

20 December 2012



Scottish Court Service
Field Services Directorate
Court Structures Consultation
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By email: courtstructures@scotscourts.gov.uk

Dear Sirs

Consultation on the proposals for a court structure for the future

The Association of Personal Injury Lawyers (APIL) was formed by pursuers' lawyers with a view to representing the interests of personal injury victims. It is a not-for-profit organisation with over 20 years history working to help injured people gain access to justice they need and deserve. APIL currently has over 4,400 members, 170 of which are in Scotland. Membership comprises solicitors, barristers, legal executives and academics whose interest in personal injury work is predominantly on behalf of injured claimants.

APIL has a long history of liaison with other stakeholders, consumer representatives, governments and devolved assemblies across the UK with a view to achieving the association's aims, which are:

- To promote full and just compensation for all types of personal injury;
- To promote and develop expertise in the practice of personal injury law;
- To promote wider redress for personal injury in the legal system;
- To campaign for improvements in personal injury law;
- To promote safety and alert the public to hazards wherever they arise;
- To provide a communication network for members

APIL welcomes the opportunity to comment on the proposed changes to the court structure in Scotland. We appreciate that the consultation focuses on a number of changes to the court structure; however, as our remit extends only to matters of personal injury, we have chosen to focus on those changes that are most likely to have an impact on this area of practice i.e. the introduction of a “summary sheriff” (part of proposal 2) and the closure of the sheriff courts (proposal 5).

- We are opposed to the idea of a “Summary Sheriff” dealing with personal injury cases valued lower than £5,000. We believe that all personal injury cases should be dealt with through the same procedure, by the same level of judge, as there are some very complex cases that could be valued below £5,000. To expose them to a simplified procedure would mean that there would be a denial of access to justice.
- Whilst we understand that closing some of the more outlying courts could be seen as restricting access to justice, our belief is that two specialist personal injury courts in a more central location such as Edinburgh and Glasgow could actually be more advantageous for pursuers. Therefore we understand that closure of some outlying courts may be required, to allow for a more specialist court to go ahead.

The introduction of the Summary Sheriff

Whilst APIL is not against the introduction of the position of Summary Sheriff, as proposed at paragraph 1.22 of the consultation paper, we would argue strongly that the role should not include dealing with personal injury matters. All PI cases should follow the same procedure in the same court. There should be no varying level of expertise or “level” of judge with regard to personal injury cases, even if the cases dealt with by the less experienced judge are those under £5,000. Cases below £5,000 have the potential to be very complex, and if there was a disparity between the different levels of judges, this could lead to a denial of access to justice. We have stated before, in our response to the Scottish Government’s response to the Gill report, our concerns about a simplified procedure for lower value cases.

The closure of Sheriff courts

Following the Scottish Government’s response to the report of the Scottish Civil Courts Review, APIL is very much in favour of judicial specialism within the personal injury courts. We believe that specialisation could make a significant difference in helping injured people to receive justice in a timely and cost effective manner. Time and money would be saved as a dedicated personal injury judiciary would quickly develop the expertise necessary to ensure effective case flow management. Having two specialist courts in a more central location such as Edinburgh and Glasgow would also make the court more accessible for most practitioners, thus cutting down costs for them, and, as a result, costs for pursuers. The

consultation document mentions at paragraph 1.19 the provision of the specialised personal injury court in Edinburgh, but we would also argue that there should be a specialist court in Glasgow- two specialist courts will improve access to justice. Delays and strain on the court's facilities would not be as much of an issue if two courts were sharing the case load.

As we are in favour of specialisation, and are aware of the cost savings that need to be made within the Scottish court system, we can see that centralising the expertise and resources, thus closing some outlying sheriff courts in favour of a central specialised court, is perhaps the least damaging way to cut costs, whilst still providing access to justice.

We do accept that people travelling from outlying areas may have difficulties getting to court should their local sheriff court close. This may have particular consequences for those involved in criminal and family cases. However, anecdotal evidence and also evidence from Part 4 of the consultation paper, suggests that the number of personal injury pursuers affected by these closures would be minimal. As the consultation paper states, although some people will have to travel further than they would have had their local court remained open, the majority of journeys are still an acceptable daily commute. In addition, the figures for cases which lead to the parties having to attend court (i.e. those cases going to proof) are generally low. According to the consultation paper, the only courts with more significant numbers of civil cases going to proof, and thus requiring the parties to attend court, are those in Alloa, Cupar and Arbroath- with up to 22 ordinary cases and 18 summary/small claims last year requiring the parties and their witnesses to attend in these courts. Even with regard to these courts, the proposed extended commute would still be reasonable. The rest of the courts set to be closed, whilst resulting in further distances to travel, have very low numbers of civil cases which require the parties and witnesses to actually travel to the courts. In most instances, there are either no cases, or only 1 or 2 cases of this type.

It is further suggested that the bulk of PI cases are dealt with in Edinburgh and Glasgow at present anyway, with those who live far away from the cities already expected to make a significant commute to attend court if they need to. Therefore the closure of these courts will not have a substantial impact on those seeking to bring personal injury claims.

One concern that we do have is whether the Edinburgh court alone can cope with the influx of cases from Haddington and Peebles. According to the consultation paper, Haddington dealt with 1,170 civil cases in 2011/2012. As above, we believe that two specialist courts- one in Glasgow and one in Edinburgh- would be the best option, to ensure that access to justice is not inhibited through only having one specialist court. It is thought that the

Edinburgh specialist court will be using the facilities from the Court of Session, but there are only 15 court rooms in total, and as such there may be logistical issues, leading to delays.

We hope that our above comments prove useful to you. If you have any other queries, please do not hesitate to get in contact.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Alice Warren', with a long, sweeping horizontal stroke at the end.

Alice Warren
Legal Policy Officer