

Approved

Minutes of the Civil Procedure Rule Committee

Friday 4th March 2022 (via video conference)

Members attending

Lord Justice Birss, Deputy Head of Civil Justice (Chair)

Mr Justice Kerr

Mr Justice Trower

His Honour Judge Bird

Master Cook

District Judge Clarke

Lizzie Iron

Dr Anja Lansbergen-Mills

John McQuater

Isabel Hitching QC

Tom Montagu-Smith QC

David Marshall

Apologies

Members: District Judge Cohen; His Honour Judge Jarman QC. Others: Katie Fowkes (MoJ Legal). Amrita Dhaliwal (Ministry of Justice).

Item 1 Welcome, Minutes, Action Log & Matters Arising

1. The Chair opened the meeting with thanks for members' flexibility in reverting to a fully remote meeting at short notice, due to travel disruption. The intention is that the next meeting will take place in person.
2. The Action Log was **NOTED** and the minutes of the meeting on 4th February 2022 were **AGREED**. The following Matters Arising were duly **NOTED**:
 - **Fixed Recoverable Costs (FRC):** Mr Justice Trower provided an oral update on the work of the Costs Sub-Committee considering the proposals concerning extending FRC. The proposals flow from Sir Rupert Jackson's proposed reforms and the Government's consequential consultation in 2019, the response to which was published in September 2021. The sub-committee held its first meeting on 2nd March and was assisted by the policy summary from Robert Wright (Ministry of Justice). Trower J paid tribute to the expertise within the sub-committee, which was enhanced by way of two co-opted members: District Judge Simon Middleton and Andrew Parker of DAC Beachcroft. A precise timetable for substantive reporting to the CPRC and ultimate implementation was yet to be fixed. A further consultation was anticipated as regards Qualified One Way Costs Shifting (QOCS) in due course; the sub-committee will also consider FRC in the context of vulnerable witnesses/parties. A substantive review of the structure of CPR Part 45 was also envisaged, subject to a current review on costs by the Civil Justice Council.
 - **Standard Disclosure in Workplace Claims:** The Chair confirmed that the externally co-opted members of the Workplace Claims Sub-Committee (established at the 5th November 2021 meeting) to consider standard disclosure in workplace claims (Annex C of the PI PAP) are: Huw Andrews (nominated by the Health & Safety Executive) and Helen Devereux of BLM (BLM are a member of the Forum of Insurance Lawyers, FOIL) who join John McQuater (CPRC) and Brett Dixon; the sub-committee is chaired by His Honour Judge Jarman QC. The first

sub-committee meeting took place on 24th February and a report to the CPRC is expected in the summer. **Action:** Secretariat to programme in time for June/July 2022.

Item 2 Section 2(7) Sub-Committee CPR(21)03(a)-(d)

3. The Chair expressed praise for the progress of the work to date.
4. Mr Justice Kerr presented the matter, providing a brief round-up of the current position. It was explained that work to simplify CPR Parts 2 – 16 has now been undertaken (with the exception of Parts 5 and 6 which are being addressed separately). Parts 2, 3 and 4 have been consulted upon and are ready for final determination, before entering an update cycle; Parts 7 and 8 have been published for consultation with the aim to report back at the next meeting; reformed Parts 10 and 12 were introduced, post consultation, via the last SI and 140th PD Update to come into effect on 6th April 2022; the draft proposals concerning Parts 14, 15 and 16 are presented for approval to consult. Each suite of reforms was taken in turn and discussed in detail. A summary is as follows.
5. **CPR Part 2 Interpretation of the Rules, Part 3 Case Management & Part 4 Forms**
6. The pre-consultation proposals were considered by the CPRC on 5th November 2021. The consultation commenced on 14th December 2021 and closed on 11th February 2022; no responses were submitted. Accordingly, it is recommended to approve the draft revisions, which includes the deletion of PD 4 (Forms) in its entirety.
7. It is acknowledged that PD 3D (Mesothelioma Claims) is better placed outside the generic Part 3 and placed into a dedicated space elsewhere in the CPR. This was raised in the consultation, and to which no objection has been received. A wider point follows on removing non-generic material from the generic early Parts of the CPR and placing them later, among reorganised specialist proceedings provisions. However, the sub-committee is not yet in a position to recommend where in the CPR this is best located. One possibility is to re-purpose Part 49 (Specialist Proceedings).
8. It was **NOTED:**
 - given that PD 3D is to be removed from Part 3, it may be necessary to re-sequence (re-letter the other PDs supplementing Part 3: 3E, 3F and 3G) and in consequence, address any cross-references to them, elsewhere in the CPR. **Action:** Drafting lawyers to consider when final drafting is cast.
 - all other, existing PDs supplementing the reformed Parts, but not mentioned in the proposals, are being retained, unchanged.
 - in relation to the deletion of PD 4 (Forms) it was confirmed that, essentially, it is the list of forms which is being removed from the substantive rules, in the interest of brevity; ultimately the approval of prescribed forms is not changing and remains with the CPRC.
 - some work has been carried out to make the online “form finder” facility (on gov.uk) more intuitive, however, it is unclear whether a definitive list of court forms is available online. **Action:** Secretariat to facilitate a meeting between web officials and Master Cook to discuss.
9. The discussion also ventilated views which resulted in the following drafting points being **AGREED:**
 - **Part 2:** r.2.3(1): add “Tribunals” after “HM Courts and”

- **PD 2C:** paragraph 4.1: delete the last three words “and issued there”
- **Part 4:** r.4(1): insert “as” before “published online by”; r.4(4) (second time occurring): re-number as rule 4(5) and delete “as shown in a practice direction” before “with the words”; r.4(5): re-number as rule 4(6).

10. It was **RESOLVED to APPROVE, subject to the above points and to final drafting, the reformed CPR Parts 2, 3 & 4 and the PDs supplementing those Parts.**

11. **Actions:** (i) In consultation with Kerr J and the S.2(7) Sub-Committee, Drafting Lawyers and Secretariat to incorporate into the next available mainstream SI and PD Update cycle (for October 2022 in-force) (ii) HMCTS and MoJ to facilitate communications to internal and external users (iii) HMCTS to update, as necessary, staff job cards etc.

12. CPR Part 14 Admissions

13. Kerr J reiterated that the sub-committee finds the existing Part 14 to be too long and at times unnecessarily complicated. The new, much shorter, proposed text is based on a “blank canvas” approach because the current text was not capable of adaptation using tracked changes. It is recommended to dispense with PD 14.

14. His Honour Judge Bird raised a point concerning r.14.2(5) and protected parties. District Judge Clarke identified a drafting point within r. 14.3(2)(a)(i). It was **RESOLVED:**

- an alternative drafting solution be proposed for r.14.2(5) **Post Meeting Note:** the following was drafted out-of-committee:

“Where the claimant or defendant is a child or protected party, the approval of the court under rule 21.10 is required for any settlement, compromise or payment (including an interim payment)”.

- r.14.3(2)(a)(i) is amended to add “period (or any extension to that period)” after “initial consideration” and delete “, period (or any extension to that period)” after “EL/PL Protocol applies”;
- **APPROVED IN PRINCIPLE**, subject to the above points and to final drafting, the proposed reformed CPR Part 14 and proposed deletion of PD 14, **AND FIT FOR CONSULTATION**, using the (online) rolling consultation facility.

15. **Action:** (i) In consultation with Kerr J and the S.2(7) Sub-Committee, Secretariat to facilitate publication via the online rolling consultation facility.

16. CPR Part 15 Defence and Reply

17. Isabel Hitching QC presented the proposals, which were discussed in detail. It was reiterated that Part 15 deals with filing a defence and reply and is supplemented by PD 15. It has been possible to simplify the language of the rule and changes have also been made to ensure gender neutrality. The sub-committee concluded that there is little in the PD that did not simply duplicate the provisions of the rule and it has, therefore, been possible to accommodate this within the redrafted rule. Given that the relocated provisions are not merely guidance, the rule seems a better location for them in any event.

18. It was **RESOLVED:**

- r.15.1(2) be removed, pre-consultation, because it refers to specialist proceedings (Part 45) which is likely to be reformed (see paragraph 7 above regarding PD 3D);
- r.15.8(3) requires further revision pre-consultation; the Chair undertook to produce an initial draft. **Post Meeting Note:** draft was circulated out-of-committee;
- the Part 15 reforms as presented by the Lacuna Sub-Committee (Item 5 below) are to be incorporated into the consultation material;
- a sweep for any cross references/consequential is required;
- **APPROVED IN PRINCIPLE**, subject to the above points and to final drafting, the proposed reformed CPR Part 15 and proposed deletion of PD 15 **AND FIT FOR CONSULTATION**, using the (online) rolling consultation facility.

19. **Action:** (i) In consultation with Isabel Hitching QC, Kerr J and the S.2(7) Sub-Committee, Secretariat to facilitate publication via the online rolling consultation facility.

20. CPR Part 16 Statements of Case

21. Kerr J reiterated that CPR Part 16 deals with statements of case, also called pleadings. The rules are clear and concise. In part, PD 16 replicates the rules in Part 16. The sub-committee has considered whether those parts should be removed from the PD, but found merit in retaining PD 16. The proposals were discussed in detail.

22. The discussion also ventilated views which resulted in the following drafting points being **AGREED:**

- **Part 16:** r.16.3(6)(d): after “Secretary of State” delete “for Social Security”.
- **PD 16:** paragraph 4.4(1): for “he is” substitute “they are”; paragraph 6.3(5): for “inability to pay” substitute: “the reasons for any inability to pay”. This arose following the discussion on the term, “impecuniosity” which is in the existing provision. It is not the intention to change the law, the proposed change of text merely represented a change in language in the interest of usability and that can be tested via the consultation exercise.
- **APPROVED IN PRINCIPLE**, subject to the above points and to final drafting, the proposed reformed CPR Part 16 and PD 16 **AND FIT FOR CONSULTATION**, using the (online) rolling consultation facility.

23. The Chair closed the item with thanks and expressed gratitude to drafting lawyers for their input. He emphasised the need to allow time for the necessary drafting checks to be conducted before reforms were formally introduced. However, this was balanced alongside the need not to discourage the pace of work being undertaken by the sub-committee to introduce a simplified CPR. If subsequent corrections were needed, they can be made and this was **NOTED**.

24. **Actions:** (i) In consultation with Kerr J and the S.2(7) Sub-Committee, Secretariat to facilitate publication via the online rolling consultation facility (ii) Secretariat to allocate time in the May/June agenda/s for final determination, post consultation.

Item 3 Environmental Reviews CPR(21)04

25. This matter was first before the CPRC in June 2021, when the Department for Environment, Food & Rural Affairs (DEFRA) set out the legal and policy background on the proposed amendments. It concerns the introduction (by way of section 38 of the Environment Act 2021) of an Office of Environmental Protection (OEP) (which commenced its statutory functions on 24th January 2022 and is to be the sole claimant for claims under the Act). DEFRA propose the introduction of a new Section III in CPR Part 54 and for which the Planning Court is to be the default venue.
26. The Chair welcomed Enemo Amaechi (DEFRA Policy) & Rupinder Binning (DEFRA Legal) to the meeting and made some introductory comments. He made it clear that whilst he had no objection to the principle that amendments to CPR Part 54 were drafted for further consideration, it was essential that the lead judges were consulted well in advance, because there were currently areas of concern that need to be carefully considered. For example, the rationale for the current proposals on time limits is not sufficiently justified, neither is it clear why the proposed solution on costs is any different from the normal costs rules for Judicial Review claims.
27. Ms Amaechi thanked members for their valuable time and for the out-of-committee engagement thus far. Particular thanks were extended to Mr Justice Holgate. It was explained that the public consultation was now complete and the Government's response published and this was duly **NOTED**. It followed that the drafting exercise was intended to broadly mirror the existing rules for Judicial Review. The issues set out above on time limits and costs were discussed, with input from Ms Binning, during which it was explained that the OEP's statutory role and enforcement framework aims to facilitate the resolution of as many cases as possible without the need for litigation. This needs to be applied when framing the drafting. DEFRA are also in liaison with MoJ policy as regards proposals on costs; the Chair requested that when the matter returns, the Committee would be assisted by having some example scenarios of how the proposed costs regime would work and the impact on third parties.
28. Mr Justice Kerr disagreed with the proposal to introduce a new section III to Part 54 because it was already very full, as a principle it goes against the CPRC's s.2(7) simplicity work and given that the consultation indicates the reforms are to follow the current JR rules, it should be possible to revise section II; the Chair agreed that the preferred approach is to avoid the temptation of simply adding in a new section to Part 54 if possible. HHJ Bird asked for consideration to be given as to whether the CPR can introduce time limits if Parliament have seen fit not to include it in the legislation and this was **NOTED**.
29. DEFRA confirmed the desire to return with proposed drafting in April (and at subsequent meetings) in order to be ready for inclusion in the summer SI as part of the October 2022 in-force cycle.
30. The update on progress since the 11th June 2021 meeting was duly **NOTED** and it was **RESOLVED** that developed drafting be produced, in close consultation with the judiciary (Kerr, Holgate and Swift JJJ and HHJ Jarman QC), MoJ Legal and MoJ Policy and to return when ready.
31. **Actions:** (i) In consultation with the Secretariat, DEFRA to work in close liaison with the judiciary, MoJ Legal and MoJ Policy to produce proposed drafting (ii) Secretariat to allocate time in the CPRC programme April – June as needed.

Item 4 Video or Audio Hearings during Coronavirus Pandemic (PD51Y) CPR(21)05

32. The Chair explained that PD 51Y (Video or Audio Hearings During Coronavirus Pandemic) ceases to have effect on the date on which the Coronavirus Act 2020 ceases to have effect. It is, therefore, due to expire on 25 March 2022.
33. The first sentence of paragraph 3 of PD 51Y , reads, “Where a media representative is able to access proceedings remotely while they are taking place, they will be public proceedings.” It is a useful clarifying provision which has facilitated the use of remote hearings in civil justice. Its introduction played a key role in the uptake of remote hearings at the start of the pandemic. Remote hearings have proved themselves to be very useful and, in many cases, to improve access to justice.
34. It was proposed to amend PD 51Y to alter the expiry date for the first sentence of paragraph 3, decoupling it from the expiration of the 2020 Act and setting a fixed date for its expiry 12 months later. Such an amendment is necessary as it will take some time to put paragraph 3 on a permanent footing in the rules (perhaps through an amendment to Part 39) and allow what has proved to be a useful and important provision to continue in operation after 24th March, giving time to develop a rule proposal, consult the MoJ and consider related rules changes.
35. It was **NOTED** that the other provisions of PD 51Y do not need to be continued, given that the Police, Crime, Sentencing and Courts Bill was expected to insert a new section 85A into the Courts Act 2003.
36. It was **RESOLVED to amend PD 51Y** to extend the expiry date for the first sentence of paragraph 3 (decoupling it from the expiration of the Coronavirus Act 2020) by 12 months, until 25th March 2023. **Action:** Sub-Committee, Drafting Lawyers and Secretariat to incorporate into urgent PD Update.

Item 5 Lacuna Sub-Committee (LSC) CPR(21)07

37. Master Dagnall introduced the matter and welcomed DJ Clarke as the sub-committee’s newest member, succeeding His Honour Judge Parker (as he now is). It was **NOTED** that the LSC’s work programme comprises in the region of 70 items, although a significant number relate to minor points of wording, updating or cross-referencing. The following topics were raised and discussed.
38. **LSC2021/21-2 (Defence on reverse summary judgment or strike out)**. Tom Montagu-Smith QC presented.
39. The matter was first considered at the June 2021 meeting (in response to the Commercial Court judgment in *King v Stiefel* [2021] EWHC 1045 (Comm) at [28] – [45]) when the proposed amendments, which intend to make clear that a defendant who applies for summary judgment or to strike out a claim need not file a defence before the application is heard, were agreed in principle. This is already the case for summary judgment, but the rules are not clear and should thus be clarified. The underlying rationale is to avoid wasted expenditure in the event that the application is successful.
40. At the June 2021 meeting, it was established that the same rationale applies where a defendant applies to strike out a claim. Accordingly, an equivalent approach was also agreed in principle, in those circumstances.
41. Although the June meeting concluded that wider consultation would be unnecessary, because the proposals were clarificatory, not policy related, consultation has taken place with the Chancellor of the High Court and the President of the Queen’s Bench Division. This did not identify any objections.

42. Accordingly, the LSC recommend introducing a new sub-rule (7) to r.3.4 and amending r.15.4(2); r.15.11(1)(c) and r.24.4(2), which were **AGREED in principle**. However, the discussion observed that there were issues of timing and mechanics to be considered. The amendments should take place at the same time (due to cross referencing etc) and, therefore, await the outcome of the consultation on the reformed Part 15 (Item 2 above).

43. It was **RESOLVED, subject to the rolling consultation concerning CPR Part 15, to:**

- **amend** r.15.4(2) to expressly provide for the new rule 3.4(7) [below]

- **amend** r.15.11(1)(c):

“if no party the claimant has not entered or applied for judgment under Part 12 (default judgment), or Part 24 (summary judgment) and no defendant has applied to strike out all or part of the claim form or particulars of claim, the claim shall be stayed”

- **add a new sub-rule** r.3.4(7):

“If a defendant applies to strike out all or part of the claim form or particulars of claim, that defendant need not file a defence before the hearing.”

- **amend** r.24.4(2):

“If a claimant party applies for summary judgment before a defendant against whom the application is made has filed a defence, that the defendant by or against whom the application is made need not file a defence before the hearing.”

44. **Actions:** (i) Isabel Hitching QC and Tom Montagu-Smith QC to agree the covering text to accompany the Part 15 consultation and send the final proposed Part 15 consultation material to the Secretariat for uploading online as part of the rolling consultation facility (ii) Secretariat to launch Part 15 consultation (along with the s.2(7) Sub-Committee’s proposed revisions to Parts 14 and 16) on a date to be fixed when the current consultation (concerning Parts 7 & 8) closes i.e. not before end March 2022.

45. **LSC2022/1 (PD 84 Enforcement by taking control of goods)** was presented by Master Dagnall. It was explained that PD 84 contains references to defunct online links and a non-existent, “flow chart”, and thus requires updating. The matter had been raised by QB Master Sullivan. It was **NOTED** that MoJ (Legal and Policy) and HMCTS have been consulted and raise no objections. Master Cook urged everyone proposing CPR changes, to highlight the essential landing pages requiring consequential update/s when changes are made.

46. Following discussion, it was **RESOLVED** to:

- **amend** the out of date links to legislation within PD 84 which currently cite www.justice.gov.uk as a source of legislation, but this should be replaced with www.legislation.gov.uk (it should be possible to effect this amendment administratively by updating the online rules and the Secretary is so directed)
- **delete** paragraph 1.3 of PD 84
- **formally delegate** to the Lacuna Sub-Committee Chair, the authority to authorise, out-of-committee, any minor/like amendments. Any such changes to be reported to the full committee as appropriate.

47. **Actions:** (i) Subject to Drafting Lawyer's advice to the contrary, the Secretary is to instruct the web team to replace the erroneous hyper links to view legislation via www.justice.gov.uk to www.legislation.gov.uk (or in the alternative, reflect in a PD Update) (ii) Drafting Lawyers/Secretariat incorporate amendments in the next mainstream PD Update, anticipated to be published in July.

Item 6 Vulnerable Parties Sub-Committee CPR(21)08

48. District Judge Byass and Tajinder Bhamra (MoJ Policy) were welcomed to the meeting. DJ Byass introduced the matter.
49. Lizzie Iron emphasised that although the work was driven by the important measures contained in the Domestic Abuse Act 2021 (implementation of which remains as 26th May 2022) the issues are also relevant in the context of recommendations for vulnerable users in the civil courts.
50. The update from MoJ Policy was duly **NOTED**; a steer was also required from the Committee on some outstanding matters as regards the list for forms requiring revision and address confidentiality where a party is vulnerable. The issues were discussed each in turn.
51. The discussion regarding which forms are to be revised concluded with the view that Acknowledgements of Service were unlike to need revision and as there was not a prescribed Defence form, no revisions were required. However, the issue of identifying vulnerability in proceedings which did not use the standard form of Directions Questionnaires (such as appeals) merited further consideration. The view that by replicating vulnerability questions in numerous forms there may be a risk of apathy, found support, to the extent that the collection of information should be targeted, so that it can be obtained and acted upon at the right points in the process so as to best serve those concerned.
52. Master Cook also explained the context of form revisions in the digital space, as regards screens rather than paper forms. The potential for bespoke suites of forms in specific civil jurisdictions also requiring parallel revision was **NOTED** and is being considered by officials, in liaison with the sub-committee. Faye Whates (HMCTS) explained the challenges with implementing the changes to legacy digital services within the May in-force timetable and this was **NOTED**.
53. A steer as to how confidentiality of a vulnerable party's address is provided for demonstrated the difference between civil and family court proceedings. Master Cook set out the provisions of the CPR which require a party or witness to provide an address. MoJ Policy raised whether this is an issue concerning rules on service rather than one of forms and emphasised that whichever route is taken, the protection should be clear and explicit. The option for supporting the advice sector in relaying more specific information to users was aired. HHJ Bird raised the possibility of adding a signpost to the rules on, for example, making a Part 23 application (for a court order to keep an address confidential) to be inserted to the PD on the participation of vulnerable parties or witnesses (PD1A) and this was **AGREED in principle**.
54. It was **RESOLVED:**
- the proposed questions to be added to the forms requiring revision are approved as drafted;
 - the proposed signpost to remind the individual completing the form that they are required to serve a copy on all other parties, is approved as drafted (noting that each form will require bespoke revision to insert the relevant named form);

- the forms requiring amendment are, provisionally: N1 Claim Form/s; N180 and N181 Directions Questionnaires; N170 Listing Questionnaires; N244 Application Notices and N161 Appellants Notice. The final list to be approved out-of-committee.
- PD1A be amended, to incorporate an appropriate signpost (possibly to CPR Part 23 (General Rules about applications for Court Orders)) to inform users of how to apply for/ how the court can order an address to be kept confidential.

55. **Actions:** (i) Officials to finalise form revisions out-of-committee and facilitate implementation (including operational guidance for court staff) (ii) DJ Byass to draft a signpost (re keeping an address confidential) for PD1A, in consultation with the Chair, Sub-Committee and Drafting Lawyers.

Item 7 Damages and Money Claims Committee (PD51ZB) CPR(21)06

56. Mr Justice Johnson was welcomed to the meeting and introduced the item by reiterating the background to the project.

57. It was explained that “Damages Claims” is a strand of the Reform Programme which delivers a digitally reformed service for damages claims in the County Court through a Damages Claims Portal (“DCP”) via the “MyHMCTS” facility. Over 1,000 claims have been brought using the pilot without any significant difficulties and feedback has been consistently good. Since the last meeting, when it was resolved to repeal PD 51S (the County Court Online Pilot), which came into effect on 1st March 2022, pursuant to the 141st PD Update, there has already been some increased usage.

58. The Damages Claims Committee’s next step proposes to require the use of PD 51ZB (the Damages Claims Portal) for claims that come within its scope, to come into effect in two stages.

59. The first stage is to require the use of PD 51ZB by claimants who are legally represented, which necessitates an amendment to paragraph 1.6 of the PD, with minor consequential amendments at paragraphs 1.2 and 1.6(d). The intention is to have this implemented by April 2022.

60. The second stage is to require the use of PD 51ZB by defendants who are legally represented, for which amendments are proposed to paragraph 2.2(6) so that all defence solicitors registered with MyHMCTS must use the service. For solicitors who are not registered with MyHMCTS, a new paragraph (1.9) is proposed to introduce a costs sanction if the defendant’s solicitor’s firm has been given notice of the claim, but does not register with MyHMCTS; a consequential change at paragraph 1.4. is also needed. The aim is to implement this stage as soon as possible after the first stage, but unlikely to be before May 2022.

61. It has been intimated for some time that the service will become mandatory. Neither the Law Society, nor any solicitor’s firm, nor anyone else, has indicated any strong objection. HMCTS have a communications strategy to ensure, so far as possible, that all firms are aware of the planned change. However, it was acknowledged that it is probably inevitable that there will be some firms who will continue to seek to issue claims under CPR Part 7. At this point, therefore, the working assumption is that such a claim will not be a nullity and will continue under CPR 7, unless either the court or the defendant raises the point that it should have been started under PD 51ZB. In that event, it would be open to the court either to strike out the claim under CPR 3.1(2)(c), or to accede to an application to rectify an error of procedure (under CPR 3.10) or for relief from sanctions (under CPR 3.9).

62. A discussion ensued. The Chair made it clear that this was a scheme for legally represented parties; litigants in person were out of scope. He also expressed general support for the proposals, highlighting other digital reforms, such as CE Filing, which have been successfully embedded for some time. No issues were ventilated in regards to the first stage of the proposed reforms, to require claimants who are legally represented to use PD 51ZB.
63. As to stage two, requiring defendants who are legally represented to use PD 51ZB, the Chair recognised that there were some mixed views. Nicola Critchley (Civil Justice Council member) reiterated the concerns as highlighted in previous correspondence from the Forum of Insurance Lawyers (FOIL) which, although readily acknowledging the benefits of digitalising the County Court, felt more time should be provided before the process is mandated for Defendants, because it had not been possible to sufficiently test the system due to a lack of claims proceeding through the DCP. This was duly **NOTED**.
64. It was **RESOLVED, subject to final drafting and subject to settling in-force dates, to amend PD 51ZB (the Damages Claims Portal)** to require its use by legally represented parties, for claims that come within its scope, and that this be effected in two stages:
- stage one (anticipated to come into effect in April 2022), to require claimants who are legally represented to use PD 51ZB, followed by:
 - stage two (in-force date to be confirmed) to require defendants who are legally represented to use PD 51ZB.
65. **Actions:** (i) In consultation with the Chair and Johnson J, HMCTS, Drafting Lawyers and the Secretariat to (a) settle in-force dates and (b) settle drafting for inclusion in an urgent, out of cycle, PD Update and subsequent promulgation (ii) HMCTS to facilitate internal and external operational communications.

Item 8 Any Other Business

Transcripts from Public Expense: PDs under Part 52 and Forms EX105, Form 62 & Form 202 AL(22)03/04

66. The Chair updated the meeting to advise that since the CPRC's resolution at its last meeting (4th February 2022, Item 4), the judgment in *Mohammed Anwer -v- Central Bridging Loans Limited* (Neutral Citation Number: [2022] EWCA Civ 201) indicates some additional work is required and as such the amendments from the last meeting will be held over to allow this wider work to be completed. To do so, a small sub-committee comprising Master Cook and one other member is to be established and this was **AGREED**.
67. **Action:** Nominations to serve on the sub-committee are to be provided to the Chair by 11th March 2022.

Civil Procedure (Amendment) Rules 2022: drafting corrections in Part 12

68. It was **NOTED** from the Chair that following the publication of the last SI, various modest drafting corrections are required and they will be addressed in the next mainstream SI (anticipated to be published in July). The need to make such corrections should not deter the pace and scale of the wider rule simplification project being undertaken by the s.2(7) Sub-Committee and this was **AGREED**.
69. The corrections can be summarised as follows:
- Change the reference to the Supreme Court Act 1981 for the Senior Courts Act 1981;

- Correct the reference in r.12.12(8)(c) from (5)(b) to (8)(b);
- Check the grammar in r. 12.11(a)(i);
- Revise CPR 12.3 (3) which contains sub-paras (a), (b) and (d), but not (c). What appears to be 12.3(3)(b)(i) and (ii) should probably be (c);
- Consequential amendments to CPR 58.8(2) and 59.4(3). Both of those rules refer to CPR 12.6(1), which should be changed to 12.7(1).

70. **Action:** Drafting Lawyers and Secretariat to incorporate into the next mainstream SI.

Annual Open Meeting on 13 May 2022

71. The Chair explained that the Annual Open meeting will be held remotely this year and the Master of the Rolls intends to attend. The usual announcement seeking applications to attend and submission of public questions, will be published online soon, for response by early April.

Service Sub-Committee (PD6B)

72. It was **NOTED** that work on reforms to the service out provisions was continuing. The sub-committee recently reported to the Private International Law Committee (co-Chaired by Lord Mance and the Parliamentary Under-Secretary of State for Justice, Lord Wolfson QC) to whom thanks were conveyed. The sub-committee is considering their comments, before going out to consultation. The matter is due back before the CPRC in May, if ready. Thanks were conveyed from the Chair for the extensive work undertaken by Tom Montagu-Smith QC and the whole sub-committee.

Possible Urgent Business

73. It was **NOTED** that if there were CPR implications in consequence of any emergency legislation in response to the current international situation, this may necessitate urgent out-of-committee work.

C B POOLE
March 2022

Attendees:

Carl Poole, Rule Committee Secretary
Nicola Critchley, Civil Justice Council
Alasdair Wallace, Government Legal Department
Andy Currans, Government Legal Department
Andy Caton, Judicial Office
Terry McGuinness, Judicial Office
Amy Shaw, Judicial Office, Civil Justice Council
Master Dagnall, Chair, Lacuna Sub-Committee
Faye Whates, HM Courts & Tribunals Service
Enemo Amaechi, Department for Environment, Food and Rural Affairs (Item 3)
Rupinder Binning, Department for Environment, Food and Rural Affairs, Legal (Item 3)
Taj Bhamra, Ministry of Justice (Item 6)
District Judge Byass (Item 6)
Brett Dixon (Item 6)
Mr Justice Johnson (Item 7)