draft/Minutes

**Personal Injury User Group Meeting – 7 March 2017 at 4:15 pm in Level 4 Conference**

**Room**

Present: Sheriffs McGowan (Chair), Mackie and Braid; Gail Edwards HEO; Fiona Pryke, PI Depute; Garry Rendall, PI Depute; Robert Milligan, QC; Ian Leach, BLM; Andrew Henderson, Thompsons; Ian Leach, BLM; Andrew Henderson, Thompsons; Tanya Gordon, Clyde & Co; Peter Crooks, Lanarkshire Accident Law.

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| **No** | **Item** |
| **1.** | **Apologies**  Apologies received from Sheriff Arthurson QC, Sheriff Reith QC, Sheriff Liddle, Kim Leslie and C Whyte, SLAB |
| **2.** | **Minutes of previous meeting**  Minute of PIUG meeting of 20 January 2017 approved. |
| **3.** | **Matters Arising**  *Absence of Chapter 36 Report*  The introduction of iCMS has resulted in a change in which the information required for said report is collated i.e. a request for the information previously readily available requires to be obtained centrally leading to delays.  The introduction of iCMS continues to cause issues with the processing times but have been assured that priority is now been given to addressing issues |
| **4.** | **PI Improvements**  There has been a comprehensive review of working practices in the PI section of the Sheriff clerk's office. A number of steps have either been taken or are in hand with a view to improving administrative operations. For example, two additional staff at Administrative Officer level have been recruited; the overall team has been restructured into front-office and back office teams, each with a dedicated manager; and the physical layout of the office is about to be changed to increase storage capacity and provided a working environment which allows for more efficient processing of work there. None of these changes on their own are going to solve all problems, but it is hoped that incrementally they will contribute to an improvement in processing PI work.  **Report: -** Concerns expressed in relation to the length of time required in training the new staff and the impact on the current processing times in the short term. |
| **5.** | **iCMS**  The need to address issues affecting ICMS (which affect all sheriff courts in Scotland) has been escalated to and discussed at the highest level. An example was the absence of a facility allowing for interlocutors to be emailed out to agents at the press of a button as the email addresses for the solicitors firms had not been input onto ICMS. “Work arounds” have had been employed, resulting in delays. This issue has been addressed and it appears that a solution is imminent. This and other updates are now being undertaken weekly. Again, these, as they are achieved, should improve functionality for the PI admin teams.  **Report:-** The update to the system in relation to the practitioners’ details being uploaded to iCMS and the emailing of interlocutors now resolved.  Attendees advised that the iCMS team having been dealing with a number of competing issues since its implementation however assurances have been given that ongoing PI issues have been escalated.  Suggestion made that member of iCMS team be invited to next meeting to discuss ongoing issues and advise on progress |
| **6.** | **Practice and Procedure**   1. *Lodging of steps of process: use and abuse of concession re emailed documents*      Use and abuse of concession in relation emailed documents: as a concession, and to assist agents, the PI Clerks have been operating a practice of accepting emailed copies of documents where (i) the last day for lodging had been reached; (ii) the agent (a) for some reason was not able to attend to the lodging of the principal that day but (b) undertook to lodge the principal the following day. This was intended to be a facility to be used in exceptional circumstances. Apart from anything else, it uses up staff time in printing off hard copies of the email material and then dealing with the principal copy the following day i.e. ‘double handling’. It also adds to the storage issue. Unfortunately, a practice appears to be developing in some quarters of treating this as the norm rather than the exception. The preparation of List of Witnesses, Inventories of Productions and the like should not be being left to the last day. The clerks will continue to be pragmatic about this on an ‘exception’ basis, but if the concession is abused, consideration may need to be given to withdrawing it.  **Report: -** further communication to follow by email to practitioners about the use of said facility.  *b.*  *Lodging and storage of bulk documents/productions:*  **Report:-** Discussion surrounding the ongoing issue of bulky productions being lodged in ever increasing numbers resulting in storage difficulties and detrimental to processing times; the merits of alternative media considered and suggestion by Chair in relation to the setting up of a small working party to consider and make recommendations in relation to the issue welcomed;  Sheriff McGowan to contact directly practitioners who have expressed an interest in joining the working party, in order to arrange an initial meeting to further discuss matters; volunteers: Kim Leslie, Ian Leach and Norma Shippin; group will also include a PI depute namely Garry Rendall.  *c. Time taken to process initial writs presented for warranting (particularly in urgent time bar situations)*  Concerns expressed and reference made to the Court of Session warranting time of 48 hours.  **Report:-** Time bar writs are currently processed either at the time of lodging (agents or their court runners invited to wait) or later the same day; it bears mentioning that to date all time bar writs have been warranted timeously. The target for warranting writs is 48 hours subject to staffing levels constraints  *d. Time taken to process motions and then issue interlocutors: Timescales, specifically, the time taken for interlocutors to be granted and/or dropped by the court, particularly when the motion is concerned with a variation of the court timetable*  **Report:-** Regrettably the introduction of iCMS is resulting in a longer processing time in relation to processing fees and production of interlocutors; overtime has been authorised to address the backlog caused. In addition, the emailing of interlocutors’ issue having recently been resolved the timescales currently causing concerns should improve.  The quality of the motions and the submissions contained therein in support of the motions is a continuing issue which is contributing to the delay and the number of motions requiring to be pended whilst practitioners provide clarification /further information; Sheriff McGowan advised that that present 20% of motions are being dropped for those reasons  PI deputes mentioned of the volume of motions having to be pended due to minor administrative issues such as failure to lodge attachments , make relevant submissions, queries about intimation or missing consent which results in additional burden for processing staff; whilst pending motions for minor defects is primarily for the benefits of practitioners and a facility used liberally when in the event of backlogs as presently being experience, when said backlog is clear it may require to be looked at again and used more sparingly.  *e. Problems with lodging of Inventories of Productions*  **Report:-** Improved with recent backlogs cleared during overtime  *f. Time given to agents to alter motions if a Sheriff requests more information on initial consideration of an enrolled motion –*  **Report:-**Concern about the time given to practitioners to amend motion and/or provide information varies according to the nature of amendment and information required and kept to a minimum in attempt to adhere to the targets for processing motions  *g. Recovery of pre-accident  medical records*  **Report-** Sheriff McGowan noted the issue raised but felt that it was not amenable to resolution within this group, given its remit and the differing views between agents as to what should be recoverable in each case; and that the matter would need to be argued out on a case by case basis. |
| **7.** | **Training event**  *The proportion of rejected motions continues to cause concern. This generates a lot of unnecessary for clerks. Presumably it causes wasted time and expense for agents too. In order to try and improve the standard of motions (and other documentation being lodged), the court is considering setting up a training session for those charged with preparing them, giving guidance on good practice. Is this something which would be of interest to users?*  **Report:-** Interest in attending a training session in terms suggested favourable and Sheriff McGowan will take this forward |
| **8.** | **Communication**  *a.      Newsletter*  *b.      Publication of judgements*  *c.       Electronic court rolls*  **Report:-**   1. drafted and Edition 1 will be publicised in due course 2. at present an individual sheriff decides if a judgment should be published and usually publication is limited to such cases with particular point(s) of interest with a view to providing guidance to practitioners; by way of response practitioners would like to see all decisions published on website, SLRT and/or SLT and accessible as some of the larger firms are the process of collating same for guidance/informational resource for practitioners; the current SCTS project to improve existing website means that there is no provision to make changes to the site such as creation of a dedicate ASSPIC judgments sections at this time   c.Work by iCMS team in relation to the issuing of the Courts Rolls is ongoing |
| **9.** | **Make up of PIUG**  *The subject was touched on by Sheriff Mackie at the last meeting. Mr Milligan has a specific proposal in relation to an additional member of the bar. There are perhaps also  issues about the geographic reach of the membership given that this is a national court; about the optimum size of the group; and whether any of the longer serving members would like to give way to new faces.*  **Report:-** Mr Milligan has suggested that it may be preferable for junior counsel to take his place on PIUG and has volunteered to identify likely candidates and email names to Sheriff McGowan for the Sheriff Principal’s consideration;  Practitioners to further consider the question of changes to the current makeup of the PIUG, whether any of the long term serving member would wish to step down and the extension of the geographical reach of the group given that this is now the All Scotland Personal Injury Court; |
| **10.** | **Pursuers’ Offers**  *There is some limited information on the SCJS website about the approval of an Act of Adjournal. The Sheriff Principal advises that it is on the PI Committee agenda. The January meeting was cancelled and the next meeting is on 20 March. In the meantime, it would appear that the status of any such ‘offer’ is unofficial and uncertain.*  **Report:-** The relevant legislation will come into force on 3 April 2017 |
| **11.** | **Conduct of court runners**  **Report:-** Recent improvement noted by clerks |
| **12.** | **Programming of opposed motions**  *There appear to be two issues (i) programming of opposed motions (and other callings in Procedural Courts (normally Mondays); and (ii) programming of opposed motions on days other than Mondays. Views are sought on what arrangements would best suit practitioners.*  **Report:-** Present regime:- scheduled for procedural courts on Monday which is dependent on availability of limited slots and time estimate provided with *ad hoc* arrangements made for the hearing of opposed motion during the proof week if no business is proceeding; the drawback with the latter is this can be erratic and practitioners or counsel not available; if there were set days i.e. the procedural court and another then agents could plan accordingly; suggestion made of adopting the CoS model not practicable for ASPIC due to shrieval and admin resources amongst other considerations such as physical resources i.e. extra courtrooms;  Sheriff McGowan put forward the possibility of a hybrid system whereby shorter motions would be heard within 48 or 72 hours of enrolment and longer motions would continue as at present to call in the procedural court or a hearing fixed on *ad hoc* basis;  Could the procedural court structure be “de-clogged”? For example, in the case of R18.3 hearings if position is agreed could the court be advised and matters be dealt with administratively? In the case of opposed motion hearings great communication between practitioners is encouraged with a view to resolving issues without need for taking up limited slots in procedural courts and subsequently dropping the motion or opposition at the eleventh hour and therefor depriving another case that particular slot and leading to delays; a possibility of addressing this at training programme thus reducing number of opposed motion a consideration;  The advantage of a hybrid system – speed and certainty; practitioners able to “control” calling date by enrolling motion on specific day; however the onus would be on practitioners to provide an accurate estimate of the time needed and dialogue would be required in order for the estimate of time for both parties to be given in opposing parties Form G9A;  Proposal for hybrid system favoured and to be taken forward by Sheriff McGowan |
| **13.** | **AOCB**  **Report:-** None |
| **14.** | **Date of next meeting**  13 June 2017 at 4.15 p.m. |