In response to a supplementary question from the Committee, following SOLAR's oral evidence on 28 February, on the new section 17C inserted by the Bill, there is currently no clear SOLAR position on the point. However, from the defender's perspective, there is a reasonable expectation that there has been a final legal resolution to the claim and it could be seen as unfair and not good practice to allow a second action on a case which has previous settled. In settling a case, the defender looks for future legal certainty. Removal of this principle could be seen to be unfair from the defender's perspective. In addition, re-opening the case would involve incurring further legal expenses (for both sides - pursuer and defender) with an expectation that these will be met by the defender. There might be some scope for providing the Court with discretion in such cases.

Vladimir Valiente
7 March 2017