

Report on the Chapter 36 PI Procedures



**Focusing on the period:
1st March to 31st May 2016**

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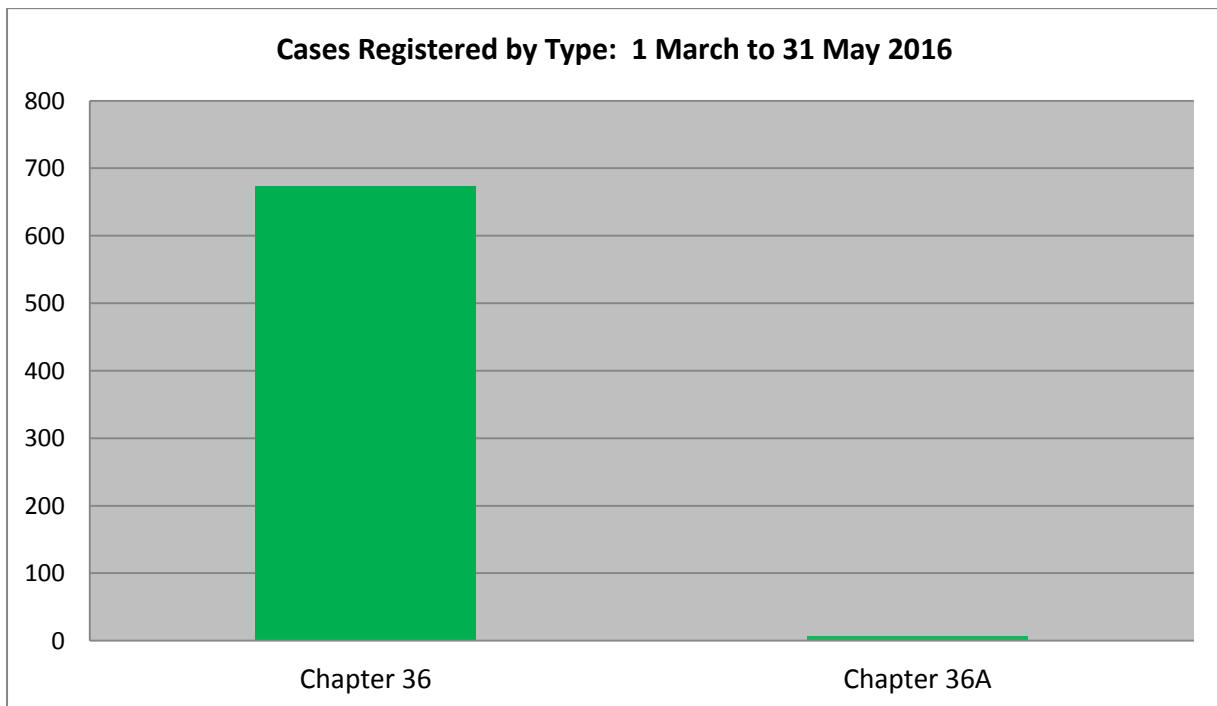
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Introduction

This is the second report on the Chapter 36 Personal Injury procedures, and will look at the period from 1 March through to 31 May 2016 in detail.

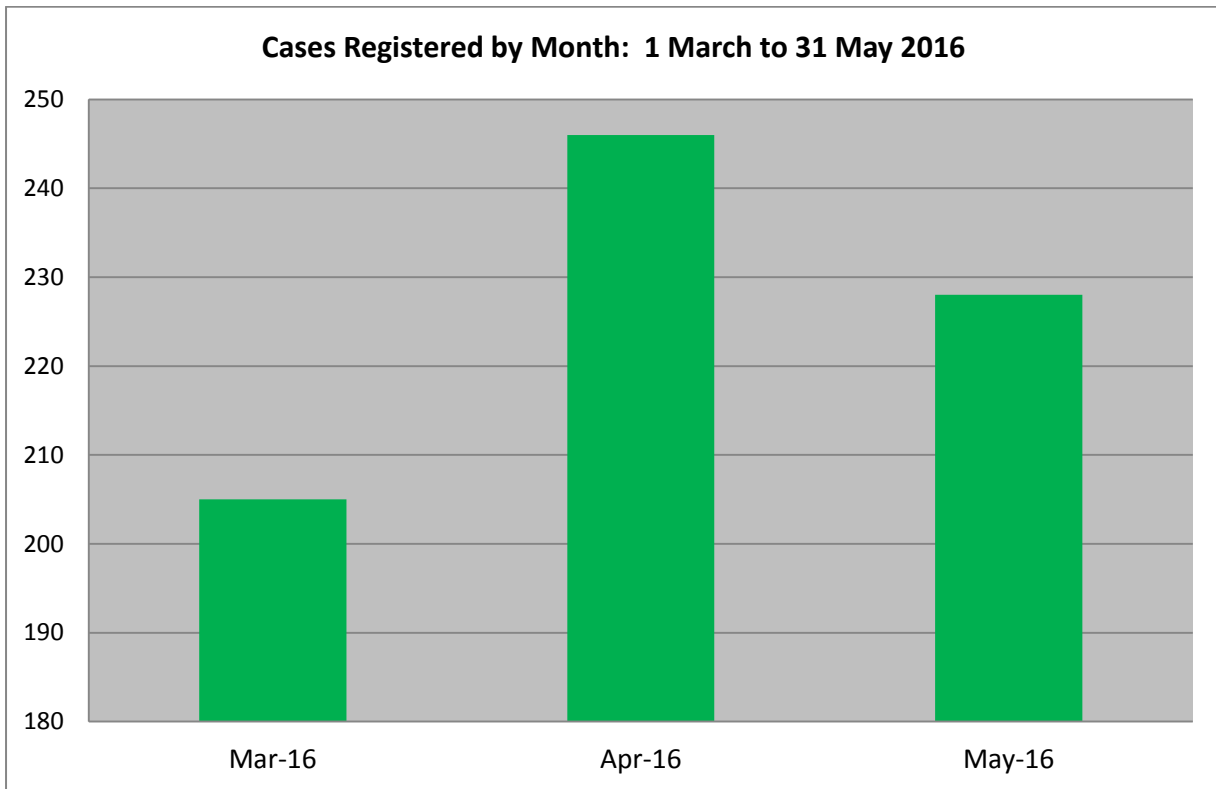
There follows information surrounding areas such as the types of cases which have been registered, sisted most frequently, how many heard motions there have been, the proof allocation rate, and how successful the PIAS form, available on the SCTS website, has been.

This report was compiled by Eilidh Hunter on 2 June 2016.



Personal Injury Actions raised

1 March to 31 May 2016 = 679



Breakdown of actions raised by type	1 March to 31 May 2016	%
Accident at Work	264	38.9
Asbestos	11	1.6
Chapter 36A	6	0.9
Clinical Negligence	24	3.5
Live Mesothelioma	0	0
Other	132	19.5
Pleural Plaques	68	10.0
Post Mesothelioma	0	0
Relatives Claim	0	0
Repetitive Strain Injury	0	0
Road Traffic Accident	168	24.7
Vibration White Finger	6	0.9
Total	679	100

The number of PI cases lodged each month has varied over this reporting period, however, there has been a clear upward trend since the last report.

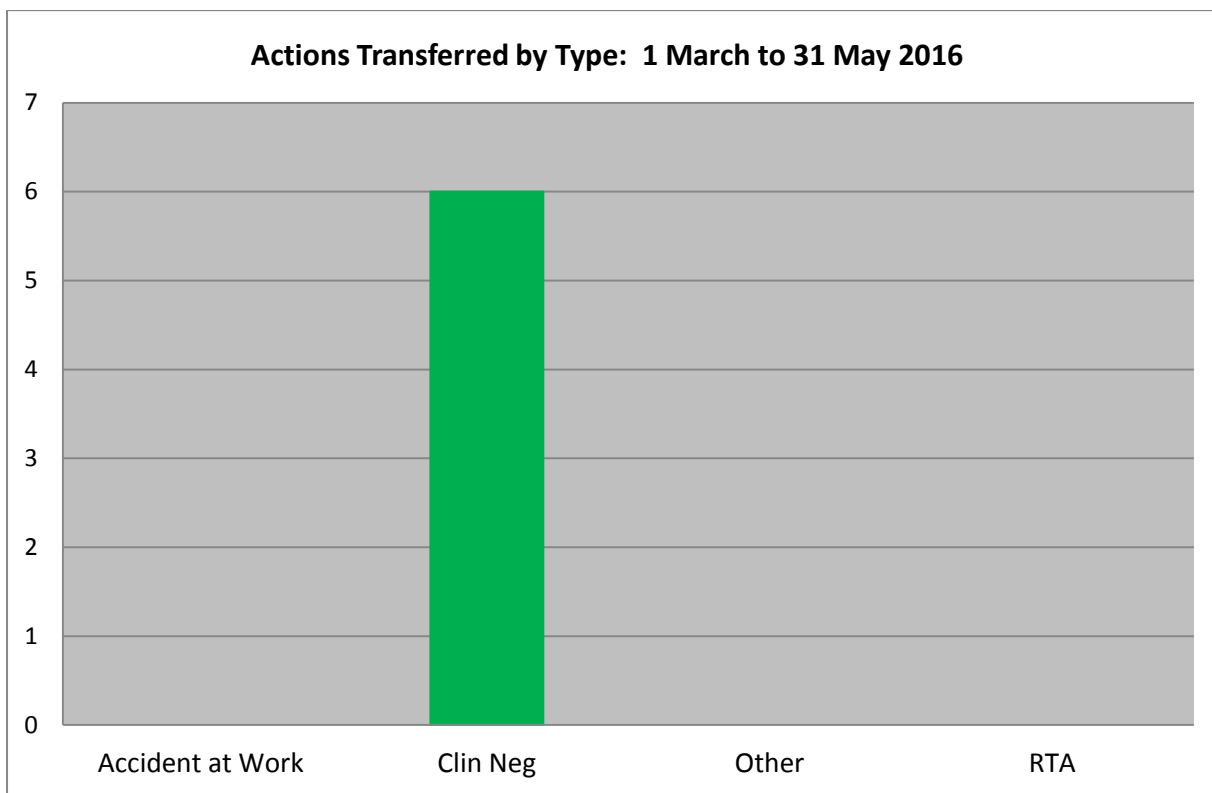
The current average monthly figure is 226.

Actions raised per month	Total
March 2016	205
April 2016	246
May 2016	228

Transfer to Chapter 36A Procedure

Actions transferred to chapter 36A between 1 March and 31 May 2016 = 6

Breakdown of Actions Transferred	1 March to 31 May 2016
Accident at Work	0
Clinical Negligence	6
Other	0
RTA	0
Total	6



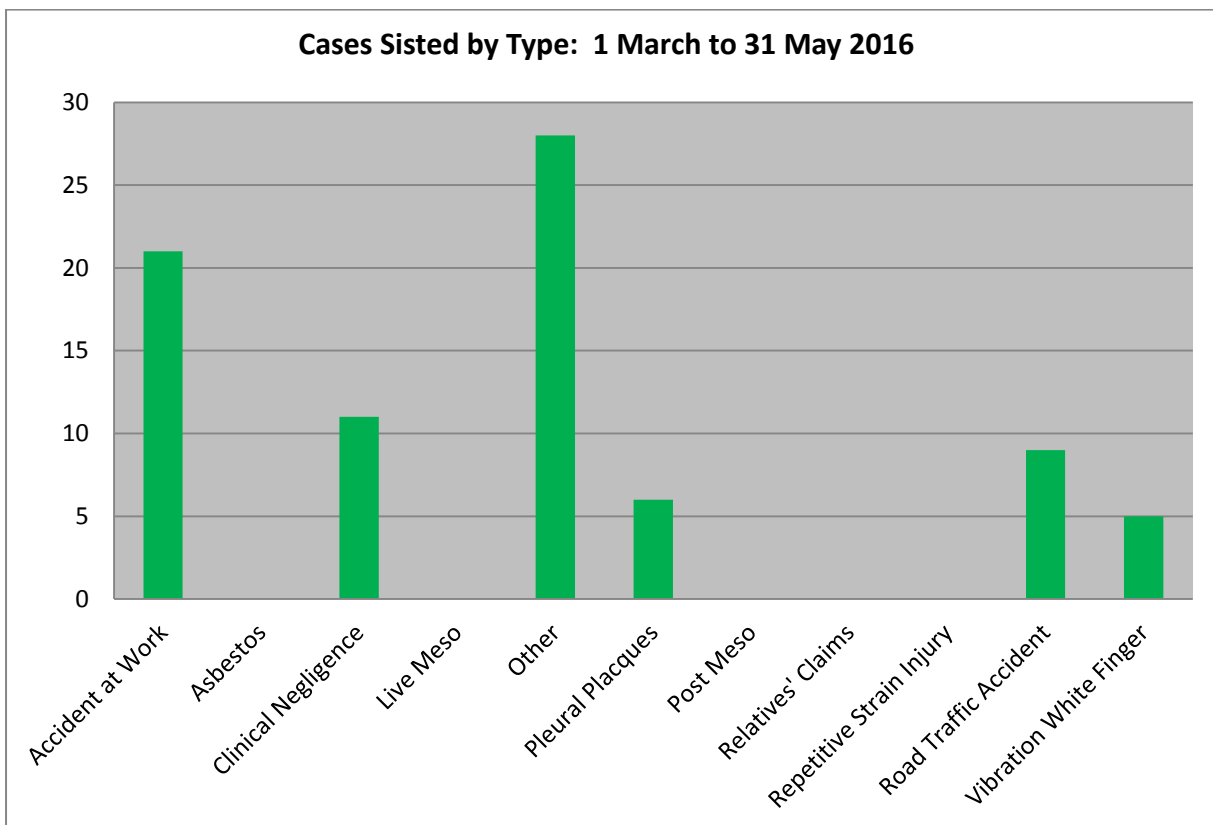
All 6 actions transferred to chapter 36A were brought in as clinical negligence actions. These tend to involve very complex issues dealing with alleged malpractice or incompetence from medical staff, or feature injuries which are difficult to quantify or evaluate within the time frame of the year-long PI structure.

On 22 September 2015, new rules came into force to allow clinical negligence cases to be transferred out at warranting stage (OCR 36.C1). In the current reporting period, five actions were presented at warranting stage with requests to remit directly to chapter 36A.

Actions Sisted

Actions sisted 1 March to 31 May 2016 = 80

Cases sisted per month	Total
March 2016	27
April 2016	32
May 2016	21



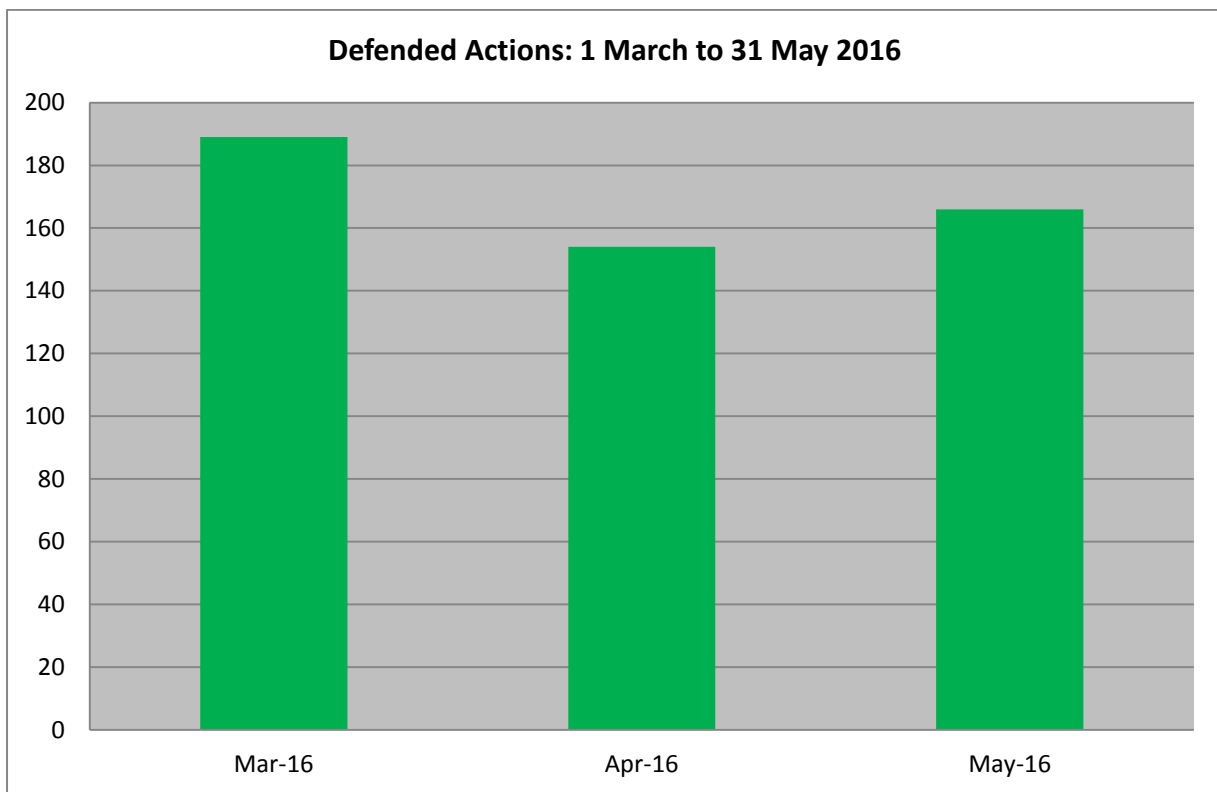
Defences Lodged in PI Cases

Defences Lodged in March 2016 = 189

Defences Lodged in April 2016 = 154

Defences Lodged in May 2016 = 166

On average 170 defences were lodged per month. This means that the proof allocation level of 50 PI proofs per assize was being met approximately every 10 days. The assize loadings were increased at the end of April to 150 across the full two week sitting, therefore the allocation is being now being met approximately every 3 weeks.



Finally Disposed Cases

Cases finally disposed of between 1 March and 31 May 2016 = 211

Total cases finally disposed in March 2016 = 61

Total cases finally disposed in April 2016 = 59

Total cases finally disposed in May 2016 = 91

Motions

Between 1 March and 31 May 2016, there were 1567 motions lodged, of these, 1230 were granted on an unopposed basis and 88 required a hearing. The remaining 249 motions lodged were dropped.

Of the 1230 unopposed motions granted, 478 (38.9%) were granted by the sheriff clerk deposes and 752 (61.1%) were sent to a sheriff for consideration.

Timetable Variations

Motions to vary the timetable are unlikely to be refused if the allocated proof date remains unaffected by the variation, so long as sufficient cause shown is provided to the court with the motion.

Monthly Comparisons

Total motions to vary the timetable in March 2016 =

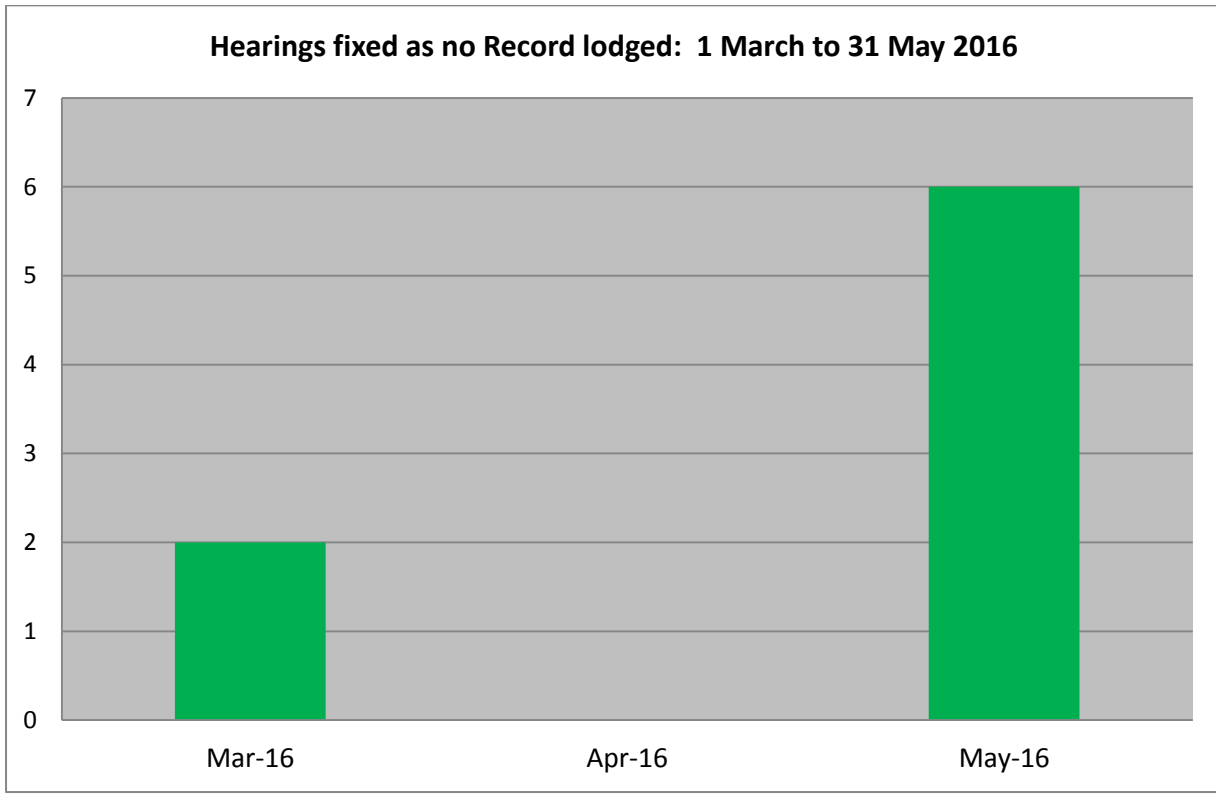
Total motions to vary the timetable in April 2016 =

Total motions to vary the timetable in May 2016 =

In order to record these statistics, an additional set diet/event field is required on CMS for 'variation of timetable'. This was requested in early March 2016, however due to the development and imminently scheduled roll out of the new ICMs, has not been made available in the current CMS.

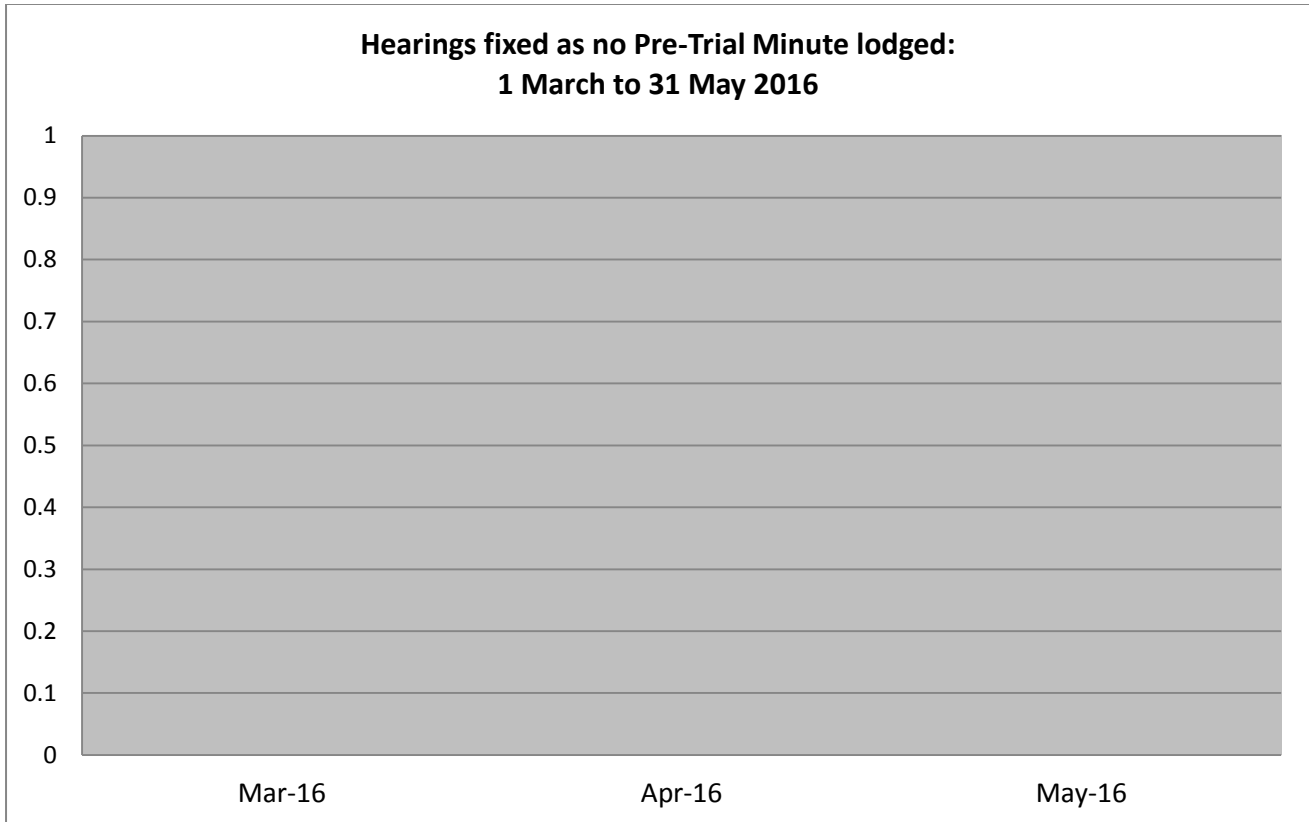
Hearing – No Record Lodged

In the period 1 March to 31 May 2016, 8 hearings were assigned, of which none proceeded.



Hearing – No Pre-Trial Minute Lodged

In the period 1 March to 31 May 2016, no hearings were assigned. The first pre-proof conference/pre-trial minute was due to be lodged on 25 May 2016, therefore any necessary hearings will have been fixed outwith this reporting period.



Proof Allocation

At the time of this report, the PI Desk is allocating new proofs of 4 days duration for the week commencing 21 February 2017, meaning the time between defences and proof is currently just under 9 months.

Number of Jury Trials fixed and proceeded

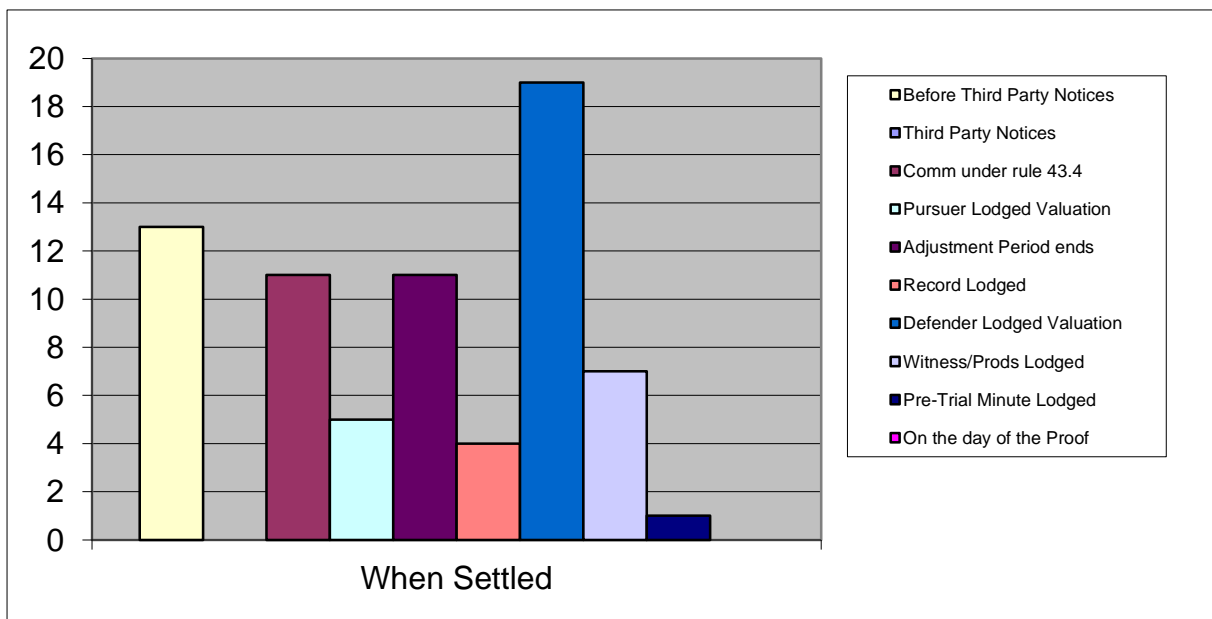
In the current reporting period, there have been 2 motions enrolled to allow issues. One motion was opposed and will be considered on 6 June. The other motion was granted on an unopposed basis, however the motion for authentication and appointment of the cause to a jury trial has not yet been granted. There are therefore no jury trials fixed within the current court calendar.

Settled Cases

The Personal Injuries Action Settlement (PIAS) Form is available to download from the All-Scotland Sheriff PI Court page on the SCTS website. Agents are advised to submit the form to the Personal Injuries team in the Civil Office by email. The form is then lodged in process and an interlocutor issued either appointing parties to lodge a joint minute within 28 days, or fixing a hearing on expenses (or other issue as identified by agents). A tracking diet is created on CMS to ensure that actions in which a joint minute is not lodged within the required timeframe are not left to drift.

From 1 March to 31 May 2016, 71 PIAS forms were lodged. All sought 28 days in which to lodge a joint minute, and the majority were subsequently followed up by lodging a joint minute with the relevant motion.

The graph below shows the various points at which cases settled during this period.



Frequently Asked Questions / Problems Arising

Intimation of motions to wrong email addresses: agents are reminded that all motions must, in the first instance, be intimated to the generic address for opposing firms, as provided to the court and published on the All-Scotland Sheriff PI Court webpage on the SCTS website. This address must be stated in part 9a of the motion sheet. Intimation may also be made to individual fee earners, however this must be in addition to, rather than instead of, the generic address, and these details are to be recorded in part 9b of the motion sheet.

Backlog of motions: due to staffing shortages and a higher than anticipated volume of motions being enrolled, a significant backlog of motions developed over the course of this reporting period. This was dealt with through the use of overtime weekends and expansion of the PI team, with the necessary training being provided as a priority. It is anticipated that with continuing training and development and restructuring of the PI team, any further backlog of motions to be processed will be avoided, or kept to a minimum.

“Urgent” writs: agents are reminded that all writs are targeted to be checked and returned to agents within 1 working day. Please note that an urgent writ is therefore considered as one which timebars within this period. If urgent registration is required, please clearly mark the covering letter of the writ with the urgency and reason for this, and advise how you wish the writ to be returned (collection by agents, sheriff officers, etc.) If the writ is being hand-delivered to the office, please ensure that the counter team are aware of the urgency, and whether agents intend to wait for return of the writ, in order to relay this to the PI team.

Motions for specification of documents: due to the wide range of variables inherent in orders for commission and diligence on a specification of documents, it has been agreed between the sheriffs and office staff that effective immediately, these motions will be sent to a sheriff for consideration and signature. This will ensure a consistent approach in granting these motions and allow staff and court users to have a clearer understanding of what is required when enrolling motions relating to specifications of documents.