

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

1. The Personal Injury Committee held its second meeting on 09 December 2013.
2. 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 it remains preferable to have the same procedure available for the recovery of documents in each procedure.

The Committee will consider an instrument at the next meeting (03 February 2014), which will seek to replicate the relevant provisions of the Rules of the Court of Session in the Summary Cause Rules.

*3.2 Pre- Action Protocols*

The Committee discussed the possibility of the introduction of compulsory pre-action protocols. Some members have had experience of using the Law Society's voluntary protocol, and they believe that it may be a useful model for a compulsory protocol. The Committee feels, however, that before it is adopted and developed more should be known about its use in practice, such as its perceived strengths and weaknesses. To that end, the Committee has indicated that it wishes to propose that the SCJC would use its powers to approve research into the current use of pre-action protocols in Scotland.

Members have agreed to feed any thoughts on how this research may be conducted and what it should encompass back to the SCJC Secretariat in order that a proposal may be put forward to the SCJC for consideration.

### *3.3 Sheriff Principal Taylor's Review*

The Committee discussed whether there were areas relating to personal injury which should be prioritised for implementation. It was suggested by members of the PIC that the introduction of qualified one way costs shifting should be considered as a priority.

The Committee wish to report to the SCJC that the introduction of qualified one way cost shifting should be coupled with an examination of fees levels and that it will require consideration of cost implications.

**Scottish Civil Justice Council – Secretariat**

**January 2014**