

**Memorandum of Comments by the
Civil Procedure Committee of the Law Society of Scotland
on the
Sheriff Court Rules Council Consultation on Procedural Rules for Personal
Injury Actions in the Sheriff Court**

The Civil Procedure Committee (the Committee) of the Law Society of Scotland welcomes the opportunity of contributing to the consultation by the Sheriff Court Rules Council on Proposals for Procedural Rules for Personal Injury Actions in the Sheriff Court. The Committee agreed with the general thrust of the proposals but decided not to respond in detail as both APIL and FOIL (who are represented on the committee) will be doing so.

The Committee agreed that in general the Coulsfield Rules have worked well though there had on occasions been problems with the pre proof meeting. The Committee questioned where a pre- proof meeting would take place in a Sheriff Court action as, there is no equivalent of the Lord Reid Building at 142 High Street, Edinburgh. There is no impartial place for such a meeting in Sheriff Court Districts. The Committee therefore suggests that the Rules should permit a pre –proof meeting to take place by telephone/audio conference in order to accommodate agents who might otherwise require to travel lengthy distances to attend what could be a relatively short meeting.

The Committee also agreed that one of the reasons why the Coulsfield Rules have been successful in the Court of Session is due to the valuable input from the Personal Injuries Users Group. The Committee suggests that a sub- committee of the Rules Council be established to which Sheriff Court practitioners could be co-opted. The purpose of this sub-committee would be to assist with the implementation of the new

personal injury rules in the Sheriff Court as an equivalent to the User Group in the Court of Session.

The Committee reaffirms the view previously expressed to the Scottish Executive that personal injury actions should be excluded from Small Claims Procedure. The Committee is disappointed the Scottish Executive's previous proposals for removing personal Injury actions Small claim actions have not yet been implemented.