

**ITEM 5.5: PRE-ACTION PROTOCOL INFORMATION GATHERING EXERCISE –
REPORT ON RESPONSES****Purpose**

1. To present to SCJC members a Report on the responses to the Information Gathering Exercise on Pre-Action Protocols [**Paper 5.5A**].

Discussion

2. At its inaugural meeting of 10 June 2013 the PIC discussed the advantages of pre-action protocols and agreed that their usefulness was limited by the fact that they are not compulsory.
3. The Courts Reform (Sc) Bill proposes to give the Court of Session the power to introduce, by means of rules, compulsory pre-action protocols. The provisions are contained within sections 96(2)(b)(ii) for the Court of Session and 97(2)(b)(ii) for the sheriff court.
4. At its 3 February 2014 meeting the PIC agreed to an information and evidence gathering exercise around the current use of voluntary pre-action protocols and the possible introduction of compulsory pre-action protocols in order to assist its consideration of the matter of the relevant rules should the proposed powers become law.
5. The information gathering exercise was initially targeted at an audience of relevant overarching bodies and was due to run between April and May 2014. However, following a meeting of the Personal Injuries User Group on 6 May, to allow other interested parties the opportunity to respond, the information gathering exercise was published on the SCJC website and the closing date extended until 30 June 2014. In total 24 responses were received to the information gathering exercise. The [consultation responses](#) have been published on the SCJC website in line with respondents' permissions.
6. The PIC considered the Report at its 8 September 2014 meeting, approved the draft Information Gathering Exercise on Pre-Action Protocols-Report on Responses and agreed to its publication.

Recommendation

7. **Members are invited to note the findings of the Information Gathering Exercise on Pre-Action Protocols - Report on Responses and agree to its publication.**

Scottish Civil Justice Council Secretariat
September 2014