

ITEM 7.2: RECOVERY OF DOCUMENTS**Purpose**

1. To bring to the attention of the Council two draft instruments that have been prepared by the Personal Injury Committee relating to the optional procedure for the recovery of documents in the Court of Session and sheriff court (Ordinary Cause) and to seek approval of the same.

Background

2. The background is usefully explained in **Papers 7.2A- C** which was last considered at the meeting of the Personal Injury Committee on 8 December 2013. At that meeting the Committee agreed that the Ordinary Cause Rules (OCR) should be amended to replicate in those rules the Court of Session optional procedure for the recovery of documents and that the ambiguity in the Rules of the Court of Session (RCS) should also be addressed. The consideration of the amendment of the Summary Cause Rules was carried over to the next meeting of the Committee on 3 February 2014.

Discussion

3. As a result of the foregoing two instruments are communicated by the Committee to the Council for its consideration and approval.
4. The first instrument **Paper [7.2D]** is the Act of Sederunt that proposes to amend the Ordinary Cause Rules (OCR). This instrument would replicate in those rules the Court of Session optional procedure for the recovery of documents. The second instrument **Paper [7.2E]** the Act of Sederunt that proposes to amend the Rules of the Court of Session (RCS) in respect of an ambiguity noted in the RCS when the first instrument was being drafted.

Recommendation

5. **The Council is invited to consider the two instruments and, if content, approve them.**

Scottish Civil Justice Council Secretariat
January 2014