

Bridget Lee
Scottish Civil Justice Council
Parliament House
Edinburgh
EH1 1RQ



1 March 2016

Dear Sirs

Consultation on the draft Simple Procedure Rules

The Association of Personal Injury Lawyers (APIL) was formed by pursuer lawyers with a view to representing the interests of personal injury victims. The association is dedicated to campaigning for improvements in the law to enable injured people to gain full access to justice, and promote their interests in all relevant political issues. Our members comprise principally of practitioners who specialise in personal injury litigation and whose interests are predominantly on behalf of injured pursuers. APIL currently has around 3,800 members in the UK and abroad who represent hundreds of thousands of injured people a year.

APIL welcomes that personal injury claims within the simple procedure will be recognised as “more complex” and therefore be subject to a separate set of rules. We applaud the Scottish Civil Justice Council’s recognition that the straight forward approach to simple procedure does not fit well with more complex special forms of action, which require a more complex, case-flow approach. As APIL has mentioned in previous responses, the simple procedure approach, which will ‘be based on a problem-solving or interventionist approach, closer to the inquisitorial approach taken in some other jurisdictions’¹ is simply not appropriate for even lower value personal injury cases. To bring any personal injury claim, no matter how low-value or apparently straightforward, a person needs to have an understanding of the law of negligence, and some knowledge of how to obtain and understand medical evidence.

While we welcome that personal injury claims have been recognised as unsuitable for the standard simple procedure we are concerned that, according to paragraph 31 of the consultation, there will not be a separate consultation on the Simple Procedure (Special Claims) Rules. We are unable to comment fully on the suitability of those rules without first seeing a draft version, and are concerned that there are no plans to consult separately on them. It is extremely important that the Special Claims rules – which will come in to play when claims within the categories deemed “more complex” are brought under the Simple Procedure - are consulted upon, and that prospective users of the rules are permitted to examine them, to ensure that they are workable and suitable for these more complex claims.

We hope that our comments prove useful to you. If you have any queries regarding our response, please contact alice.warren@apil.org.uk.

¹ Courts Reform (Scotland) Bill policy memorandum paragraph 157.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alice Warren', with a stylized, cursive script.

Alice Warren

Legal Policy Officer

Association of Personal Injury Lawyers

3 Alder Court

Rennie Hogg Road

Nottingham

NG2 1RX