ordinary or sheriff.



CASES SO FAR

- Logan v Johnstone [2013] CSOH 109 Chapter 42A
- AH v GGHB and Johnson & Johnson Medical Ltd [2018] CSOH 57
- Chalmers v Diageo Scotland Ltd. [2019] CSOH 63
- SA v PA 2020 CSIH 24
- Dickson v Dumfries and Galloway NHS Health Board [2021] SAC (Civ) 26
- Jackson v Hughes Dowdall [2008] CSIH 41.

ONTARIO CANADA - RULES

- A judge or a “case management master”.
- Of consent or by party’s motion or by court order.
- Only in proceedings for which a need for the court’s intervention is demonstrated and only to the degree appropriate per certain criteria.
- Criteria include :-
 - Complexity
 - Public importance
 - Parties and representation
 - Number of witnesses
 - Time for trial
 - If there has been substantial delay in the conduct of proceedings

ONTARIO CANADA

GENERAL PRINCIPLES

1. The “*greater share of the responsibility for managing the proceeding and moving it expeditiously to trial ...remains with the parties.*”
2. The case management “*shall be informed by any relevant practices, traditions, customs or judicial resource issues that apply locally in the region...*”