

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL  
PERSONAL INJURY COMMITTEE  
MONDAY 22 MAY 2023 at 4.15PM  
JUDGES CONFERENCE ROOM, PARLIAMENT HOUSE, EDINBURGH**

**MINUTES**

**Present:** Lord Armstrong (Chair)  
Ronnie Conway  
Susan Black (Scottish Government)  
Sheriff R D M Fife  
Amber Galbraith KC  
Maria Maguire KC  
Campbell Normand  
Alan Rogerson  
Fraser Simpson  
Vikki Melville  
Sheriff Principal Ross

**Attending:** Craig Anderson (Offices of Court of Session)  
Mark Kubeczka (SCTS Legislation Implementation Team)

**Support:** Kelly Jack (Policy Officer)

**Apologies:** Lord Weir

Marie-Louise Fox (SLAB)

**Item 1: Welcome, apologies and agreement of private papers**

1. The Chair welcomed those present and noted apologies from Lord Weir and Marie-Louise Fox.
2. **The Committee agreed not to publish the following papers: 4.1, 4.1A-C, 5.1 and 5.1A.**

**Item 2: Previous meeting**

*Item 2.1 – Items by correspondence (Paper 2.1)*

3. Lord Armstrong provided members with an update on items considered by correspondence since the last committee meeting: One matter has been considered by correspondence since the last meeting:
  - Item 2022/09 was issued on 09 May 2022 and invited members to approve draft minutes of the Committee meeting on 04 April 2022. Responses were invited by close of business on 23 May 2022 with a nil response indicating consent. No responses were received. The draft minutes were approved and published on the Council website.
4. **The Committee noted the update.**

**Item 3: Work Programme**

*Item 3.1 – Update from the Scottish Government on legislative developments (Oral)*

5. Susan Black provided the Committee with an update on relevant legislative developments in the Scottish Government:

- Noted that Moveable Transactions Bill was passed by the Scottish Parliament on 04 May 2023, and is expected to commence in the summer of 2024.
- The Retained EU Law Bill at Westminster is being amended from a sunset clause on all retained EU law to a revocation of specific instruments which currently stands at 587 instruments. There are currently no Acts of Sederunt on that list however Scottish Government are currently analysing the list to see if any require attention.
- The Regulation of Legal Services Bill was introduced on 20 April 2023, and is currently at stage 1 in the Scottish Parliament. It is expected to pass stage 3 in early 2024 with commencement potentially that summer.
- The proposed Legal Aid Reform Bill has no timetable for introduction as of yet. Stakeholder engagement will take place this year in furtherance of manifesto commitment to develop reforms in discussion with the legal profession and victim support organisations.
- The Trusts and Succession Bill was introduced on 22 November 2022 and is currently at stage 1 in the Scottish Parliament.

6. **Members noted the update.**

**Item 4: Implementation of legislation**

*Item 4.1 – Damages (Investment Returns and Periodical Payments) (Scotland) Act 2019 Working Group recommendations*

7. The Chair introduced members to Papers 4.1 and 4.1A-C and invited Maria Maguire to speak to paper 4.1B, being the recommendations of the working group in relation to implementing the Periodical Payment Order (“PPO”) provisions of the Act.
8. Maria advised that the working group had met regularly to discuss how the Act could be implemented in Scotland, and also sought advice from specialists working in England and Wales where there had been rules on PPOs for some time. Maria discussed the 9 recommendations which the working group had provided, the reasons and discussions behind those, as well as a number of other points such as interaction with the Civil Litigation (Expenses and Group Proceedings) Act 2019 that may require revisiting during rule development.
9. The Committee also considered the rules request received from Scottish Government on the Act at **Paper 4.1C**. It was noted that the request is largely in line with the working groups recommendations.
10. **Members:**
  - **Agreed with the 9 recommendations of the working group at Paper**

**4.1B, which will form the basis for the initial development of a drafting instruction; and**

- **Put on record the Committee's thanks to the working group for their work on the recommendations.**

## **Item 5: Possible Initiatives**

### *Item 5.1 – Personal Injury Claims Portal for Scotland (Papers 5.1 and 5.1A)*

11. The Chair invited members to consider Papers 5.1 and 5.1A, being correspondence received from the Association of British Insurers (ABI) in respect of a Claims Portal for Personal Injury road traffic accident claims in Scotland, tabled for members information and initial thoughts on the merits.
12. Alan Rogerson gave Committee information as to how the portal operates in England and Wales in terms of operation, costs for parties and timescales involved in the exchange of information.
13. Susan Black advised that the Scottish Government had held discussions with the ABI, and are considering conducting a targeted consultation on introducing a portal.
14. After discussion, members considered that such changes are likely to require primary legislation. It was further noted by members that if such a portal was to be introduced in Scotland it would become a compulsory step before a Court action could be initiated, therefore requiring rules similar to those introduced for the Personal Injury pre-action protocols in 2016. Consideration would also require to be given to how any portal would co-exist with that pre-action protocol.
15. The Secretariat committed to liaising with the Lord President's Private Office and Scottish Government on the question of whether the changes require primary legislation.
16. **The Committee noted the correspondence meantime.**

## **Item 6: AOB**

17. There was no further business raised.

## **Item 7: Date of next meeting**

18. The next Committee meeting will be scheduled when there is substantive

business for consideration.

**Scottish Civil Justice Council Secretariat**

**May 2023**