

Approved

Minutes of the Civil Procedure Rule Committee

Friday 5th February 2021 (via video conference due to the Covid-19 Pandemic)

Members attending

The Master of the Rolls and Head of Civil Justice (Chaired jointly with Lord Justice Birss)

Lord Justice Birss, Deputy Head of Civil Justice

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

No apologies were recorded.

Item 1 Welcome, Minutes, Action Log and Matters Arising

1. Lord Justice Birss was delighted to open his first substantive meeting as Deputy Head of Civil Justice and was pleased to be joined by the Master of the Rolls who held the Chair for Items 2 and 3.
2. The minutes of the 04 December 2020 meeting and the extraordinary meeting of 22 January 2021, were, respectively **AGREED**.
3. The Action Log was duly **NOTED**, along with the following update:
 - **AL(20)101 – Vulnerable Parties & the Domestic Abuse Bill:** The Chair noted that the Bill has cross-jurisdictional implications and implementation officials are preparing reports for the respective rule committees as part of the March cycle of meetings. The indicative timetable is that the Bill receives Royal Assent in/around April 2021, with implementation a year later, circa April 2022. It was **RESOLVED** that the said report should be considered by the sub-committee in the first instance and DJ Cohen (sub-committee Chair) confirmed that MoJ officials had already made contact.

Action: Implementation officials to update the sub-committee in March.

Item 2 RTA Portal (Whiplash) – CPR(21)09 & CPR(21)10

4. This matter was last before the committee at the January extraordinary meeting.
5. The MR provided an introduction by acknowledging the value of the sub-committee's extensive work and collaboration with officials and drafting lawyers in order to present the material for consideration. The proposed drafting must be considered in light of the Civil Liability Act. This provides the legislative and Government policy context for the reforms and is not something the CPRC can influence. The MR also recognised that time

constraints had impacted on the level of scrutiny, noting that the material is lengthy and complex. However, he was reassured by the sub-committee's view that (i) there are no issues of such significance as to prevent approval and (ii) the level of complexity is mitigated by the fact that parties who do litigate in this space understand the sector. Nonetheless, a simple explanatory Guide for publication alongside the new PD/rules would be helpful and the MoJ have agreed that this would be drafted and presented at the March CPRC meeting.

6. Birss LJ, reiterated the extremely tight legislative timetable involved in order to meet the Government's implementation pledge of May 2021. He observed that he had never seen a comparable topic before the CPRC and endorsed the praise for the work of the sub-committee. Overall, he took the view that although it is a complex suite of changes, he is satisfied that the rules do what they are intended to do and accordingly he supports the proposals.
7. HHJ Bird expanded by highlighting the following key points, before summarising the structure and content of the proposals:
 - The function of the PD is to resolve disputes from within the PAP and in the most efficient way; the PAP is designed to avoid the need for court involvement.
 - The PD is not a "front to back" process, in that it is not intended that users need to follow every step from start to finish. It is a "building block" process, containing 10 different circumstances/categories of dispute.
 - For litigants in person, there are fundamentally two stages: (i) from the PAP to the PD and (ii) from the PD to the Court. The portal will produce the court form and it will be for the judges to give directions by applying the relevant sections of the PD.
 - Lawyers using the system will, in the most part, be familiar with this area of law.
 - The User Guide will also assist, as will an additional Guide to provide a short explanatory overview of PD27.
 - The draft regulations are expected to be amended in relation to very serious injury where the party is under the care of a consultant orthopaedic surgeon; PD16 4.3B(2) relates. The drafting of said regulations are not a matter for the CPRC and thus no comments are made, but the proposed change is welcomed.
8. A lengthy discussion then ensued, which ventilated mixed views, including some points of detail, which were duly noted. Comments also acknowledged the importance of the work, the need for industry preparedness and the breadth of potential associated with digital reform.
9. DJ Parker raised a point of principle about the lack of time available to consider the proposals and raised a number of drafting and structural points. Taken as a whole, he was against the proposals at the current time. HHJ Bird responded and the MR invited DJ Parker to submit his points in writing, out-of-committee, so that they could be considered as part of the final casting.
10. HHJ Lethem raised a question as to the status of the anticipated guide for the practice direction, but it was felt that this could only be established when the Guide had been produced. Accordingly, a draft version should be placed before the CPRC for consideration.
11. By a majority, the following were **APPROVED, subject to final drafting**:

- New Practice Direction, PD27B – Claims under the Pre-Action Protocol for Personal Injury Claims below the Small Claims Limit in Road Traffic Accidents – Court Procedure ('PD27B');
- Amendments to CPR Part 26;
- Consequential amendments to PD7A, CPR Part 14, CPR Part 16, PD16, CPR Part 27, CPR Part 35, PD 35, CPR Part 45 and CPR Part 46;
- Amendments to the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents ('RTA PAP');
- Amendments to the Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims ('EL/PL PAP'); and
- Amendments to the Pre-Action Protocol for Personal Injury Claims ('PI PAP')

12. It was further **AGREED** that the March meeting should consider:

- Forms
- Standard Directions
- The draft guide to PD27
- The current draft User Guide

13. **Actions:** (i) DJ Parker to provide his drafting points (ii) Drafting lawyers and officials to work with sub-committee to settle the final drafting by mid February (iii) the matter is to return to the 05 March 2021 CPRC meeting.

Item 3 CPR Online rules - proposed new approach CPR(21)06

14. The Master of the Rolls introduced the item, expressing thanks to MoJ Legal for their helpful report. It was explained that the MoJ Legal Advisers who support the CPRC had set out some observations concerning rule making in relation to the Damages Claims Online (DCO) system, by comparison with the way the rules for the Online Civil Money Claims (OCMC) pilot, under PD51R, are prepared.

15. The discussion which followed recognised the need for rules of court. However, given that the modern online space is an ever changing and dynamic landscape, it presents challenges for the traditional rule making context. Rules are often very granular and are hugely time consuming to produce. Overall, there was broad support for the MR's vision, which he reiterated as a blueprint for future online projects, whereby rules provide for the necessary practice and procedure, but governance is achieved by way of judicial oversight.

16. The report and response were duly **NOTED**.

17. It was also **NOTED** that HHJ Bird and Brett Dixon will serve as members of the DCO Sub-Committee, Chaired by Mr Justice Johnson.

Item 4 Judicial Review CPR Part 54 - Court of Appeal Judgment in *Dolan and others -v- Secretary of State for Health and others* Neutral Citation Number: [2020] EWCA Civ 1605.

18. Lord Justice Birss explained that this was last before the CPRC in December. Since then, Mr Justice Swift (Judge in Charge of the Administrative Court) has prepared a suite of

drafting proposals and form changes. The work is at a reasonably advanced stage and is understood to have the support of the President of the Queen's Bench Division, Lord Justices Dingemans and Lewis (the Court of Appeal Judges with oversight of public law cases), and Mr Justice Holgate (Planning Liaison Judge). It was **NOTED** that Swift J will consult the Administrative Court Users Committee before reporting to the CPRC, if possible at the March meeting.

19. This is a very important piece of work in order to address the points identified in the *Dolan* judgment. The Chair was also conscious that the Faulks' Review is yet to report, so it is not possible to say at this stage whether there will be any effect on the procedural issues identified in *Dolan*.
20. It was **AGREED** to co-opt Mr Justice Kerr and HH Judge Jarman QC to Swift J's Working Group; Alasdair Wallace will serve as lead drafting lawyer.
21. **Actions:** (i) Kerr J send material from Swift J to HHJ Jarman and update Swift J (ii) Secretariat to allocate time at the March CPRC meeting and invite Swift J to attend.

Item 5 Lacuna Sub-Committee (LSC) CPR(21)05

22. Master Dagnall introduced the item and confirmed that Tom Montagu-Smith QC has now joined the sub-committee, in addition to District Judge Parker. Currently there are over 50 items awaiting consideration. Many are small, technical, non-urgent matters. Nonetheless, it is hoped that with additional members, the outstanding items can be reduced.
23. This month there are three items for consideration which include those deferred from the December meeting. Each was discussed in turn:
24. **LSC2019/5** concerns CPR 52.8 and Judicial Review Appeals from the High Court in Criminal Matters. It was raised by a litigant in person and although the referral was not specifically framed in such terms, it did highlight an issue of whether r.52.8(1) ought to be qualified in light of s.18(1)(a) Senior Courts Act 1981 ("SCA 1981"). Dr Lansbergen-Mills spoke to the item.
25. CPR 52.8(1) provides that, where permission to apply for judicial review has been refused at a hearing in the High Court, an application for permission to appeal may be made to the Court of Appeal.
26. Section 18(1)(a) SCA 1981 provides that no appeal shall lie to the Court of Appeal except as provided by the Administration of Justice Act 1960 ("AJA 1960"), from any judgment of the High Court in any criminal cause or matter.
27. The referral itself cited the case of Ewing v DPP [2010] EWCA Civ 70. However, the issue of substantive law that lies at the heart of this referral has recently been considered by the Court of Appeal in Regina (Kearney) v Chief Constable of Hampshire Police [2019] EWCA Civ 1841, Lady Justice Simler gave the lead judgment. The LSC consider that Kearney and not Ewing is determinative of the substantive issue.
28. The Administrative Court Guide states (in a section dealing with appeals in criminal cases) that '[t]he right of appeal to the Supreme Court applies only to substantive decisions. There is no appeal from the decision of the Court if permission to apply for judicial review is refused'. It cites in support of that proposition *Re Poh* [1983] 1 ALL ER 287 (HL).
29. The LSC's view is that, on a proper interpretation of s.1(1) AJA 1960 there is likely to be a route of appeal to the Supreme Court where refusal of permission constitutes a judgment in a criminal cause or matter.

30. The possibility for uncertainty on this issue means, however, that the form of any amendment to r.52.81(1) that may be necessary (i) is not necessarily wholly obvious, and (ii) has the potential to trespass into an unsettled area of law. For these reasons the LSC conclude that (i) the unqualified scope of r.52.8(1) is out-of-step with the substantive qualification contained in s.18(1)(a) SCA 1981 and, accordingly, is deserving of review and so that it should not give rise to potential confusion (as it did to the referrer) (ii) the form of an amendment might be that the words “(except in a criminal cause or matter)” could simply be added to it (possibly with a signpost to the relevant statutes); however, this is an area which relates to criminal matters and, possibly also the Supreme Court which has its own rules and its procedures are outside the jurisdiction of the CPRC.
31. Following discussion, it was **RESOLVED** to consult the Masters of Civil and Criminal Appeals, the Supreme Court Registrar and the Administrative Court Guide Editor before making a determination and in order to consider the matter further.
32. **Actions:** (i) Judicial Office (Andy Caton) to provide contact details to Dr Lansbergen-Mills (ALM) so as to write to the relevant Registrars (ii) Secretariat to provide contact details of Administrative Court Guide Editor to ALM (iii) Matter to return when consultation complete.
33. **LSC2019/7** concerns the definition of “Tender before Claim” in the CPR Glossary. Masood Ahmed presented it. In *RSM Bentley Jennison (A Firm) & Ors v Ayton [2015] EWCA Civ 1120*, Lord Justice Underhill noted that the CPR Glossary appeared to suggest that the scope of the defence of tender before claim had been expanded to include unliquidated damages which is contrary to the position at common law. As noted in *RSM*, the current definition of the defence has been widely drafted so that it could be interpreted as covering both liquidated and unliquidated damages. It is recommended that the definition of “Tender before Claim” is amended to accord with case-law, as follows and this was **AGREED**:
- CPR Glossary definition of Tender before Claim be amended to: "Defence of tender before claim means a defence that, before the claimant started proceedings, the defendant unconditionally offered to the claimant the amount due."
34. It was also acknowledged that this matter arose in a judgment some years ago, but noted that the LSC was not formed at that time.
35. **Actions:** Secretariat to (i) notify the principal publishing stakeholders, namely Thomson Reuters (the White Book) and Lexis Nexis (the Green Book and Brown Book) (ii) Update Glossary in consultation with Drafting Lawyers; **Post meeting note:** this update will require inclusion in a rule amending SI; accordingly it will be included in to summer update as part of the October 2021 commencement-cycle.
36. **LSC2021/1** concerns PD 52D.27A Welsh Language Measure statutory appeals. It had been referred to the LSC by HH Judge Jarman QC to establish if PD52D para 27A.1(2)(c) is incomplete in its references to Welsh Language Measure statutory appeals. Master Dagnall explained that PD52D deals with the procedure in relation to “Statutory Appeals and Appeals subject to Special Provision”. Paragraph 27A deals with “Welsh statutory appeals” which are defined by 27A.1(2). Paragraph 27A provides for appellant’s notices to be filed and matters to proceed in the Administrative Court in Cardiff with other provisions. Paragraph 27A.1(2)(c) includes appeals under “section 59 of the Welsh Language (Wales) Measure 2011” (“the 2011 Measure”). Section 59 of the 2011 Measure provides there can be appeals to the High Court on points of law from the Welsh Language Tribunal regarding compliance notices regarding duties relating to the Welsh Language. However, the 2011 Measure provides for appeals to take place to the High Court from the Tribunal also on points of law in relation to allegations of non-compliance with relevant

requirements (section 97) and non-investigation of complaints (section 105). There is seemingly no valid reason why these latter appeals do not appear within Paragraph 27A.1(2)(c) and as such, the LSC recommends that Paragraph 27A.1(2)(c) be amended to read as follows and, following discussion as to alternative drafting options, it was decided to refer to all the relevant sections providing for relevant appeals, whereupon it was **AGREED to:**

- Amend PD 52D Paragraph 27A.1(2)(c) to read “any of sections 59, 97, 101 or 105 of the Welsh Language (Wales) Measure 2011”

37. **Actions:** Drafting Lawyers/Secretariat to include in next mainstream (common-commencement date) PD Update, due to be settled in June, published in July and in-force in October 2021.

Item 6 Civil Justice Council (CJC) Working Group Report on Low Value PI

38. Members were invited to note the CJC’s report, which was published on 18 December 2020 and which makes recommendations on issues such as the extension of existing regimes and protocols, access to justice, the use of technology, ADR, the identification and prevention of fraud, regulation and scrutiny, the scope of Medco, and qualified one way cost shifting (QOCS).

39. Nicola Critchley chaired the Working Group and highlighted key elements of the report, observing that there may be a need for further work on the role of McKenzie friends. Lizzie Iron offered to support any such review.

40. The report was duly **NOTED**.

Item 7 Civil Justice Council Consultation on Guideline Hourly Rates

41. The Chair opened this item by observing that the subject matter was of enormous significance within civil justice, not least because the current guideline hourly rates are very old. The report was very detailed and raises some specific points of interest which the CPRC may be called on to consider in due course.

42. The consultation seeks views on the methodology used, proposed changes to the rates, proposed geographic changes, a proposed change to the CPR Form N260 and proposed changes to the Guide to Summary Assessment. The report and consultation were published on 08 January 2021. The consultation closes at 4pm on 31 March 2021 and this was duly **NOTED**. However, it was not deemed appropriate to submit a CPRC response, because judicial members will need to apply the ultimate outcome and in any event the MR may wish to consult the judiciary.

Item 8 Vision for Civil Justice & CPRC

43. The Chair invited all in attendance to contribute to the open question “*If I could change one thing about civil justice or the CPRC it would be*” It was explained that both high level/ aspirational or more granular responses were welcome. The purpose was simply to capture everyone’s thoughts, rather than discuss them at this stage. The balance and interplay between the Civil Justice Council, as a policy forum, and the CPRC, as a rule making body was also acknowledged. The points would then be categorised from a, “can do” and “can’t do” perspective, so that further work could then be undertaken to assess if and how they can be taken forward.

44. The following is a broad summary of the main themes proposed:

- Simplification rationalisation - reducing complexity & removing duplication (the recent Part 81 reforms were seen as a positive and topical example). Examine need for PDs, PAPs etc.
- User focused - Keeping the Litigant in Person “front and centre” when rule making and for reforms to be driven by users; wider understanding of the impact of vulnerability; McKenzie Friends; improved use of data as an evidence base for change and better impact assessments.
- Alternative Dispute Resolution - greater focus on ADR, Early Neutral Evaluation processes and a wider perception of mediation.
- Increased funding etc – increased funding into civil legal aid; costs of litigation as a barrier; increased dedicated legal resource; improved pay & conditions of court staff
- Digital Reforms - of the, “process” not the, “system”; support for the MR’s ground up (not top down) vision; greater understanding of the “digitally disadvantaged” viz vulnerability.
- Lessons from the Pandemic - consider best practice experiences from the last 12 months (in consequence of Covid-19) as options to retain, post pandemic.
- Raising the CPRC’s profile - with Other Government Departments (OGD); civil justice being seen as a public good; more use of Webinars as an engagement tool; better use of the web space as a communication and transparency tool; improve the way rule changes are presented, for example, as a finished product rather than a legal instrument which provides drafting instructions and in turn this supports the justice system overall and makes it more accessible for litigants in person and professional stakeholders.
- Other specific proposals: Removal of implied sanctions by analogy; more creative thinking to increase throughput of work without need for (traditional) hearings/listing practices; more notice to consider changes.

45. **Actions:** (i) any other feedback to be submitted to the Chair/Secretariat direct by 12 February (ii) Chair to consider (iii) Secretariat to allocate time into the CPRC programme so that the matter can return, in consultation with the Chair.

Item 9 Forms Sub-Committee Report CPR(21)08

46. Master Cook presented the report. Changes are recommended to: three forms, a package of MCOL forms/IT outputs, to PD4 by reinstating Form N79A Suspended Committal Order and a potential suite of other changes to PD4 in consequence of three forms now becoming redundant and two modest changes to the Small Claims Track Guidance leaflet EX306. Each was discussed in turn:
47. **Form N510** (Notice for service out of the jurisdiction where permission of the court is not required). The Senior Master has redrafted the form to reflect the new rules and PD. The five options in part 2 of the form are now reduced to three, namely; (i) the appropriate statement in proceedings to which CPR 6.33(2) applies, (ii) the appropriate statement in proceedings to which CPR 6.33(2B) applies and (iii) the appropriate statement in proceedings to which CPR 6.33(3) applies. Master Cook highlighted that the draft amended form will also apply to claims issued, but not served, prior to the end of the transition period where service is on a defendant in an EU or Lugano member state as a result of Reg 18(3A) of the Civil Procedure Rules 1998 (Amendment) (EU Exit)

Regulations 2019, (inserted by the Civil, Criminal and Family Justice (Amendment) (EU Exit) Regulations 2020 which makes saving and transitional provisions for such claims. CPR 6.33 (3) applies to such claims.

48. It was **AGREED to amend Form N510 as drafted.**
49. **Actions:** HMCTS/MoJ to introduce the revised form forthwith.
50. The following redundant forms were further **NOTED**, but not to be removed until the position with the Lugano Convention (ref Item 10 below) is settled:
- **PF 157** (Order for registration of a Community judgment to be served on every person against whom the judgment is given (rule 74.22))
 - **PF 160** (Order for registration for enforcement in England and Wales of a foreign judgment under the Administration of Justice Act 1920, the Foreign Judgments (Reciprocal Enforcement) Act 1933, section 4 of the Civil Jurisdiction and Judgments Act 1982, section 4A of the Civil Jurisdiction and Judgments Act 1982 (the Lugano Convention) or section 4B of the Civil Jurisdiction and Judgments Act 1982 (Hague Convention) (rule 74.6),
 - **PF 163** (Evidence in support of application for certified copy of a judgment obtained in the High Court or in the County Court for enforcement in a foreign country (rule 74.12 and 74.13).
51. **Actions:** Drafting Lawyers/HMCTS/MoJ to note the anticipated withdrawal of the above forms and for inclusion into a PD Update (PD4) at the appropriate time.
52. **N79A Suspended committal** (Order for disobedience (order to attend court for questioning)) was removed from the Contempt of Court section of PD4 as part of the recent update to the Contempt of Court procedure, CPR Part 81. However, the form remains in use to issue suspended committals in the Orders for Questioning procedure.
53. It was **AGREED** to reinstate form N79A into PD4 to be listed within the Enforcement Section of Annex A of PD4, where it naturally belongs.
54. **Actions:** Drafting Lawyers/HMCTS/MoJ to note, advise court staff/users and to include in the next mainstream PD Update (PD4) as part of the October 2021 in-force cycle.

Money Claim Online (MCOL) Forms/Outputs

55. On 6th March 2020 and in response to stakeholder feedback, the CPRC resolved to change PCOL (Possession Claims On-line) forms and the PCOL (digital) outputs to replace, 'Solicitor' with, 'Legal Representative as defined by CPR 2.3', in the appropriate sections. By doing so, it addressed the concern that a Barrister (for example) could not sign the claim form (etc) on behalf of their client. The same issue has now been raised in the context of MCOL. To achieve consistency between the two online systems it was **AGREED** to replace, 'Solicitor' with, 'Legal Representative as defined by CPR 2.3', in the appropriate sections of MCOL forms/outputs.
56. The sub-committee further observed the benefits of using consistent language across all electronic forms developed for new online platforms, which the MoJ/HMCTS were invited to note.
57. **Actions:** HMCTS/MoJ to introduce the revised form/outputs forthwith.

58. **N322A & N322B** Applications to enforce an award. Currently these forms need to be printed, a wet signature added and then scanned back into a system for onward transmission or sent in paper form to the court. The Child Maintenance Group (CMG) have requested that the signature box be editable, so that the statement of truth can be signed electronically and easily submitted with supporting documentation to the court. This would then make it quicker and easier for CMG and other issuing authorities to complete and submit their applications, especially where staff are working remotely without access to photocopiers and scanners and this was **AGREED**.
59. The sub-committee also observes this may be a sensible alteration to any form which currently does not have an editable signature box.
60. **Actions:** HMCTS/MoJ to introduce the revised forms forthwith.
61. **Guidance Leaflet (Small Claims Track) EX306.** The proposals were raised by HMCTS and considered in the interests of assisting, in particular, lay users and litigants in person. It was **AGREED**:
- On page two, to add the words "*Sometimes, a judge may allocate the case to a different track at a later date. You should be aware that this is a possibility*" following the description of small claims, fast and multitrack.
 - On page 6 to add the words "*If you do not inform the court that you will not be attending, the hearing will still proceed in your absence and an order will be made.*" at the end of the section "Do I have to go to the hearing?".
62. **Actions:** HMCTS/MoJ to introduce the revised leaflet forthwith and note the anticipated further changes in consequence of the whiplash reforms, at which point the content regarding sources of help (Citizen Advice, Law Centre Network; the addition of Support Through Court and other appropriate sources) should be reviewed to ensure it is as comprehensive as possible.
63. It was also **NOTED** that further amendments to the guidance notes may be required once the whiplash reforms have been finalised.
64. The Chair thanked Master Cook and the sub-committee for their comprehensive report and raised whether it would be expedient to enable some of the sub-committee's more routine business to be determined out-of-committee. Whereupon the Chair **FORMALLY DELEGATED** to the Forms Sub-Committee Chair the authority to authorise, out-of-committee, minor/routine changes to court forms and guidance. Any such changes to be reported to the full committee as appropriate. The LSC's reporting template could be used as a proforma.

Item 10 Brexit Sub-Committee: Lugano Convention CPR(21)07

65. Mr Justice Kerr explained that various CPR provisions which came into force in consequence of Brexit need to be undone i.e. reinstated, if the UK re-joins the Lugano Convention.
66. The Lugano Convention is the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. The UK was only a party to it through the EU, not a signatory in its own right. As such, post Brexit, the UK is working to become a party to the Convention in its own right, later this year.
67. Accordingly, there are various provisions in the CPR which require review. For the most part, the provisions which were removed are quite discreet and can be reinstated without

too much difficulty. MoJ legal presented some drafting notes for the committee's attention and each was considered in turn.

68. Mark May, MoJ Policy, advised that a definitive timetable for the completion of negotiation to re-join Lugano was not yet known, but it is likely that these CPR amendments will be able to be included in the substantive Lugano implementing Statutory Instrument but a supporting PD Update would nonetheless be necessary. This was duly **NOTED**.
69. The proposed amendments to CPR Part 6, Part 12, PD 12, Part 25, Part 74 and PD 74A were **AGREED, contingent on the UK successfully re-joining the Convention**.
70. **Actions:** In liaison with the Secretariat, Drafting Lawyers and MoJ Policy to incorporate into the relevant SI and PD Update, contingent on the UK successfully re-joining the Lugano Convention.

Item 11 E-Filing in QB Regions – Update to PD51O CPR(21)04

71. Master Cook provided an update on the project for additional jurisdictions to be added to the electronic filing pilot scheme under PD51O. At this stage, the committee was asked to consider the drafting to extend the PD to include the District Registries of the Queen's Bench Division situated at Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle and Cardiff.
72. The current pilot runs until 06 April 2022 (pursuant to the year extension provided for within the 127th PD Update, published recently). Master Cook presented the drafting changes, to apply to proceedings commenced after 19 July 2021 on an optional basis and from 18 October 2021 on a mandatory basis for a party who is legally represented. The proposed changes also incorporate amendments to govern increased use of electronic bundles, to correct some typographical errors and to clarify provision of documents to parties and non-parties which were suggested by the Judges reviewing the PD for the Administrative Court and Court of Appeal. HHJ Gosnell, judicial lead for QB Regions has also been consulted.
73. The proposed amendments were discussed in detail. Master Cook observed that most of the points aired would be revisited as part of a wholesale review after the remaining jurisdictions had been incorporated and the pilot PD was considered for importing into the mainstream rules.
74. However, the use of the phrase, "Regions" was raised and discussed. The word is used as part of the project for electronic working rollout, but it was decided not to transpose it as part of the PD text. It was **AGREED** instead, to adopt the use of Queen's Bench District Registries ("QB DRs") throughout the PD, because that is a defined term. It followed that, the proposed changes to PD51O were **AGREED subject to final drafting**.
75. **Actions:** Master Cook to provide the final drafting to MoJ Legal/Secretariat for incorporation into the next mainstream PD Update and to come into force in readiness of 19 July 2021.

Item 12 Any Other Business:

Online Civil Money Claims (OCMC) – Update to PD51R

76. It was **NOTED** from the Chair that a further update to the Online Civil Money Claims (OCMC) PD 51R has been agreed by the sub-committee and is being placed before the MR to approve. It is due to come into effect on 25th February 2021.
77. The amendments, to be contained in the 128th PD Update, serve to add clarity and improve the structure of PD51R by (i) making changes to the claim or response (ii) removal of

redundant provisions in relation to Directions Questionnaires (iii) removal of ability to use the OCMC website to request redeterminations of repayment plans in certain circumstances (iv) to clarify the interrelationship between different provisions and procedures for requesting or applying for a change to a repayment plan (v) to clarify that when a claim is sent out of the pilot by legal advisers in certain circumstances, it is sent out to the 'preferred court' as defined in the PD (vi) rectifying drafting inconsistencies by introducing one form of spelling for 'redetermination' throughout the PD.

78. Since launch in March 2018, the OCMC service has issued in excess of 190,000 claims and registered a 95% satisfaction rate amongst users.

79. Katie Fowkes, drafting lawyer briefly set out the areas being worked on as part of the next phase of enhancements.

80. **Actions:** Secretariat/Drafting Lawyers and HMCTS to carry out the necessary steps for MR and Ministerial signatures ahead of the 25 February 2021 implementation.

2022 Meeting Dates

81. The Secretary advised that the meeting dates for the 2022 calendar year have now been fixed and will be circulated out-of-committee. **Action:** Secretariat.

Updated Sub-Committee List

82. The Secretary advised that, with the Chair's approval, the latest round of sub-committee appointments is now complete and an updated list of all sub-committees will be circulated to members, out-of-committee. Thanks were expressed to all who volunteered.

Action: Secretariat.

C B POOLE
February 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
Alana Evans, HM Courts & Tribunals Service
Faye Whates, HM Courts & Tribunals Service
His Honour Judge Lethem
Master Dagnall
David Parkin, Ministry of Justice Policy (Item 2)
Jayne Bowman, Ministry of Justice Policy (Item 2)
Andrew Parker (Item 2)
Jonathan Scarsbrook (Item 2)
Andrew Underwood (Item 2)
Mark May, Ministry of Justice, International Justice Policy (Item 10)