

Business and Regulatory Impact Assessment

Title of Proposal

Sheriff Personal Injury Court.

(The court will be made operational by an order made by Scottish Ministers under section 41 of the Courts Reform (Scotland) Act 2014).

Purpose and intended effect

• Background

In September 2009, the then Lord Justice Clerk (now Lord President of the Court of Session) Lord Gill published the Report of the Scottish Civil Courts Review (“SCCR”). The SCCR recommended substantial changes to modernise and improve the structure and operation of Scotland’s civil courts. In November 2010, the Scottish Ministers accepted the vast majority of the SCCR’s recommendations including changes to the jurisdiction limits between courts; simplified court procedures; and summary sheriffs. Most of the recommendations from the SCCR that the Scottish Ministers accepted are being delivered through the Courts Reform (Scotland) Act 2014 (“the 2014 Act”).

Some of the recommendations made in the SCCR have already been taken forward such as the establishment of the Scottish Civil Justice Council (“SCJC”) by an Act of the Scottish Parliament in 2013, and some have been reviewed by Sheriff Principal Taylor’s Review of Expenses and Funding of Civil Litigation in Scotland.

The 2014 Act sets out a package of measures including:

- the transfer¹ of a proportion of lower value business out of the Court of Session giving it the status it deserves as the senior civil court;
- a new specialist Sheriff Personal Injury Court (“SPIC”), replicating many of the advantages of the central hub currently in the Court of Session;
- a new Sheriff Appeal Court hearing summary criminal appeals from sheriff and JP courts and civil appeals from sheriff courts, reducing the number of criminal and civil appeals which require to be dealt with in the High Court and Inner House of the Court of Session respectively;
- the new SPIC with all-Scotland jurisdiction and a new Sheriff Appeal Court will ensure that cases are heard at a proportionate level, ensuring proportionate costs and reducing unnecessary delays for litigants;
- new “summary sheriffs” in the sheriff courts, with the same qualifications as sheriffs, will focus on many civil proceedings adopting an interventionist

¹ We note that cases in the Court of Session on 22 September 2015 will not transfer to the Sheriff Personal Injury Court (“SPIC”) or local sheriff courts. Cases raised in the Court of Session before 22 September 2015 will continue there and new cases may be raised in the SPIC from 22 September 2015. Transfer in this context and throughout the document therefore refers to the proportion of cases that are currently raised in the Court of Session and after the reforms, the majority of which cases, will be raised in the SPIC.

approach. They will also hear summary criminal cases and bail applications.

- specialist sheriffs and/or specialist summary sheriffs will be enabled in specific areas of law such as family, personal injury² (“PI”), housing or commercial; and
- new procedures for judicial review cases in the Court of Session will be enabled including a three month time limit, as well as a requirement to obtain permission to bring the case, in order that challenges to the decisions of public bodies are made promptly and resolved quickly.

Section 41 of the 2014 Act permits the Scottish Ministers to provide by Order that the jurisdiction of a sheriff in a specified sheriff court extends throughout Scotland for the purpose of dealing with specified types of civil proceedings. It is this provision which permits the establishment of a specialist SPIC referred to above in Edinburgh Sheriff Court. Further Orders may be made under Section 41 in the future to designate other all-Scotland sheriff courts in particular types of cases. However, it is the first Order to be made under section 41 to create the all-Scotland SPIC in Edinburgh in 2015 to which this BRIA refers.

76% of the cases in the Court of Session General Department were PI claims in 2011-12. Only around 2% of these typically go before a judge causing an administrative burden that contributes to delays in the system preventing other civil cases from proceeding in the Court of Session swiftly. The overall number of cases expected to transfer out of the Court of Session accounts for less than a 3% increase in the volume of civil cases dealt with across sheriff courts, but represents around half of all cases in the Court of Session. Scottish Courts and Tribunals Service (“SCTS”)³ figures for 2011-12 show that 67% of all PI actions are already being disposed of within the sheriff courts, with 33% of cases managed within the Court of Session.

- **Objective**

The main policy objective is that Edinburgh Sheriff Court be designated as a SPIC with an all-Scotland jurisdiction. Section 41(4) of the 2014 Act provides that an Order under section 41(1) does not affect the jurisdiction of any other sheriff court which consequently will still be able to deal with PI cases.

In addition, section 42 of the 2014 Act provides for a sheriff court designated as one with an all-Scotland jurisdiction (for example, the SPIC) to continue to be used as a “local court” in relation to the specified types of action (subsections (2) to (4)). Cases that happen to fall within that court’s local jurisdiction as well as that of the SPIC can either be raised in the sheriff court, exercising its local jurisdiction, or be raised under specialist PI rules in the specialist court.

A further policy objective is that all PI actions may be brought in the specialist SPIC in Edinburgh if the sum sued for is in excess of £5,000 (the upper limit for cases which presently required to be brought as a summary cause (Sheriff Courts (Scotland) Act 1971, section 35), and which will be the upper limit for simple

² The definition of personal injury is taken from established rules of court.

³ The Scottish Court Service was renamed to the Scottish Courts and Tribunals Service on its merger with the Scottish Tribunals Service on 1 April 2015. The Scottish Courts and Tribunals Service is used throughout this document to avoid confusion.

procedure under section 72 of the 2014 Act). Special provision is made for workplace personal injury cases:⁴ those for more than £1,000 may be raised directly in the SPIC, while workplace cases under £1,000 may be remitted to the SPIC if the local sheriff considers that they are of sufficient importance or difficulty. Parties also have the choice of raising claims in the local sheriff court. The Court of Session will no longer consider PI actions below £100,000. The issue of providing for an exception for lower value workplace PI cases was raised at Stage 2 of the passage of the Bill for the 2014 Act (“the Bill”) by the Scottish Trades Union Congress (“STUC”) as a partial countermeasure to the UK Government’s repeal of section 69 of the Health and Safety at Work etc. Act 1974 through its Enterprise & Regulatory Reform Act 2013 (removal of an employer’s strict liability in health and safety at work cases). An Order made under section 41 is able, by virtue of article 5 of the Courts Reform (Scotland) Act 2014 (Consequential Provisions and Modifications) Order 2015, to specify cases that relate to reserved matters, as in this case.

The SCJC will be updating court rules for the sheriff court and making new rules for the SPIC in order to enable specialist PI rules for cases both above and below £5000.

- **Rationale for Government intervention**

The Scottish Government believes that the introduction of a SPIC with all-Scotland jurisdiction will contribute to greater access to justice through a more efficient and effective civil justice system with clearer routes to justice, less unnecessary delays in resolving disputes and therefore more proportionate costs (as explained below).

In particular the policy proposals in the Order are set to contribute to the realisation of the following outcomes.

- National Outcome 1 on living in a Scotland that is the most attractive place for doing business in Europe.
- National Outcome 11 on resilient communities by increasing public confidence in justice institutions and processes.
- National Outcome 16 on high quality, continually improving public services that are efficient and responsive to local people’s needs.

The policy also contributes to the Scottish Government's Wealthier and Fairer and Safer and Stronger objectives.

- Our public services are high quality, continually improving, efficient and responsive to local people's needs.
- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.
- We live our lives safe from crime, disorder and danger.

⁴ Workplace cases are defined by reference to Part 1 of the Health and Safety at Work etc. Act 1974.

Consultation

- **Within Government**

The Bill provisions as a whole were discussed with officials from other directorates with an interest, and the SCTS, the Judicial Office for Scotland, the Crown Office and Procurator Fiscal Service (“COPFS”) and the Scottish Legal Aid Board (“SLAB”) where necessary.

- **Public Consultation**

Although the Scottish Government has not issued a consultation paper specifically on this Order, it consulted on the Bill between 27 February until 24 May 2013. This consultation included the proposal for an all-Scotland SPIC. The consultation attracted 115 responses, 16 from individuals and 99 from organisations. There was a useful range of responses from the judiciary, the legal profession, consumer and advocacy bodies, and public bodies. The following links provide access to the various papers concerned with the Bill consultation:

Consultation paper: <http://www.scotland.gov.uk/Publications/2013/02/5302>

Responses: <http://www.scotland.gov.uk/Publications/2013/06/2336/downloads>

Analysis: <http://www.scotland.gov.uk/Publications/2013/09/8038>

Stakeholders key to the implementation of the reforms have been kept involved in the developing proposals through regular meetings of the Making Justice Work Programme Board. The members of the board included key representatives from SCTS, SLAB, COPFS and the Judicial Office for Scotland.

- **Business**

During the preparation of the Bill, one to one meetings were scheduled with specific businesses as set out under the “Scottish Firms Impact Test” section. A range of business interests and businesses of different sizes in different parts of the country were sampled. Comments were taken verbally on the questionnaire at meetings and written responses were received from some BRIA consultees whilst others referred the Bill Team to parts of their main consultation responses.

Three stakeholder workshops took place in April and May 2012 on the exclusive competence, criminal cases and family cases. They were well attended by the legal profession. Over 100 people attended three further stakeholder events in Aberdeen, Edinburgh and Glasgow in April and May 2013 including family lawyers, PI lawyers, family stakeholder groups, consumer groups, insurers, the judiciary, the Law Society, SLAB, COPFS, the SCTS and local councils. In particular, discussion on the exclusive competence involved consideration of the proposals for an all-Scotland SPIC.

Options

It is important to consider the proposal to introduce the specialist SPIC with an all-Scotland jurisdiction as part of a package of reforms. In particular, this measure must be seen in tandem with the raising of the exclusive competence of the sheriff court from £5,000 to £100,000, a provision that means that all PI cases with a value below £100,000 would then have to be raised in the local sheriff court or the SPIC, and new specialisation measures.

With this in mind, the BRIA will consider two options:

- do nothing; and
- introduce a new SPIC with all-Scotland jurisdiction.

The raising of the exclusive competence and the SPIC are commenced on 22 September 2015, the start of the new legal year in Scotland.

Sectors and groups affected

Both options have impacts for the following sectors and groups:

- party litigants;
- consumer bodies/advocacy groups;
- businesses requiring to litigate (large and small business and including e.g. local authorities);
- insurers;
- advocates;
- solicitor advocates;
- solicitors;
- lawyers;
- lay representatives;
- the judiciary; and
- organisations in the justice system (SCJC, SCTS, SLAB, COPFS).

Option 1 - Do nothing

Benefits

When section 39 of the 2014 Act is implemented raising the exclusive competence of the sheriff court to £100,000 and if the SPIC is not introduced, there will be no benefits to court users, nor the judiciary, nor the SCTS. Doing nothing would deny many of the litigants:

- the PI expertise that results from PI lawyers' work being concentrated in Edinburgh; and
- the services of specialist sheriffs in the SPIC;
- the benefits of a forum that only deals with PI claims;
- other aspects of the Court of Session treatment of such cases that will be replicated in the SPIC for example civil jury trials and e-motions.
- access to the SPIC for workplace PI cases above £1,000
- access to the SPIC for workplace PI cases below £1,000 where a sheriff considers them of sufficient importance or difficulty.

The SCCR, in discussing the waste in the civil justice system, stated: "There should be a classification by which a litigation should be conducted only in the court that is appropriate for it by reason of its nature, value or importance." Doing nothing contributes to this state of affairs and impacts on the efficiency with which more complex PI cases can be processed.

If nothing is done, in terms of how the SPIC fits with the wider package of court reform measures under the 2014 Act, the Scottish civil justice system will continue as one that is, in the words of the SCCR, "slow, inefficient and expensive". Litigation may currently be unaffordable for many owing to the disproportionate cost (as explained below) including particularly where claims of a lower financial value are brought unnecessarily to the Court of Session where they could competently be heard by the sheriff court/SPIC instead.

Costs

When section 39 of the 2014 Act is implemented raising the exclusive competence of the sheriff court to £100,000 and if the SPIC is not introduced, it might be argued that the use of the local sheriff court for PI cases would be cheaper for the majority of litigants, particularly those who live in more remote areas. However, the litigants would still have the choice of raising their cases in either the SPIC in Edinburgh or in their local sheriff court if the SPIC had been created. Feedback from stakeholders suggests that the expertise of the SPIC will be a key factor in their decision in where to take their cases.

If the Order under section 41 is not implemented, many claims of lower financial value are likely to continue to be litigated in the Court of Session at a disproportionately high cost to the parties. The rights of audience applicable in the supreme courts (including the Court of Session) mean that only advocates and solicitor advocates are able to represent litigants in those courts. The wider rights of audience that apply in the sheriff court allow any solicitor to represent litigants in PI cases and other cases transferred to the sheriff courts including the SPIC. Under

section 108 of the 2014 Act, parties in the sheriff courts or the SPIC will be able to bring a motion to the sheriff asking for the sanctioning of counsel (advocates or solicitor advocates) in their case, so counsel will be available for complex cases where required, but will not be mandatory as in cases taken to the Court of Session.

Option 2 – Introduce a SPIC with all-Scotland jurisdiction in Edinburgh

Benefits

The SPIC will give those who litigate in PI cases the choice of raising their PI action above £5,000 either in the specialist SPIC or their local sheriff court if more convenient. Those claiming more than £1,000 for injury at work may raise a case directly in the SPIC, and workplace claims below this value may be transferred to the SPIC if the local sheriff considers that the importance or difficulty of the proceedings makes it appropriate to do so. If their case is above £100,000 they could choose to litigate in the local sheriff court, SPIC or in the Court of Session.

In practice, the SPIC is expected to offer a centre of expertise for the cases that form part of its jurisdiction and this is likely to make that court the more attractive option for practitioners. As the SPIC will offer many of the benefits that are currently the basis for practitioners using the Court of Session, the Scottish Government expects that this will be the forum of choice for the majority of these cases.

Option 2 is likely to benefit party litigants and businesses (large and small) requiring to litigate in getting a swifter resolution at a more proportionate cost. The increase in the exclusive competence of the sheriff court from £5000 to £100,000 should result in more cases being heard in the SPIC/sheriff court where the use of advocates is not the norm, reducing litigation costs to the parties. The introduction of the SPIC will mean that the legal and judicial expertise in PI will not be lost to party litigants.

It is not easy to quantify financial benefits to litigants as most legal firms do not routinely release information on the cost of cases. However, information from the SCCR stated that the typical costs in preparing for and conducting a three day civil proof in the sheriff court are in the region of £7,000 to £10,000, together with the additional costs of expert witnesses and similar outlays. The costs of conducting the same case in the Court of Session are more likely to be in the region of £30,000 to £40,000, with the same additional outlays.

This option is likely to result in more specialisation and increased competition between legal firms. This could offer more consumer choice in terms of legal representation.

In relation to PI claims, option 2 is likely to maintain the cost of insurance premiums at a reasonable level for consumers according to consultation comments from insurers.

Accident at work PI cases above £1,000 will be able to be raised in the SPIC. Accident at work PI cases below £1,000 will be able to be brought to the SPIC if a local sheriff considers that they are of sufficient importance or difficulty.

It is also relevant to note that the 2014 Act makes general provision for all PI cases, above £5,000 to be able to be remitted from the SPIC/local sheriff courts to the Court of Session on the application of any of the parties to proceedings where the sheriff considers that the importance or difficulty of the proceedings makes it appropriate to do so. Alternatively on the application of any of the parties to proceedings, the sheriff may request the Court of Session to allow the proceedings to be remitted to it if the sheriff considers that the importance or difficulty of the proceedings makes it appropriate to do so and the Court of Session may allow proceedings to be remitted to it on “cause shown”. So the Court of Session may deal with cases below £100,000 in this manner if they are proven to be of sufficient importance or difficulty. The “cause shown” test was amended by the Government at Stage 2 of the passage of the Bill as it was then from the originally higher test of “special cause shown”.

Overall costs and savings

When the court reforms in the 2014 Act are viewed as a package, savings will accrue to the Scottish Government and HM Treasury in respect of Judicial Salaries and related expenses (pensions), the SCTS and other justice bodies like the COPFS and SLAB. The SCJC and the SCTS will also need to make small outlays. Using PI sheriffs rather than outer house judges for hearings will generate a potential saving of £57,000 per annum (200 days x £285 saving per day). Those savings will primarily accrue to the Scottish Government as the main budget holder for judicial salaries, with some possible impact on the relief cover which is funded directly by the SCTS. The Lord President will appoint specialist PI sheriffs to the court before 22 September 2015. SLAB also expects that there will be savings on the amount spent on expenditure from the Legal Aid budget on counsel of around £1,200,000 per annum from 2016-2017 (attributable to the change due to the SPIC). The SCTS estimates one-off costs of approximately £127,000 in relation to the SPIC. These include £10,000 to cover general set up costs including:

- the design and set up of the processes for designating sheriffs as specialist PI sheriffs;
- the creation of the training programmes (sheriffs and staff); and
- confirming the operating model

In addition, the SCTS will need to make minor updates to one of their IT systems to specifically support creation of the SPIC, estimated at £10,000. The SCTS project team working on establishing the SPIC is estimated to cost £107,000 over 2013/14-2015/16. The staffing costs for on-going operation of the SPIC are expected to be cost neutral as the level of demand is already being managed by SCTS and the existing staff complement will in effect be redeployed and follow the business. No additional operational posts are expected to be required as a direct consequence of this change.

Table of overall costs and savings – SPIC

		One-off costs	Recurring savings (from 2016/17)
Scottish Government	Judicial salaries		(£57,000)
SLAB	Legal Aid budget		(£1,200,000) ⁵
Scottish Courts and Tribunals Service	Payroll (clerks)		(£7,000)
	Project team	£107,000	
	Procedures	£10,000	
	IT upgrade	£10,000	
Total		£127,000	(£64,000)

Legal profession costs

With the concentration of a large proportion of cases that would previously have been raised in the Court of Session being raised from 22 September in the SPIC or the sheriff court, there will be less PI cases in the Court of Session i.e. less cases where advocates and solicitor-advocates have exclusive rights to represent clients. Some advocates have suggested that opportunities to train in the Court of Session on less complex cases would be lost. Some legal firms are likely to consider changing their business models and there could be winners (such as legal firms that specialise, solicitors ready to represent their clients in the sheriff court), and losers (such as advocates and PI lawyers whose business is mainly focused in the Court of Session at present). In reality as we have previously discussed many of these cases will now be heard in the SPIC and it is likely that practitioners will wish to continue to take advantage of the benefits of a central forum. In terms of fewer PI cases of lower financial value being raised routinely in the Court of Session, this is a removal of an exclusive right for advocates and solicitor advocates who exclusively represent clients in the Court of Session in those cases – after the changes, advocates, solicitor advocates and solicitors may represent clients in PI cases heard in the SPIC or local sheriff courts if sanction for counsel is granted by the sheriff hearing the case. (This was enabled under section 108 of the 2014 Act). These changes mean an opening up of the market for solicitors (as well as advocates and solicitor advocates) to be able to represent clients in the cases that transfer to sheriff courts. Advocates and solicitor advocates will retain their exclusive right to represent clients in the remaining PI cases in the Court of Session many of which will be complex and of a high financial value (they must be over £100,000 to be heard in the Court of Session after the changes).

Scottish Firms Impact Test

In setting out to understand the impact that the court reform proposals might have on Scottish businesses a questionnaire was devised and issued to a number of companies. In almost every case meetings were arranged with companies. Businesses requiring to litigate, and providers of legal services in different parts of the country were identified.

⁵ This may be lower in the first few years of implementation.

Interviews and meetings of relevance were conducted in 2013 as follows:

- the Law Society of Scotland;
- the Faculty of Advocates;
- Irwin Mitchell;
- TC Young & Co;
- DAC Beechcroft Ltd;
- the Wood Group;
- Pinsent Masons;
- Business requiring to litigate (anonymous);
- Forum of Scottish Claims Managers;
- STUC;
- SKO Family Ltd (questionnaire submitted but no interview); and
- Which?.

Below are summaries of the relevant comments from BRIA consultees on the transfer of much of the lower financial value PI business from the Court of Session to the SPIC/local sheriff courts, the raising of the exclusive competence, and specialisation:

- If less business is heard in Edinburgh, solicitors/advocates may need to restructure business models.
- If less business is heard in the Court of Session, and is instead heard in the sheriff court (including SPIC) legal costs for clients could become more proportionate.
- Some legal firms in specialist areas may increase in size.
- Some legal firms may do work traditionally done by counsel.
- There will be more opportunities for solicitors to represent clients in the sheriff court.
- Solicitors may be able to develop advocacy skills and become more experienced by taking on more work in the sheriff court.
- Specialist PI sheriffs in the SPIC and elsewhere could ensure that there is quicker access to justice and that cases proceed expeditiously.
- The central SPIC is likely to offer economies of scale.
- All PI cases below £100,000 should go to the SPIC.
- There is no need for automatic sanction for counsel in the SPIC, rather specialist lawyers.
- There should be automatic sanction for counsel in the SPIC.
- Complex PI cases should be dealt with by counsel (through the power of remit).

- Lower value claims are expected to benefit the most as they pay especially disproportionately high legal expenses to be heard in the Court of Session currently.
- If case resolution is expedited, at a proportionate expense; and in a less congested forum, insurers can pass savings to customers.
- Scotland could become a jurisdiction of choice for business.

Competition Assessment

Generally, in terms of competitiveness, there were comments from both businesses requiring to litigate and providers of legal services that the reforms will modernise the Scottish court system, reduce delays and costs, and encourage parties to enter into contracts under Scottish law. There were some comments that advocates may lose out with reduced fee income and that insurers might benefit from a reduction in litigation costs.

Test run of business forms

Not applicable.

Legal Aid Impact Test

The SCCR set out that the majority of reparation (damages) actions in Scotland are funded not by legal aid but on the basis of speculative fee arrangements. In PI cases, solicitors assess the risk involved, cases which are straightforward and have a high chance of success will proceed under a 'no win, no fee' or other type of arrangement. SLAB receive applications for legal aid in the more difficult cases, which they then assess in terms of whether it is reasonable that the public purse should pursue those.

SLAB estimates that a reduction in the number of cases brought before the Court of Session will reduce costs that may be incurred to the Legal Aid Fund (the approach to assessing applications will not change). In 2011/12 the average cost of a publicly funded reparation action in the Court of Session was £43,949 while in the sheriff court it was £2,909. In 2011-12 SLAB paid out £7m of which £3.1m was spent on counsel and in 2012-13 SLAB paid out £4.9m of which £2.4m was paid to counsel. The implementation of this package of reforms mean that more cases are likely to be presented by solicitors in the sheriff court and if this is the case it could be expected that the total expenditure of the Fund may decrease.

Enforcement, sanctions and monitoring

The SCTS will be taking forward many of the administrative changes to support e.g. the creation of new courts. It is an independent body corporate established as the Scottish Court Service by the Judiciary and Courts (Scotland) Act 2008 on 1 April 2010 and it merged with the Scottish Tribunals Service to form the SCTS on 1 April 2015 when another part of the Courts Reform (Scotland) Act 2014 was implemented. Its function is to provide administrative support to Scottish courts and to the judiciary of those courts, including the High Court of Justiciary, Court of Session, sheriff courts and justice of the peace courts, and to the Office of the Public Guardian and

Accountant of Court. It will also be providing support to the SPIC and the Sheriff Appeal Court when those courts are commenced.

The SCJC was established on 28 May 2013 under the Scottish Civil Justice Council and Criminal Legal Assistance Act (Scotland) 2013. It is preparing draft rules of procedure for the civil courts and advises the Lord President on the changes introduced by this package of measures. It will also be preparing rules in due course on mandatory Pre-Action Protocols in the SPIC and local sheriff courts. A PI committee under the SCJC has been working on court rules in PI cases and sits under the umbrella of the Council alongside a number of other committees including a Costs and Funding Committee and an Access to Justice Committee. Each of these committees is served by members with specialist expertise. Part of the SCJC's brief is to keep the court rules within the civil court system under constant review.

Implementation and delivery plan

The Order under section 41 will be laid on 28 May 2015 for the introduction of the SPIC on 22 September 2015. The Order is subject to the negative procedure in the Scottish Parliament.

Post-implementation review

The Scottish Government and SCTS will continually review the changes during implementation.

Summary and recommendation

Option 2 is recommended. The introduction of the SPIC and the associated reforms implement key recommendations from the SCCR, led by the principal reviewer, Lord Gill in 2009 and accepted by the Scottish Government in 2010. The overall aims are to make the system more efficient, more flexible and responsive to change, as well as being more proportionate, improving user and businesses confidence in the civil court system and access to justice. The system will also be modernised through judicial specialisation, more active judicial case management and other procedural changes to allow the judiciary to better control the pace and conduct of litigation. If nothing is done it is likely that the civil courts system will continue to generate unnecessary delays at a disproportionate cost to those wishing to resolve civil disputes.

Summary costs and benefits table

Option 1 – Do nothing

Option 1 – Costs

If the SPIC is not created there will be no dedicated forum for the resolution PI cases.

Litigants in these lower value cases will have no specialist forum for their cases and will miss out on the benefits of specialists and other benefits that were going to be replicated from the Court of Session such as the use of specialist procedures, e-motions and civil jury trials.

Those with workplace claims of £1,000 and above will not be able to raise them in the SPIC.

Those with workplace claims below £1,000 will not be provided the opportunity to have them remitted to the SPIC.

The solicitor profession would be wrong-footed if no such court is created as it will already have begun adapting and preparing for the new model.

Current disproportionate costs experienced by party litigants and the Legal Aid budget could persist. Unnecessary delays in resolving civil cases could persist.

Increased specialisation and competition among legal firms will not be enabled.

If there is no central forum for a high volume of PI cases, these cases will continue to impact on the efficiency with which more complex PI cases can be processed.

Option 1 - Benefits

If the SPIC is not created, those involved in the justice and legal system will not have to acquaint themselves with new procedures and courts.

Option 2 – Costs	Option 2 - Benefits
<p>If the SPIC is created, there will be one-off start-up costs of up to £127,000 that fall to the SCTS.</p> <p>Those involved in the judicial and legal system will need to acquaint themselves with the new court.</p> <p>Some advocates and solicitor advocates (and PI Pursuer firms) are likely to consider changing their business models as the volume of cases they have exclusive rights to is decreased – there may be losers (those whose business is mainly focused on the Court of Session currently) although in practice many of these organisations are likely to shift their business to the SPIC.</p>	<p>Less unnecessary delays and disproportionate costs for party litigants are expected. Benefits through more proportionate costs apply especially where lower value claims have been litigated in the Court of Session in the past.</p> <p>The SCCR stated that the typical costs in preparing for and conducting a three day civil proof in the sheriff court are in the region of £7,000 to £10,000, together with the additional costs of expert witnesses and similar outlays. The costs of conducting the same case in the Court of Session, are more likely to be in the region of £30,000 to £40,000, with the same additional outlays.</p> <p>Reduced cost of solicitors' fees compared to those of advocates where solicitors and not advocates/solicitor advocates run cases in the SPIC/local sheriff courts instead of advocates in the Court of Session.</p> <p>More specialisation and competition is likely in legal firms ensuring more consumer choice including more opportunities for solicitors to offer competitive alternatives in the sheriff court and the SPIC.</p> <p>PI litigants will be able to have their cases heard in a national specialist dedicated PI forum including specialist procedures, e-motions and civil jury trials.</p> <p>Those with workplace claims of £1,000 and above will be able to raise them in the SPIC.</p> <p>Those with workplace claims below £1,000 will be provided the opportunity to have them remitted to the SPIC.</p> <p>Better matching of judicial resource to cases throughout the system (savings to judicial salaries budget, more tailored service.)</p> <p>Expected savings to the Scottish Government, based on expected reductions in the judicial salaries of £57,000 in 2016-2017 in relation to the SPIC and potential savings of £1, 200,000 per annum from 2016-2017 to SLAB owing to the expected reduction in the use of counsel in the SPIC.</p> <p>Insurance premiums could be maintained at reasonable levels for consumers.</p>

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:**Date:****Minister's name: Paul Wheelhouse MSP****Minister's title:** Minister for Community Safety and Legal Affairs**Scottish Government contact point:** Hazel Dalgård