**DRAFT Minutes of Meeting**

Edinburgh Sheriff Court held an in-person meeting of the Personal Injury User Group on **21 November 2023 at 4.15pm**

Present:

Sheriff Fife, Chair

Sheriff Campbell KC

Sheriff Dickson

Sheriff Primrose KC

Sheriff Nicol

Sheriff Noble

Morag Shepherd, NHS Central Legal Office

Kate Bennett, Advocate

Simon Hammond, Digby Brown

Catherine Currie, BTO

Peter Crooks, Lanarkshire Accident Law

Andrew Lothian, DWF

Stephanie Watson, Thorntons Law

Ali Tyler, Clyde & Co

Craig Anderson, Court of Session PIUG member

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

Daniel Malloy, PI Clerk

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| **1.**  **2.**  **3.**  **4.**  **5.**    **6.**  **7**.  **8.**  **9**. | **Apologies etc.**  Sheriff Principal Ross, Fiona Pryke, Fiona Cruickshank, Bruce Shields, Eoin Quinn, Richard Poole, and Greg MacDougall.  Sheriff Fife welcomed Sheriff Iain Nicol to his first PIUG meeting.  Sheriff Fife announced the appointment of Sheriff Alistair Noble as an additional PI Sheriff and confirmed there is now a full complement of 6 PI sheriffs.  Sheriff Fife welcomed Fiona Cruickshank back to ASSPIC after returning from maternity leave. Sheriff Fife also thanked Naomi Porter for covering Fiona during this period.  **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 August 2023 and October 2023**  Writs warranted – 1307  Motions lodged – 3503  Opposed motions lodged – 298  Proofs/PBAs/debates proceeded – 9  Proofs discharged due to lack of court time – 9  Sheriff Fife noted there was just over just over 1300 new registrations in the last 4 months; we are looking at around/if not more than 5000 new registrations this year. Sheriff Fife mentioned in comparison that there was around 2500 to 3000 new registrations in 2017; there is a trend for the number of new registrations increasing year on year. Sheriff Fife advised there were a whole series of factors to consider in respect of this.  Daniel Malloy (DM) provided an update in respect of the motions team. DM advised that Nicole Pender is now on maternity leave and Jenny Watson has transferred to another government department; both of these individuals have now been replaced and the team has a full complement; experience has been replaced with experience.  DM confirmed the motions team are currently up to date, with motions enrolled today being processed. The team are currently processing on average around 70-80 motions a day.  **Civil Online Update**  Sheriff Fife had checked with Gary White. Progress is being made with case tracking for ordinary actions. Solicitors will be able to view all documents in a case that is part of the digital inventory of process (unless the clerk marks it as not suitable), download and print any document, track upcoming hearings and see the live status of the P15 timetable.  Civil Online are aiming to have case tracking live around February 2024.  Gary White informed Sheriff Fife that they are currently engaging with the solicitor working group for the lodging of initial writs and NIDs via Civil Online. This will reduce the number of emails to the court and reduce admin time for court staff, which will in turn reduce the turnaround time for the registration of cases.  Simon Hammond (SH) is a member of the Civil Online User Group and commented the new features for uploading documents looked good and case tracking looked very positive  **Proofs/Opposed Motions/Update on Resources**  **Adjournments due to lack of court time**  There has been 1008 proofs fixed in the last 3 months, with 9 proofs discharged due to lack of court time. This is less than 1% of all proofs fixed. This was still too many. Sheriff Fife encouraged agents to put a little more thought into the number of days actually required for proof, as there should be more of a proactive approach.  Sheriff Fife suggested that there could be a half hour hearing on a Thursday or Friday with the PI sheriff for the following week. This would allow the following topics to be discussed:   * What proofs are going to run * How many days is the proof going to take * How many witnesses do parties intend to call   Sheriff Fife noted that he would like the PI sheriffs and the PI court to be more proactive in doing that. This is one aspect of trying to get through more cases or focusing the issues.  Sheriff Fife asked the group for views on this. SH asked if there would be any merit in introducing a certificate of duration of diet. SH advised this is used at the Court of Session and helps to focus minds.  Sheriff Fife commented that it is near the time of the proof that this actually matters. We do know that many cases are going to settle and ASSPIC are trying to make best use of court time. Sheriff Fife asked group members to email him with their thoughts about how we might improve this.  Sheriff Nicol commented the best time to focus on the duration of a proof would be at the pre-trial meeting. Sheriff Fife agreed.  Kate Bennett asked if there was any likelihood of there being another proof court. Sheriff Fife said that it his wish to have 2 PI sheriffs running proofs every week and to increase resources.  **Opposed Motions/ Update on Recourses**  We are receiving on average between 5 to 7 opposed motions a day, most weeks. We are currently working on a loading of 15 opposed motions each procedural court, 9 in the morning and 6 in the afternoon and are allocating hearings 5+ weeks ahead. With the current allocation we cannot conceivably catch up. Additional resources are required so we can deal with opposed motions more efficiently.  Sheriff Fife advised that this is currently being worked on behind the scenes. As a short term fix we are allocating additional opposed motion courts on dates in November and December. The aim is to reduce the delay in opposed motions being heard. Sheriff Fife commented the additional courts was only a ‘sticking plaster fix’. Sheriff Fife advised that the wish would be for two opposed motion courts every week. A Monday and Thursday would be the preferred days. This is currently a work in progress. Sheriff Fife mentioned that he believed allocating 3+ weeks ahead was too long. The aim is for opposed motions to be heard within two weeks of enrolment.  Sheriff Fife said that everyone is trying to work together to provide the additional resources that the users are entitled to have. ASSPIC requires to run efficiently. Sheriff Fife reiterated that the issue of resources is currently being addressed with the support of the Sheriff Principal.  **QOCS**  Sheriff Fife mentioned that any QOCS motion must be made by way of a written application. If a written application is not made sheriffs will not hear the motion.  Sheriff Campbell noted that he had recently issued a decision where the defender’s application for the disapplication of QOCS was not in the form of a motion. However, this was in the form of opposition to the pursuer’s motion for decree in terms of a minute of tender and acceptance. After discussions Sheriff Campbell came to the view that there was no prejudice and allowed it to be treated as if it were a written application. Sheriff Campbell suggested moving forward that there should be a separate motion made at the time of the pursuer’s motion for decree being intimated.  Sheriffs are continuing to issue decisions and notes to provide further clarification on QOCS.  On average sheriffs are hearing at least one QOCS motion per PI court. Sheriff Fife advised that for the meantime be a written decision of some sort will issued in any QOCS motion heard. This will include any “unopposed” QOCS motion, which requires to call in court.  Sheriff Fife mentioned that an appeal will take place in February 2024 in an unreported decision where the defender was successful in disapplying QOCS.  **Procedural Court**  **Retrospective Sanction**  Sheriff Nicol issued a reminder that it is not necessary to seek retrospective sanction when a case is still under chapter 36 procedure. It should only be sought, if necessary, for procedure undertaken after the case is appointed to chapter 36a. Ideally, the motion seeking to appoint to chapter 36a should include the motion for prospective sanction for counsel and certification of skilled persons.  Sheriff Nicol noted that for cases under chapter 36a retrospective sanction can only be granted for particular work carried out. It cannot be granted for the whole proceedings or parts of the proceedings. The particular work should be listed in the motion.  **Motions team**  Sheriff Fife mentioned he had been advised by an ‘anonymous source’ that the motions team were “too enthusiastic to drop motions rather than pend”. The motions team are going to be more accommodating. Sheriff Fife asked users to let him or Fiona Pryke know if this was not happening.  Sheriff Nicol raised the issue of motions for minutes of abandonment. If there is no agreement between parties as to how an action should be disposed of, the pursuer is duty bound to lodge a minute of abandonment with a motion outlying the disposal being sought.  **Highlighted Authorities**  Sheriff Fife reiterated that parties should be highlighting specific passages of authorities that sheriffs are to be referred to.  Peter Crooks asked if this was in relation to both procedural matters and proofs. Sheriff Fife confirmed it was.  **AOCB**  **Joint Bundles**  Sheriff Campbell asked parties to ensure that joint bundles were being lodged on time.  Sheriff Keir noted that he counsel did not always have the same version of the joint bundle that had provided by parties for the sheriff and witnesses. Counsel had individual copies of productions. This has caused some issues with numbering and locating the said production to present to witnesses.  **Timing of Lodging Motions for Hybrid Proof**  Sheriff Fife noted that there must be a more pragmatic approach when enrolling motions for a hybrid proof. These should not be getting enrolled 2-3 days prior to the proof diet when it can be avoided. The guidance specifies that motions of this nature should be getting enrolled no later 21 days prior to the proof diet.  **Training of Young Solicitors/Future Training Qs/As**  Two training sessions for young solicitors had taken place in September 2023. These both appeared to go well. Around 230-240 participants attended the first session and around 170 participants attended the second session.  Sheriff Fife advised that further training sessions may take place around Autumn 2024 if there is a demand.  One possibility was Q/A sessions. Questions could be submitted in advance and PI sheriffs could offer some views.  **Hutchison (DDS) Legal Services Ltd**  Sheriff Fife mentioned that Yvonne Hutchison (former paralegal of Sheriff Fife) has set-up Hutchison (DDS) Legal Services Ltd. The company offers digital documents support. Sheriff Fife recommended this service to the users.  **Unreported Decisions – Kate Bennett, Faculty of Advocates**  Kate Bennett asked if there was a collection of unreported ASSPIC decision that could be viewed. Sheriff Fife advised there was no collection.  Sheriff Fife continued consideration of this to the next PIUG meeting.  **Date of next PIUG meeting** WebEx Tuesday 20 February 2024 at 4:15pm |  |

Agenda

**Personal Injury User Group Meeting IN-PERSON**

**Tuesday, 21 November 2023 at 4:15pm**

1. Apologies
2. Minutes of previous meeting
3. Matters arising, not otherwise on agenda
4. Stats update
5. Civil Online update

* IT any news?

1. Proofs

* adjournments due to lack of court time

1. QOCS

* written application
* general update

1. Procedural Court/Opposed Motions

* update on resources
* retrospective sanction
* highlighted authorities

1. AOCB

* joint bundles
* timing of lodging motions for hybrid proof
* training of young solicitors
* future training Qs/As
* Hutchison (DDS) Legal Services Ltd
* unreported decisions – Kate Bennett, Faculty of Advocates

1. Date of next meeting

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|  | August | September | October | TOTAL |
| Registration | 470 | 394 | 443 | 1,307 |
| Motions lodged | 1073 | 985 | 1502 | 3,503 |
| Opposed motions | 95 | 111 | 92 | 298 |
| Proofs that (ASSPIC only ) proceeded | 3 | 4 | 2 | 9 |
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|  | Proofs fixed for month | discharged lack of court time |
| August (4W) | 298 | 2 |
| September(4W) | 295 | 2 |
| October(5W) | 412 | 5 |