

Approved

Minutes of the Civil Procedure Rule Committee

Friday 16th April 2021 (via video conference due to the Covid-19 Pandemic)

Members attending

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

Mr Justice Kerr

Mr Justice Trower

His Honour Judge Jarman QC

His Honour Judge Bird

Master Cook

District Judge Parker

District Judge Cohen

Brett Dixon

Masood Ahmed

John McQuater

Lizzie Iron

Dr Anja Lansbergen-Mills

David Marshall

Isabel Hitching QC

Tom Montagu-Smith QC

Apologies: Other than noting some individuals may need to leave early, no substantive apologies were recorded.

Item 1 Welcome, Minutes, Action Log and Matters Arising. Lord Justice Birss welcomed everyone to the meeting.

1. **HRH The Prince Philip, Duke of Edinburgh.** The Chair noted that, following the recent passing of His Royal Highness, the country was in a period of national mourning and accordingly a **ONE-MINUTE SILENCE WAS OBSERVED.**
2. **Minutes** of the meeting of 05 March 2021 were **AGREED**, subject to some minor typographical corrections. The following matters arising were raised by the Chair:
 - **Judicial Review CPR Part 54 reforms** (Item 3 of 05 March 21 meeting)
The Chair advised that since the last meeting, a few related points had arisen and which were duly **NOTED:**
 - (i) **Timetabling:** The Lord Chief Justice has been consulted as regards the urgency of the Part 54 PD reforms. An additional standalone PD Update, ahead of the mainstream summer Update is planned with an in-force date of 31 May 2021. However, a definitive timetable for the completion of the revised forms and Welsh Translations is not yet fixed; it may be, therefore, that these follow.
 - (ii) **PD54C** (reviews of decisions by the Legal Services Commission): A post meeting note has been added to the minute to highlight that, in casting the final drafting it was established that the PD which provided for reviews of decisions by the Legal Services Commission (PD54C) is no longer required because regulatory reform in 2013 removed the provision for such a referral procedure. Accordingly, PD54C shall be revoked and the subsequent PDs under Part 54 are to be re-labelled sequentially i.e. PD54D becomes PD54C and PD54E becomes PD54D.

- (iii) **Minor drafting change to PD54A:** Earlier this week Mr Justice Swift held a meeting with the Administrative Court judges and a small change has been reflected in the final drafting: paragraph 4.2(1)(b) Contents of the Claim Form of PD54A, to add in the words, 'and state precisely what relief is sought.' at the end of the sentence, 'The Statement of Grounds should succinctly explain the claimant's case by reference to the Statement of Facts'.
- (iv) **Webinar:** Given the success of the contempt reforms webinar last year, consideration was given to whether a similar event should be held regarding the upcoming changes to the Judicial Review PDs. However, mindful of the current consultation on potential wider reforms following the *Faulks' Review*, it was decided to keep the position under review.
- (v) **Faulks' Review:** Members were reminded that the Government consultation on the outcome of the Faulks' Review (The Independent Review of Administrative Law) opened on 18 March 2021 and closes on 29 April 2021. It is clear from the consultation material that it is likely that the CPRC will be asked to consider further procedural reforms, although a timescale for this is not yet known.
- **(Civil Procedure) Online rules migration:** The Chair advised that a Working Group had now been formed and was chaired by Mr Justice Pepperall. Officials from MoJ Digital and Government Digital Services were working with that group to address the concerns raised. In the interim, the current *justice* web site remains operational to access the CPR.

3. The Action Log was duly **NOTED**, along with the following updates:

- **AL(21)07** re LSC2019/5 & CPR52.8 (Criminal Appeals): Dr Anja Lansbergen-Mills confirmed progress with consulting the Master of Civil Appeals and the Supreme Court Registrar, neither of whom raised any objections to a limited amendment. Further consultation with the Master of Criminal Appeals and the Administrative Court Guide Editor is to take place before the matter returns for CPRC consideration. **Action:** matter to return in May/June.
- **AL(21)33** re LSC021/03 & CPR45.43 (Aarhus Convention capped costs & VAT): The Chair advised, with thanks, that an update from MoJ had been received. It confirmed that they will consider the matter further but are not ready to do so as yet. MoJ were grateful to the LSC for raising some interesting points and are committed to reviewing the Environmental Costs Protection Regime (ECPR) but because this has been delayed by Covid there is no current timetable for it. Accordingly, MoJ suggest no action for now. Drafting lawyers have also been consulted and are content with this approach. The update and MoJ's position was duly **NOTED**. The Chair had also discussed the matter with Lord Justice Coulson.

Item 2 RTA Portal (Whiplash Reform Programme) CPR(21)20

- 4. The item was opened by paying tribute to the exceptional work of the sub-committee and in particular to District Judges Parker, Cohen, Hennessy and His Honour Judge Lethem, for their collective work on formulating the proposed Standard Directions. The MoJ also expressed their thanks.
- 5. His Honour Judge Bird provided introductory comments summarising the points for consideration. It was explained that, since the last meeting, the sub-committee have continued to work very closely with MoJ and there were no objections to be raised in

response to the proposals. All the amendments are relatively minor and the proposed rule changes essentially put in place what the CPRC has already agreed. The MoJ report was duly **NOTED**.

6. A detailed discussion ensued.
7. In reviewing the SI drafting, it was questioned whether the apparent duplication at paragraph (2) of the proposed amended rule 27.14 was intentional. **Action:** Legal to check before final drafting is cast.
8. Consideration of the draft Standard Directions, highlighted a point regarding Section 2, Other Claims, paragraph 1 and the order/status of the final proposed alternative paragraph. HHJ Lethem suggested changing the final 'OR' to 'AND/OR'. It was decided to cast the final drafting out-of-committee.
9. HHJ Bird explained that there was a suite of proposed amendments to the RTA Small Claims PAP, which mainly concern the status of Claims Management Companies (CMCs) and signing of statements of truth. The solution proposed is that, at each stage of the pre-issue process where a statement of truth is required, the CMC must first send the form to the claimant for them to sign the statement of truth themselves and then upload the returned, signed form, onto the Portal on the claimant's behalf. Further consequential amendments are also needed, which include clarification of the current definition of "representative" to distinguish between "legal" and "authorised" representatives.
10. Lizzie Iron raised whether the phrase, 'material time' at the end of the new sub-paragraph (5) under paragraph 11.3 would be more readily understood if it was changed to, 'relevant time' and this was **AGREED**.
11. Overall, the proposed Guide to CPR Part 26 was seen as a helpful document, well written for the user and that the summary table was particularly informative. Brett Dixon highlighted that further clarification may be needed in relation to Health & Safety at Work related RTA claims. **Action:** Sub-Committee & MoJ to review the point and agree any revised drafting out-of-committee.
12. The following was **APPROVED subject to final drafting:**
 - **Civil Procedure (Amendment No.3) Rules 2021** - to (i) amend rule 6 of the Civil Procedure (Amendment No. 2) Rules 2021 which amends rule 27.2, to correct a drafting error and some further grammatical amendments (ii) substitute cross-references to "Practice Direction 27A" for cross-references to "Practice Direction 27" in CPR Part 27, in anticipation of the new PD27B 'Claims Under the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents – Court Procedure' coming into force on 31 May 2021.
 - **The Guide to changes to the Small Claims Limit for Injury Claims** (Part 26 of the Civil Procedure Rules).
13. It was further **RESOLVED to recommend to the MR, subject to final drafting, the approval** of:
 - **RTA Small Claims PAP** - amendments to the Pre-Action Protocol for Personal Injury Claims below the Small Claims Limit in Road Traffic Accidents (the RTA Small Claims Protocol).
 - **Standard Directions** – to form an Appendix to PD27B (in substitution of Appendix B in the Schedule to the 129th PD Update), to come into force on or by 31 May 2021.

Item 3 Future Vision: Outline Strategy CPR(21)17

14. The Chair opened the item with thanks to Mr Justice Kerr for his work so far on this very important topic and reiterated the background. The MR has also been consulted.
15. It follows the discussion at the February CPRC meeting, from which all the points have been reviewed and six specific areas have been identified. The formation of several sub-committees is now proposed and this was discussed. It was also recognised that the duty to maintain and simplify the rules is essentially a never-ending project and the ensuing work is likely to require consultation with the commercial publishers and others. Views expressed, also acknowledged that the CPRC's statutory duties are responsibilities incumbent on all members, not something for delegation to sub-committee/s alone. Equally, the challenges of delivering simplicity should not be underestimated, it is often time intensive and complex. The main themes can be summarised as follows:
- simplification of the rules
 - continuing digitisation of civil justice
 - modernising the rules on service
 - whether to extend paper adjudication of some small claims
 - encouragement of ADR and
 - litigants in person and *McKenzie* friends
16. It was highlighted that work on the ADR and *McKenzie* friends topics should not begin until they have been considered by the Civil Justice Council and this was **AGREED**.
17. It was **RESOLVED** to form the following sub-committees (titles to be confirmed):
- "Brevity, Clarity and Simplicity" Sub-Committee, to serve as a standing committee; the guiding principles of which should be to remove repetition and prolix; tackle the outstanding provisions previously contained in the Rules of the Supreme Court 1965 and the County Court Rules 1981 (Scheduled under CPR Part 50) and focus more sharply on drafting with the litigant in person/lay user in mind.
 - Part 6 Service Sub-Committee, which will likely need to liaise with the Lord Chancellor's Advisory Committee on Private International Law (PIL) (formerly known as the Mance Committee). Tom Montagu-Smith QC to serve; other volunteers required.
 - Paper Adjudication of some Small Claims, perhaps with a Circuit Judge as Chair.
 - Judicial Review Sub-Committee, in expectation of the Government's proposals following the Faulks' Review; as such the work of this sub-committee is not expected to commence for some time. Sub-Committee members to be: Kerr J (Chair), HHJ Jarman QC and Tom Montagu-Smith QC. Other co-opted member/s, for example, Swift J, are envisaged.
18. Kerr J emphasised that this outline strategy was not intended to limit the CPRC's forthcoming work or other initiatives and it was well recognised that the need for lacunae to be identified and addressed will continue as before; so too will there be an on-going need for the CPRC to respond to specific legislative projects from across Government.
19. **Actions:** (i) Kerr J to provide an update to the May CPRC (as required) with a fuller report and proposed works agenda for CPRC approval at the June CPRC meeting (ii) volunteers to serve on sub-committees to be sent to the secretariat/Chair by 27April 2021.

Item 4 Costs Sub-Committee

20. Mr Justice Trower provided an oral update to advise that the sub-committee had reviewed the log of outstanding business. The most urgent items concerned the Aldred -v- Cham [2019] EWCA Civ 1780 judgment in relation to fixed costs (translations and counsel's opinion fixed costs) which was referred to them by the lacuna sub-committee (LSC2019/40) last year. HHJ Lethem has produced a very helpful initial paper which is being considered. The other item is the review of PD51X, the costs for summary assessment pilot, which was extended for one year (until 31 March 2022 in 127th PD Update) to allow the sub-committee to complete its review. The matter was last before the CPRC in November 2020 when David Marshall took the lead in producing the report. Brett Dixon observed that various practitioners had raised their interest in the CPRC's view concerning *Aldred -v- Cham*; he had also received some useful feedback in relation to PD51X, which the sub-committee may find useful. **Action:** Brett Dixon to relay feedback on PD51X to the costs sub-committee.
21. The intention is to be in a position to report more substantively at the next meeting. **Action:** Trower J and Secretariat – report on either or both matters to be ready for the May CPRC meeting.

Item 5 Lacuna Sub-Committee (LSC) CPR(21)19

22. Master Dagnall presented the item, which comprised of six reports, each was discussed in turn:
23. **LSC2021/8** concerns CPR31.22, possible fraud exception. It was explained that CPR31.22 restricts the use, without the court's permission, of documents disclosed in one set of proceedings from their use for other proceedings, thus resulting in many applications where fraud is suspected in the road traffic accident context. The issue had been raised by Andrew Underwood who provided a factual scenario to illustrate his position. The LSC has expressed concern over what insurers might do with the material if a broad exemption were applied, but Mr Underwood indicates that the material is already in the possession of the insurer (and the Claimants) and as such the subject to GDPR constraints and exceptions and suggested some possible alternative solutions, that were considered. John McQuater sympathised with Mr Underwood's argument, but has reservations. The Chair and other members also raised concern as to unintended consequences if further exceptions were included within the rules, acknowledging that the CPR already allows for suitable applications to be made and for judges to make the appropriate directions. It was **RESOLVED** that **no action be taken**.
24. **LSC2021/9** concerns CPR36 and CPR47; Costs of Costs and Part 36. The area for consideration is where a costs detailed assessment takes place, CPR 47.20(4) permits Part 36 Offers but according to Best-v-Luton SC-2019-BTP-000246 <https://www.bailii.org/ew/cases/EWHC/Costs/2021/B2.html> this does not apply to subsequent assessments. The matter was raised by the Association of Costs Lawyers and follows a recent article by Practical Law. It was **RESOLVED** to refer the matter to the Cost Sub-Committee (CSC) for further consideration. **Action:** CSC to report back in due course; Trower J to advise the secretariat when the matter is ready to return.
25. **LSC2021/10** concerns CPR71 and whether Oral Examinations are in private or open court. This was raised by the Senior Master. It has wide reaching implications and important open justice considerations. It was **RESOLVED** to refer the matter for further consideration by a sub-committee comprising, Master Cook, Master Dagnall and a District Judge. Before the matter returns to the CPRC, consultation with the Chancery Masters should also take place. **Action:** DJ nominations to the secretariat/Chair by 14 May 2021.

26. **LSC2021/11** concerns CPR Part 21 CPR Part 46 as to children and protected parties and detailed assessment dispensed with. It was explained that CPR21.12(1A) provides for costs to be paid out of damages to a litigation friend of a child which have been detailed assessed but does not deal with the situation whether a detailed assessment has been dispensed with under CPR46.4(2). The LSC find something of an anomaly presently exists within the rules because the result is that one rule provides that a detailed assessment need not take place and another rule states that it must; the intention meant to benefit the child and the protection of the litigation friend, but rather it can result in more costs being incurred which eat into the recovery; although the uninsured but high (over £25,000) paying defendant is not common they are not exceptional; and the reason for differentiating between a litigation friend acting for a child and for a protected party is not immediately apparent.
27. Master Cook observed that a previous sub-committee had formed the view that this should be clarified, and proposes that the LSC's recommendation to amend CPR 21.12(1A) to add a further exception of "or where a detailed assessment of costs has been dispensed with under CPR46.4(3) in the circumstances set out in [PD][Practice Direction] 46" be adopted and this was **AGREED, subject to final drafting.**
28. **Action:** In liaison with Masters Dagnall & Cook, drafting lawyers and secretariat to include the changes in the next mainstream SI/PD Update cycle, to come into force on 01 October 2021.
29. **LSC2021/12** concerns CPR 21.10 and the approval of pre-action interim payments. Master Dagnall explained the issue, which had been raised by Master Sullivan, who also edits Part 21 in the White Book. It was explained that CPR21.10(2) provides for approvals of settlements or compromises reached before issue of proceedings to be sought by Part 8 Claim, but makes no reference to other pre-action approvals including of interim payments. The LSC recommends that the rules be amended to provide for all applications for pre-litigation child and protected party approvals to be made by Part 8 Claim and to add the words "or payment (including any voluntary interim payment)" to the end of CPR21.10(2)(b) (i.e. after the opening words) and to the end of its sub-paragraph. A concern as to the prospect of a significant increase in applications was aired, but considered to be unwarranted. The proposed amendment was **APPROVED, subject to final drafting.**
30. **Action:** In liaison with Masters Dagnall & Cook, drafting lawyers and secretariat to include the changes in the next mainstream SI/PD Update cycle, to come into force on 01 October 2021.
31. **LSC2021/13** concerns CPR25, security for costs and cross-undertaking regarding resultant costs and follows the Court of Appeal judgment in Rowe-v-Ingenuis 2021 EWCA Civ 29 <https://www.bailii.org/ew/cases/EWCA/Civ/2021/29.html>. The issue being that CPR25 provides for a Claimant to have to give security for the Defendant's costs, but this may result in considerable cost to an eventually successful Claimant who cannot recover such cost from the unsuccessful Defendant. At paragraph 83, the court observed that "if there is to be a new practice in this area" it should be developed by way of primary or secondary legislation (rather than by judicial decision) with a "synoptic review" undertaken by the Law Commission or the CPRC "of its potential effect on civil litigation" and that "This applies with particular force in the light of rival arguments in this case as to the beneficial or adverse effect of such a practice on litigation funding and access to justice."
32. The LSC simply draws this matter to the attention of the full CPRC as a something which has been raised by the Court of Appeal, but makes no recommendation. The Court of Appeal does not recommend that this should be taken further and has provided powerful arguments for maintaining the present status quo. Master Cook commented that because

third party funding (in essence expenses) have now become more significant that it may be that the concept of costs and the current associated language needs to adapt and may require updating. On balance, it was concluded that as there were a number of policy related issues, no action should be taken at this stage. The matter was duly **NOTED**.

Item 6 Appeals Sub-Committee CPR(21)18

33. Tom Montagu-Smith QC presented the item. It follows the LSC referral (LSC2020/26) from the March CPRC.
34. The rules have been interpreted differently by the courts and should, in principle, be harmonized. The sub-committee agreed with the LSC's initial assessment of the perceived risk that unwary litigants might be unaware of the need for an adjournment and that the benefits of permission to appeal applications being made to the lower court might be lost inadvertently.
35. No amendments are proposed to rules 52.16; 40.8A; 83.7 (the lower court retains the power to order a stay of the relevant judgment or order) explaining that amongst other matters, the need for a stay may arise quite independently of any appeal.
36. Amendments to rules 52.3(2)(a); 52.12(2)(a); 52.13(4)(a); 40.2(3) were proposed, as is an amendment to PD52B, to remove paragraph 3.1. Each was discussed and with no objections, the following was **APPROVED**:
 - **CPR r.52.3(2)(a)** be amended thus: "An application for permission to appeal may be made — (a) to the lower court at the hearing at which the decision to be appealed was made or any adjournment of that hearing"
 - **CPR r.52.12(2)(a)** be amended thus: "The appellant must file the appellant's notice at the appeal court within —(a) such period as may be directed by the lower court at the hearing at which the decision to be appealed was made or any adjournment of that hearing"
 - **CPR r.52.13(4)(a)** be amended thus: "A respondent's notice must be filed within — (a) such period as may be directed by the lower court at the hearing at which the decision to be appealed was made or any adjournment of that hearing"
 - **CPR r.40.2(3)** be amended thus: "Paragraph (4) applies where a party applies for permission to appeal against a judgment or order at the hearing at which the judgment or order was made or any adjournment of that hearing"
 - **Practice Direction 52B, paragraph 3.1** be removed.
37. **Actions:** drafting lawyers and secretariat to include the changes in the next mainstream SI/PD Update cycle, to come into force on 01 October 2021
38. Mr Montagu-Smith, also explained that following the 05 March 2021 CPRC meeting, a further query was raised as to whether the effect of the rules is that permission to appeal against a decision made on paper may not be sought from the lower court. The sub-committee consider that that is the position, as a result of the terms of CPR 52.3(2)(a). It was also observed that (i) in respect of many determinations on paper, parties would be entitled to apply to set aside or vary the order under CPR rule 3.3, meaning there would be no need to appeal (ii) and possibly as a result of this, the sub-committee are not aware of this issue arising regularly in practice (iii) it is not considered prudent for the rules to be seen as encouraging an appeal where an application to set aside or vary an order is available (iv) the issue has been given some consideration in the past; where a small claim has been dealt with under CPR r. 27.10 without a hearing, any application for permission

to appeal must be made to the appeal court: PD 27, paragraph 8.2. Accordingly, it was **RESOLVED** that no amendment was required.

39. The Chair expressed thanks for the quality and clarity of the report.

Item 7 Any Other Business & Items to Note

Forms Sub-Committee: Out-of-committee decisions

40. Master Cook provided an oral update to explain that a routine report will be established in order to formally advise the CPRC of any sub-committee decisions made pursuant to their delegated powers. Thus far, it was **NOTED** that the following forms either have been approved and published or are almost complete:

- **N244** – a suite of new N244 forms for the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020;
- **N510** - approved by the CPRC, but one small revision was required following the Senior Master's review of the regulations;
- **Judicial Review Forms** - the forms in consequence of the JR (Part 54 PDs) reforms are almost complete;
- **N602** - modest change to the N602 Bench Warrant form following judicial feedback;
- **N292** - requires some tweaking as highlighted by DJ Parker and this is underway;
- **PF10** - correspondence has been received from a practitioner in relation to Practice Form (PF)10 which needs bringing up to date and on which the Media & Communications Court User Group have been engaged.
- **PF92** - will also need to be looked at in due course.

41. Some users have reported issues with form N260 seemingly not self-totalling, which has highlighted a broader point regarding the limited functionality of pdf etc formats and the demise of *word* and *RFT* (Revisable Form Text) documents that had wider compatibility benefits, enabling users to edit the forms (for example to expand text boxes) between different IT systems. Master Cook and others were very concerned about the related accessibility issues and sought a satisfactory explanation as to why online forms were no longer available in anything other than pdf. **Action:** MoJ Digital/GDS to respond.

PD Updates for OCMC & DCO

42. The Chair advised that the Online Civil Money Claims (OCMC) Sub-Committee have agreed a suite of further amendments to the operation of PD51R and accordingly, subject to the MR's and Minister's approval, an imminent PD Update was expected and due to come into effect on/or around 24 May 2021. The (130th) PD Update is likely to include (i) a 2-year extension until 30 November 2023 to the current pilot (which is scheduled to expire on 30 November 2021) (ii) a mediation opt-out extension (iii) amendments in consequence of the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 (Breathing Space Regulations) (iv) a clarification concerning referral of matters to a judge or legal adviser for an order or directions about the management of the claim, and that the order or directions can be made without always having to send the claim out of the pilot first.

43. The County Court Online Pilot Scheme (PD51S) is also expected to be included in this PD Update in order to provide for a 12-month extension until 30 November 2022.

44. A further PD Update is anticipated in the near future to provide for the work of the Damages Claims Online (DCO) Sub-Committee.

45. **Protocol for Standalone PD Updates:** The Chair also emphasised that standalone PD Updates (outside the common-commencement date cycles) were an exception, only being used for urgent and digital reform projects. In-force dates must be agreed with the secretariat in accordance with the current protocol which also requires all final drafting to be received by the secretariat no later than one month before the in-force date, in order to allow sufficient time for all the necessary administrative formalities, MR's consideration and signing, prior to Ministerial submission and publication. **Action:** HMCTS et al to note.
46. **Annual Open Meeting in May:** The Chair confirmed that the next CPRC meeting would be the annual open meeting when members of the public and stakeholders observe the committee in session. A prominent segment on the agenda will allow time for members to answer pre-submitted questions from observers. As last year, the meeting would be conducted by remote technology.
47. **Law Commission's 14th Programme of Law Reform:** The Chair drew members' attention to the Law Commission's current consultation on topics for future review. The consultation is on the Law Commission's web site (<https://www.lawcom.gov.uk/14th-programme/>) and closes on 31 July 2021.
48. **Updated Calendar of meetings:** The Chair confirmed the date for this year's "OUB" meeting (only urgent business, to be held at the Chair's discretion) and advised that an updated calendar of meeting dates for 2021 and 2022 would be circulated by the secretariat. **Post Meeting Note:** meeting dates distributed on 28 April 2021.

Item 8 Admiralty Court proposals CPR(21)16

49. Mr Justice Andrew Baker was welcomed to the meeting and presented a suite of proposed changes to CPR Part 24 in respect of Admiralty claims, together with a number of amendments to CPR Part 61 and PD 61, together with a revised form ADM14.
50. The proposals are considered necessary to provide for the particular circumstances of contemporaneous witness evidence in Admiralty claims and to make various discrete, specialist updates to the rules; the proposed form changes serve to bring the form in line with practice. In the main, the amendments are all reasonably minor and do not require further consequential changes.
51. In summary, the proposals consist of the following, which were explained and discussed in detail:
- summary judgment in Admiralty claims;
 - the sale of arrested property before judgment and the determination of priorities;
 - the directions to be given in orders for sale
 - the application of PD 57AC (Witness Evidence at Trial) to Admiralty claims; and
 - the correction of references to the Supreme Court Act 1981 in rules 61.1 and 61.2.
52. The proposals follow consultation with the Admiralty Court Users Committee (ACUC) which comprises the Admiralty Judge, the Admiralty Registrar, the Admiralty Marshal, and representatives of the Admiralty Bar Group and the Admiralty Solicitors Group.
53. DJ Parker raised a drafting point concerning r.24.3; observing that the proposed amendment results in only one sub-paragraph being left under r.24.3(2). As such, he proposed that the text forming sub-paragraph (a) be moved to be part of the sentence forming (2) meaning no sub-paragraphs will follow. This was **AGREED**.
54. Kerr J suggested that it was unnecessary to include narrative concerning commencement dates within the main body of PD61, because they would be included in the instrument (the PD Update) bringing the changes into effect. Baker J explained the purpose of

incorporating the point that PD57AC (Witness Evidence at Trial) applies to new and existing proceedings in the Admiralty Court, that are signed on or after 01 October 2021. However, the rationale of minimising the overall drafting length was welcomed.

55. The ACUC had raised that various references to the Senior Courts Act 1981, by its old name, the Supreme Court Act 1981, remain in rules 61.1 and 61.2 as published on the *justice.gov.uk* and *gov.uk* websites. The references being in rule 61.1(2)(a), 61.1(2)(d) and 61.2(1)(a)(v) and should be corrected. Alasdair Wallace clarified the position, confirming that the change was consequential to the Constitutional Reform Bill (now Act) appeared to be confined to an error with the online rules only. **Action:** Secretariat to instruct the web team to amend.
56. Form ADM14, Order for Sale of a Ship, also required revisions, which were duly **APPROVED**.
57. The proposed rule and PD changes were **APPROVED, subject to final drafting**
58. **Actions:** In liaison with Baker J (i) drafting lawyers and secretariat to include the changes in the next mainstream SI/PD Update cycle, to come into force on 01 October 2021 (ii) updated form ADM14 to be produced by HMCTS/MoJ Design.

C B POOLE
April 2021

Attendees:

Carl Poole, Rule Committee Secretary
Nicola Critchley, Civil Justice Council
Amrita Dhaliwal, Ministry of Justice
Alasdair Wallace, Government Legal Department
Katie Fowkes, Government Legal Department
Andy Currans, Government Legal Department
Andy Caton, Judicial Office
Faye Whates, HM Courts & Tribunals Service
His Honour Judge Lethem
Master Dagnall
Jayne Bowman, Ministry of Justice Policy (Item 2)
Andrew Parker (Item 2)
Jonathan Scarsbrook (Item 2)
The Hon. Mr Justice Andrew Baker (Item 8)