**Minute of Meeting**

WebEx at Edinburgh Sheriff Court held a meeting of the Edinburgh Sheriff Court Personal Injury Users Group on **27 September 2022 at 4.15pm**

Present:

Sheriff Fife, Chair

Sheriff Campbell KC

Sheriff Keir

Sheriff Dickson

Andrew Lothian, FOIL

Natalie Gibb, Clyde & Co

Eoin Quinn, Keoghs

Simon Hammond, Digby Brown Solicitors

Morag Shepherd, NHS Central Legal Office

Peter Crooks, Lanarkshire Accident Law

Stephanie Watson in the place of Richard Poole, Thornton’s Law

Gordon Tolland, SLAB

Elaine Wilson, Senior Executive Officer, Edinburgh Sheriff and Justice of the Peace Court

Daniel Malloy, PI Clerk

|  |  |  |
| --- | --- | --- |
| No. | Item | Action |
| **1.**  **2.**  **3.**  **4.**  **5.**  **6.**  **7.**  **8.**  **9.** | **Apologies**  Sheriff Primrose, Sheriff Mundy, Fiona Cruickshank, Fiona Pryke, Greg McDougall, Clyde & Co, Bruce Shields, Thompsons,  Sheriff Fife welcomed Sheriff Primrose KC as a new PI sheriff on an *ad hoc* basis.  Sheriff Fife also welcomed Eoin Quinn from Keoghs as a new member of PIUG.  **Minute of Previous Meeting**  No amendments were proposed. The minutes were approved.  **Matters Arising from Minutes not otherwise on the Agenda**  No matters  **Objective Connect/Civil Online**  Elaine Wilson (EW) confirmed it was business as usual with Objective Connect (OC) and encouraged everyone to continue using Civil Online where possible. EW mentioned this would be helpful for everyone involved, as Civil Online will be the way forward.  **Stats update** between: May 2022 – July 2022  Writs warranted – 1032  Motions lodged – 3116  Opposed motions lodged – 217  Proofs/PBAs/debates proceeded – 7  Sheriff Fife had noted an increase in opposed motion hearings calling in the PI procedural court.  Sheriff Fife invited agents for any contributions regarding the benefits to users in encouraging more people to make use of ASSPIC. Andrew Lothian mentioned that he believed all PIUG members were committed to the continued success of ASSPIC. AL commented that the continued success of the court relies on users (particularly pursuer’s firms) electing to litigate in the court. AL mentioned that it was slightly surprising that only around 50% of Personal Injury cases are raised in ASSPIC. He noted that smaller or local firms might feel a degree of nervousness in using the court. AL confirmed the reason he raised this issue was to elevate the matter for discussion to help promote ASSPIC.  Elaine Wilson mentioned that the number of cases being raised as Local PI actions in other jurisdictions appears to be having an impact on ASSPIC case numbers. EW noted only 4% of Edinburgh actions are Local PI actions and the number of Summary Cause actions is even lower, looking at the most recent stats. ASSPIC had levelled at 48.5%.  Peter Crooks (PC) confirmed that from his own experience, firms based on the West Coast would be more inclined to litigate in courts such as Glasgow. PC mentioned that there might be an element of firms reserving more complex or higher value cases for ASSPIC. PC also mentioned that there may be a reluctance from firms who are not regular litigators for PI actions to use ASSPIC.  Simon Hammond noted that ASSPIC is in a good place and this should give agents more confidence to litigate in the court.  **Proofs: in person; WebEx and hybrid on cause shown**  2022 Guidance  Guidance to allow ASSPIC to move back to in person proofs had been approved by Sheriff Principal Ross and was issued on 17 August 2022.  Sheriff Fife anticipated more proofs will proceed on a hybrid basis. There are benefits for expert witnesses (where they can) to give their evidence virtually.  Eoin Quinn (EQ) asked what the court’s attitude would be moving forward in respect of motions for hybrid proofs. EQ asked if there would be an encouragement for these motions for the avoidance of expert witnesses travelling large distances and taking a full day out of there diaries.  Sheriff Fife confirmed there was no difficulty with motions for hybrid proofs being enrolled – Sheriff Fife would encourage every effort to be made for experts not to give their evidence in person unless important to a specific case.  Elaine Wilson confirmed ASSPIC is in a unique position where it has its own Court 18. Court 18 is ring fenced and this ensures hybrid proofs can be accommodated. Sheriff Fife confirmed ASSPIC can change the mode of proof at short notice to suit a change of circumstances.  WebEx productions for witnesses  Sheriff Fife gave an overview of what productions are required to be sent to witnesses and asked agents if there was an alternative means of sending these productions – e.g. digital productions.  **Simon Hammond confirmed that every firm represented on PIUG should have some form of cloud sharing platform. SH mentioned there can be difficulties with downloading of documents and stable broadband connections from time to time.**  **Sheriff Fife confirmed that the court would be happy to accommodate other means of providing witnesses with productions.**  **Elaine Wilson noted that the court could not be involved in any external document sharing.**  **Procedural Court**  **On a point raised by Sheriff Campbell KC, Sheriff Fife encouraged agents to lodge up to date pleadings in advance of opposed motion hearings.**  **AOCB**  Sheriff Fife raised the matter of party litigants appearing in PI courts. Sheriff Fife explained that cases involving party litigants might sometimes take longer than might otherwise be the case – peremptory diets being the most common hearing. Sheriff Fife confirmed the PI Sheriffs have agreed to put party litigants cases to the end of the court roll if it is apparent the case will take up a lot of court time. This will be on a case-by-case basis.  Simon Hammond asked about the recovery of outlays from insurers in cases that settle pre-litigation. SH asked if resolution could not be reached should an action be raised in ASSPIC. Andrew Lothian mentioned that the most effective routes might be going to the ABI or a joint remit to the auditor. Peter Crooks mentioned that if insurers fail to engage in joint remits to the auditor, this may be deemed as unreasonable conduct and a breach of the protocol. Sheriff Fife asked members to report back at the next PIUG meeting on any developments. Sheriff Fife confirmed this matter will be put on the agenda for the next meeting    **Date of next meeting**  The next meeting will take place on Tuesday 24 January 2023. |  |

Agenda

**Personal Injury User Group Meeting**

**Tuesday, 27 September 2022 at 4:15pm via WebEx**

**(rescheduled from 13 September 2022)**

1. Apologies
2. Minutes of previous meeting
3. Matters arising, not otherwise on agenda
4. Objective Connect/Civil Online
5. Stats update ( overleaf)
6. Proofs: live; WebEx and hybrid on cause shown

* 2022 Guidance
* WebEx productions for witnesses

1. Procedural Court

* up to date pleadings for opposed motions

1. AOCB

* promoting ASSPIC

1. Date of next meeting