**DRAFT Minutes of Meeting**

WebEx at Edinburgh Sheriff Court held a meeting of the Edinburgh Sheriff Court Personal Injury Users Group on **23 May 2023 at 4.15pm**

Present:

Sheriff Fife, Chair

Sheriff Campbell KC

Sheriff Dickson

Sheriff Mundy

Morag Shepherd, NHS Central Legal Office

Gordon Tolland, SLAB

Kate Bennett, Advocate

Eoin Quinn, Keoghs

Simon Hammond, Digby Brown

Catherine Currie, BTO

Peter Crooks, Lanarkshire Accident Law

Bruce Shields, Thompsons Law

Stephanie Watson, Thornton’s Law

Rachel Henry,

Craig Anderson, Court of Session PIUG member

Dave Young, Senior Executive Officer, Edinburgh Sheriff and Justice of the Peace Court

Daniel Malloy, PI Clerk

Naomi Porter, PI Clerk

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| **1.**  **2.**  **3.**  **4.**  **5**      6.  7.  8.  9.  10.  11. | **Apologies**  Fiona Pryke, Andrew Lothian and Sheriff Keir  **Minutes of Previous Meeting**  No amendments were proposed. The minutes were approved.  **Matters Arising from Minutes not otherwise on the Agenda**  No matters  **Stats between January 2023 and March 2023**  Writs warranted – 1108  Motions lodged – 2939  Opposed motions lodged – 297  Proofs/PBAs/debates proceeded – 13  Proofs discharged due to lack of court time – 3  Sheriff Fife noted the stats are broadly consistent month on month. There was not much change from the last period (between August 2022 and December 2022).  Proof Business: proofs continue to run on average at 1 per week.  Sheriff Fife had signed over 70 interlocutors today. The motions team is running with a full complement of staff and are currently about 3 days behind. We are close to where we would expect to be with a full complement of the motions team.  The stats continue to be low for proofs being discharged due to lack of court time.  **Civil Online Update**  Sheriff Fife advised that a new Civil Online will be launched on 31 May 2023. ASSPIC users will be able to submit files up to 50 MB via the portal. This should encourage the lodging of electronic joint bundles for proofs via Civil Online.  Sheriff Fife reminded users that electronic joint bundles should be lodged as a single PDF with a hyperlinked index. Any authorities for motions, proofs or otherwise must have relevant passages highlighted.  It is highly likely Civil Online will replace Objective Connect in the longer term. Case tracking is currently being developed for all Ordinary actions in the sheriff court, including ASSPIC. It is hoped this will be delivered before the end of 2023. Case tracking will allow agents to view and download all documents submitted with the court, including all interlocutors.  In early 2024, Civil Online is expected to allow the submission of initial writs + supporting documents (e.g. specifications of documents) and notices of intention to defend in pdf format. ASSPIC would be the first court to trial this development.  Simon Hammond said he had attended a few meetings with the Civil Lab and the prototype looked positive.  **Motions and Opposed motions**  **Spec of Docs furth of Scotland**  Sheriff Fife commented it is the view of the PI sheriffs that if a specification of documents has a party furth of Scotland, the sheriffs are not able to grant an order. This is not a question of jurisdiction. It is a matter of an order being made that is enforceable.  Sheriff Fife explained this was raised with the Court of Session some time ago. Lord Armstong confirmed that was the position adopted in the Court of Session.  Peter Crooks asked if a defender were designed as having a registered office in England, but having a place of business in Scotland would the spec be considered. Sheriff Fife confirmed he would be would be happy to accept this.  **Hearings – delay/increased slots/early hearings**  ASSPIC are currently working on a loading of 15 opposed motions each procedural court. The period for an opposed motion hearing being assigned has now extended to approximately 6 weeks. That is too long. Sheriff Fife encouraged agents to try to reach agreement in respect of opposed motions quicker as this would free up more opposed motion slots.  There would be additional opposed motion courts on Friday 26 May 2023 and Friday 2 June 2023. Sheriff Fife said it was his intention to reduce the period for an opposed motion hearings to 3/4 weeks as soon as possible.  Earlier hearings could be assigned if the court is requested and any opposed motion hearing can be allocated at short notice.  It has been agreed in ASSPIC to keep the loading of opposed motions under review and increase loadings where necessary.  **Proofs**  ***Ex Tempore* Judgments**  PI sheriffs would continue to issue *ex tempore* judgments where they can. This is to the benefit of all parties. It is unrealistic for a sheriff to deliver an *ex tempore* judgment within half an hour or so of submissions concluding.  There is consensus among the PI sheriffs that the hearing on submissions be continued for a relatively short period. This is to give the sheriff an opportunity to consider the submissions, review the evidence and determine if any questions arise, with the intention of delivering an *ex tempore* judgment at the continued hearing on submissions.  As proofs continue to run at 1 per week, it is unsustainable to take every case to avizandum!  **QOCS**  **Expenses motions**  More QOCS motions are being heard in ASSPIC. There are complexities with some of these motions. Further decisions are likely to be published in due course.  Sheriff Fife indicated there is to be a 5-year review of the 2018 Act in 2023. There will be consultation with all stakeholders.  **Auditor’s fee (Stephanie Watson)**  Stephanie Watson (SW) highlighted the issue of apportionment of the auditor’s fee in relation to taxation of QOCS accounts. The auditor’s practice had not been revised in light of QOCS. This can leave the pursuer with an unrecoverable expense at the end of the action.  SW asked the group for views on whether or not this is a justifiable approach by the Auditor in QOCS cases or if any of the group has considered a note of objections. Sheriff Fife said he was not aware of any note of objections being lodged. Sheriff Campbell KC said a note of objections would be the only way to bring this issue into focus.  **Procedural Court**  No matters arisen  **AOCB**  **PIUG Court of Session**  Sheriff Fife said at the last Court of Session PIUG meeting it had been agreed a member of Court of Session PIUG would be welcome to attend these meetings.  Craig Anderson (CA) confirmed his attendance in his capacity of representing the Court of Session PIUG. The meeting had been helpful from a Court of Session point of view and CA confirmed the practice by ASSPIC for specs of docs furth of Scotland was the same at the Court of Session.  Sheriff Fife said that Dave Young would attend future Court of Session PIUG meetings.  **Future of PI Actions**  Sheriff Fife mentioned that he wishes for IT to be at the forefront for ASSPIC. He encouraged users to notify the group of anything new coming along. This will be a standing agenda item.  **Use of Affidavits?**  The use of affidavits is not common in ASSPIC. Sheriff Fife asked the group if affidavits would be of use in PI actions to restrict the scope and length of the proof and what evidence is to be led.  Sheriff Campbell KC advised he has canvased the use of affidavits and witness statement in chapter 36A cases at procedural hearings. There had been a receptive response to this.  Sheriff Mundy said that affidavits can be used for formal matters that are not contentious. He explained affidavits become more problematic when dealing with contentious issues. Their value is less in these situations. Putting together affidavits can involve quite a bit of work, but can be useful as forming part of witness evidence or agreed evidence. He would be slightly wary of introducing affidavits in the manner they have been used in family cases.  This topic will be put on the agenda for the next PIUG meeting for any further feedback.  **Recourses (sheriffs/generally)**  A new PI sheriff will be appointed in September 2023 and the intention is to have a full complement of 6 PI sheriffs by Autumn 2023. One sheriff will be appointed by JABS, while the other sheriff will be appointed from the cohort of new sheriffs coming to Edinburgh Sheriff Court. Sheriff Fife also said that he wanted to ensure that the ASSPIC team was fully resourced – continuing to train well and retaining experienced members of staff was a priority.  **Training of young solicitors**  After the success of Sheriff Principal Ross’ project of sheriffs conducting civil training sessions for junior solicitors, it is the intention to repeat these sessions in 2024.  After canvassing views, it is the intention to offer personal injury solicitors some limited training. Sheriff Fife confirmed that two training sessions could be organised on topics such as preparing for proof and preparing submissions.  Sheriff Fife asked the group for views on this idea. Stephanie Watson mentioned that her junior colleagues had attended the previous sessions and all found them useful.  Potential dates are to be explored in due course and will be shared with the group.  **Return of IW post service (Simon Hammond)**  Simon Hammond asked the group for their views on Rule 9.3 of the Ordinary Cause Rules:  *“the pursuer shall return the initial writ, unbacked and unfolded, to the sheriff clerk within 7 days after the expiry of the period of notice”*  SH mentioned that Digby Brown do not usually comply with this rule due to not having a principal writ and their normal practice is to return the proof of service. SH asked if either of those steps were required. Sheriff Dickson stated a proof of service should be lodged.  **Live PIUG Meeting**  Sheriff Fife suggested having an in-person PIUG meeting at least once a year. All agreed.  Sheriff Fife proposed the last meeting of the year. Agreed.  **Date of next PIUG meeting:**  Tuesday 22 August 2023 at 4:15pm |  |

Agenda

**Personal Injury User Group Meeting**

**Tuesday, 23 May 2023 at 4:15pm via WebEx**

1. Apologies
2. Minutes of previous meeting
3. Matters arising, not otherwise on agenda
4. Stats update
5. **Civil Online update**
6. Motions/Opposed motions

* spec of docs furth of Scotland
* hearings – delay/increased slots/early hearings

1. Proofs

* joint bundle
* ex tempore judgments

1. QOCS

* expenses motions
* auditor’s fee (Stephanie Watson)

1. Procedural Court

* loadings

1. AOCB

* PIUG Court of Session
* **future of PI actions**
* **use of affidavits?**
* resources (sheriffs/generally)
* training of young solicitors
* return of IW post service (Simon Hammond)

1. Date of next meeting