**Minutes of Meeting**

A meeting of the Edinburgh Sheriff Court Personal Injury Users Group was held in the Sheriffs’ Conference Room at Edinburgh Sheriff Court at 4.00pm on Monday 27 January 2014.

Present:

Peter Anderson – Simpson & Marwick

Sheriff Paul A. Arthurson QC

Michael Corrigan – Secretary to the Users Group

Peter Crooks – Bonnar & Co

Isobel Duff – Head of Civil Department Edinburgh Sheriff Court

Samantha Jackson - PI Clerk - Summary Cause

Ian Leach – HBM Sayers

Sheriff Kathrine Mackie (chair)

Sheriff Isabella McColl

Catriona Whyte – Scottish Legal Aid Board

Gary White - PI Clerk

Scott Wood - PI Clerk - Ordinary Cause

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| No. | Item | Action |
| **1.**  **2.**  **3.**  **4.**  **5.**  **6.**  **7.**  **8.** | **Apologies**  Apologies were received from Kim Leslie, Robert Milligan QC and Sheriff Principal Stephen. New members of the group were introduced.  **Minutes**  The minutes of 31 January 2012 were discussed and approved by the users group.  **Matters Arising**  The group discussed the section of the Scottish Court Website which relates to Personal Injury Actions within Edinburgh Sheriff Court. KM noted that the main website no longer linked to the ESC PI webpage since the recent update of the SCS webpage. MC explained that the WebTeam had assured that this would be rectified. KM then asked whether practitioners currently used this page of the website. PC and IL confirmed that it is not used presently but that with the link reinstated and featured more prominently it could be a valuable asset. ID agreed to contact the WebTeam to ensure the reinstatement of the link to the PI webpage is given sufficient priority.  **Emailing Interlocutors**  The group then discussed the issue of emailing interlocutors by the Sheriff Clerk’s Office. KM brought the group’s attention to the users group’s newsletter of 13 May 2011 in which it was agreed that agents should provide the email address of the agent dealing with the action when the Initial Writ or Notice of Intention to Defend is lodged. The newsletter then states that any interlocutor, once signed, will be sent by email to the address provided. This issue was discussed at length and GW informed the group that currently it is procedure within the Civil Department that no unsigned interlocutor is issued to any party and that a fee may require to be charged. ID also informed the users group that the email of interlocutors may be prohibitive due to staffing pressures. KM stated that this procedure should not take any longer than the current practice. PA stated that the Court of Session practice allows for the emailing of all interlocutors and that no fee is charged for this service. PAA asked whether clarification could be sought from the Deputy Principal Clerk of Session on their current practice. ID agreed to do so.  **Summary Cause Actions**  KM spoke to the group about the introduction of the Summary Cause Personal Injury Rules which were introduced in September 2012. The group discussed the new procedures and PC stated that it was a vast improvement but queried the reason why unopposed incidental applications required to call in Court. KM confirmed that the Summary Cause Rules proceed on the opposite basis from the Ordinary Cause Rules in that the incidental application requires to call unless it is specified that it is unopposed. The group discussed the method by which agents could inform the Court and it was agreed that notification by email was acceptable.  The group then spoke about the allocation of proof diets in Summary Cause actions. GW informed the group that there would now be a court of assize created in both June and September in order to fill the gap between the weeks currently assigned for Personal Injury proofs, effectively ensuring that cases are heard within the 5 month period.  PC enquired about the duration of Summary Cause proof diets and stated that although SC proofs should be more straightforward than those in Ordinary actions it is often the case that the proof can last for 2 days. The group debated this and KM stated that most SC proofs only seek 1 day however any request for 2 days would be considered on a case to case basis.  KM then spoke to the group about the settlement of PI actions. Currently Joint Motions and Joint Incidental Applications are lodged in settlement of actions rather than Joint Minutes. It is hoped that agents can be reminded of the proper procedure by practitioner members.  **Clinical Negligence**  IM explained that there had been no progress with the Working Group since the last meeting. KM stated that the intention would be to deal with any clinical negligence action lodged in the Sheriff Court similarly to the manner in which it is dealt by the Court of Session. The group then discussed those applications in which a motion is lodged to disapply from the Personal Injury Rules. Currently, if granted, such actions are heard in the Ordinary Court and as such they are no longer case managed. IL commented that this may be a disincentive to pursuers’ agents. It was agreed that as there will be no change to the Sheriff Court Rules in the near future the Sheriff Principal may require to produce a Practice Note. IM to take forward consideration of what might be proposed.  **Any Other Business**  KM pointed out an error in Schedule 9 of the Act of Sederunt (Fees of Solicitors in the Sheriff Court)(Amendment) 2014 whereby mention is made in paragraph 4 to adjustment of the “statement of valuation of claim” instead of “statement of claim”. KM confirmed that this matter had been brought to the attention of the clerk involved.  The group then discussed the recent opinion of Lord Jones in *Fiona Smith -v- Greater Glasgow & Clyde NHS Health Board* **([2013] CSOH 178)**; although an opinion of the Outer House is not considered binding KM felt that the Sheriff Court would be slow to take a different view. KM also noted that the opinion may have the effect of making agents pay more attention to the timetable. PA confirmed that new instructions have been issued to agents in his firm following the opinion.  CW then spoke to the group about the update, made in March 2013, to the cost limits for grants of civil legal by the Scottish Legal Aid Board; it was explained that applications required to be made to SLAB if the standard cost limit was exceeded.  It was noted that GW would replace MC as secretary to the Users Group. Thanks were expressed to MC for his considerable contribution to the work of the Group.  **Date of Next Meeting**  It was agreed that the next meeting would take place on 19 June 2014 at 4.00pm within the Sheriff’s Conference Room at Edinburgh Sheriff Court | **ID**  **ID**  **MS**  **IM** |