

ITEM 2.3B: PERSONAL INJURY COMMITTEE: ACTIVITY REPORT**Purpose**

1. To update the Council on activities undertaken by the Personal Injury Committee since the Council's last meeting and matters currently being considered.

Background

2. The Personal Injury Committee was established by the Council on 10 June 2013 and has met once (2 September 2013).

Discussion

3. The Personal Injury Committee is currently giving consideration to the following matters:

3.1 Recovery of Documentation

The Committee is considering a proposed amendment of the Ordinary Cause Rules relating to the procedure for recovery of documentation in personal injury actions and whether part of that amendment should be replicated in the Rules of the Court of Session and Summary Cause Rules. This is a matter which had been referred to the SCJC by the Sheriff Court Rules Council.

The Committee considers that the inconsistencies which have been identified in the equivalent Rules of the Court of Session and Summary Cause Rules should be addressed, noting that amendments to summary cause procedure would have implications for other actions under that procedure. The Committee is considering whether the opportunity should be taken to redraft the relevant parts of the rules (particularly the Summary Cause Rules) more extensively, with a view to achieving greater clarity, simplicity and accessibility of language. The Committee notes, however, that the Rules Rewrite project offers the opportunity to undertake a comprehensive redraft of the rules on a much broader scale and as such, that there was potential for duplication of effort in this regard. The matter is to be explored in further detail at the Committee's next meeting.

3.2 Civil Courts Reform

The Committee is giving consideration as to whether there are any discrete aspects of the proposals (as they relate to personal injury actions) within the draft Courts Reform (Sc) Bill and the Report of the Scottish Civil Courts Review which might be capable of being taken forward in early course and separately from the Rules Rewrite project. In discussion it was thought that the recommendations of the Scottish Civil Courts Review in relation to pre-action protocols might prove potential areas for early consideration. The Committee has also requested advice on what may be specified by rules under the provisions of the Bill as drafted in terms of sanctions for non-compliance with pre-action protocols.

**Scottish Civil Justice Council – Secretariat
September 2013**