

COURT OF SESSION

PRACTICE NOTE

No. 1 of 2016

JUDICIAL GUIDANCE TO THE JURY REGARDING NON-PECUNIARY DAMAGES

1. This Practice Note has effect from 27th September 2016.
2. It applies where the issue in a jury trial, in terms of Chapter 37, is the level of an award of damages in respect of non-pecuniary loss.
3. At the conclusion of the evidence, parties will be given the opportunity to address the trial judge briefly in respect of the appropriate level of non-pecuniary damages for each category of non-pecuniary loss claimed. This will take place in the absence of the jury.
4. The Lord Ordinary, in his or her charge to the jury, will advise the jury as to the level of damages which he or she considers might reasonably be awarded. This will be done by providing a range relating to the general level of comparable awards in each category of the non-pecuniary loss claimed.
5. In doing so, the Lord Ordinary will advise the jury that the range or ranges are for their assistance only and are not binding upon them (see *Hamilton v Ferguson Transport (Spean Bridge) Ltd* 2012 SC 486, LP (Hamilton) at paras 76 and 77).

CJM Sutherland
Lord President

Edinburgh
12th August 2016