

Approved

Minutes of the Civil Procedure Rule Committee

Friday 11th June 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 Cohen

District Judge Parker

Brett Dixon

Masood Ahmed

Lizzie Iron

Dr Anja Lansbergen-Mills

John McQuater

David Marshall

Isabel Hitching QC

Tom Montagu-Smith QC

Apologies

None

Item 1 Welcome, Minutes, Action Log & Matters Arising

1. The minutes of the annual open meeting on 14th May 2021 were **AGREED**. The Chair was also pleased to note a collection of positive feedback received from public attendees, which illustrated the diversity of interest and value placed in observing the Committee in session. One further matter arising was also raised:

- Forum of Insurance Lawyers (FOIL) correspondence concerning the proposed amendments arising from the *Aldred-v-Cham* judgment (Item 4 at 14th May 2021 meeting); a copy of which had also been sent to Mr Justice Trower as Chair of the Costs Sub-Committee. Given that the CPRC's resolution was a decision in principle, it followed that the Ministry of Justice (MoJ) be asked to consider any policy implications, together with FOIL's points, before reverting to the CPRC for further consideration and determination; this was **AGREED**.

Actions: (i) Chair to reply to FOIL (ii) Secretariat to refer a copy of FOIL's letter to MoJ Costs Policy for consideration.

2. The Action Log was duly **NOTED**. The following update was given:

- **AL(21)50 PD52B Applications in certain Appeals (LSC2021/18)**
Mr Justice Trower provided an oral update, reporting that some further points had been raised, including whether further prescription in the rules is required following a recent ruling concerning destination of appeals. It may be a theoretical issue rather than a wider issue in practice. Nonetheless, the issues required further consideration and consultation with the President of the Queen's Bench Division and Chancellor of the High Court, to gain the Divisional perspectives. It was **RESOLVED** to establish a Working Group (not a formal Sub-Committee) made up of Trower J, HHJ Bird and Master Dagnall and to report back in due course. **Action:** Trower J to advise the Secretariat when the matter is ready to return for CPRC consideration.

Item 2 Renting Homes (Wales) Act CPR(21)34

3. The Chair reiterated his thanks to Richard Viney for retaining this project following the end of his term as a substantive CPRC member and extended the Committee's thanks to all members and officials, including the Welsh Government lawyers, for their contributions to this extensive piece of work.
4. It was last before the CPRC in October 2020, when a revised CPR Part 55 was presented and agreed in principle. Since then, the sub-committee have been working on final drafting and are now in a position to propose a suite of further draft amendments to the Rules, PDs and PAPs in consequence of the Renting Homes (Wales) Act 2016 ("the 2016 Act").
5. It was explained that the National Assembly for Wales has enacted the 2016 Act, which will apply to most rented residential property in Wales, when it is brought into force. The anticipated implementation is April 2022.
6. The 2016 Act is intended to make it simpler and easier to rent a home in Wales and provides a single legal framework which replaces current legislation in respect of tenancies and licences, subject to a limited number of exceptions. There are significant changes in terminology with 'occupation contracts' being at the heart of the Act and those contracts being either 'secure contracts' (similar to secure tenancies provided by local authorities/Housing Associations under the current legislation) or 'standard contracts' (similar to assured shorthold tenancies under the current legislation). Whilst landlords continue to be called 'landlords', tenants are now referred to as 'contract holders'.
7. Mr Viney thanked District Judge Parker for his, out-of-committee, drafting comments and confirmed that each is being considered.
8. The proposed amendments and associated drafting notes concerning CPR Part 55 (Possession), PD55A, PD55B, Part 56 (Miscellaneous Provisions re Land), a new PD56A, Part 65 (Anti-Social Behaviour & Harassment), PD65 and the Housing Disrepair PAP (which now only applies in Wales) where discussed in detail. A summary follows.
9. **Part 55 Amendments:** The proposed amendments, namely new Sections IV & V were approved (in principle) by the CPRC in October 2020, but some new points have arisen and were discussed. It was **AGREED** to:
 - (i) reinstate the text, "extended", but to remove the text, "under section 65 of the 2016 Act" in r.55.30(e).
 - (ii) add the text, "in the 2016 Act" to r.55.30(h). This followed a discussion on whether to define "dwelling". Mr Viney highlighted that this relates to r.55.31(1) re Scope, the intention of which is that it is not a dwelling in England; but the difficulty is that there is a period of parallel running of the old and new terminology.
 - (iii) final drafting of r.55.35(2) to reflect the text, any "renting homes" claim.
 - (iv) re-cast r.55.36(1) and r.55.46 & r.55.47
10. **PD 55A Amendments:** In consultation with Welsh Government lawyers, it has been decided that a new, separate set of rules for Wales, is not necessary. However, new bespoke forms will be required and this was duly **NOTED**. The issue of defined terms and the challenge of framing procedural rules which provide clarity for users (including litigants in person) alongside the aim to avoid repeating complex substantive law was raised and discussed. It was **RESOLVED** that the principle to be followed should be a balanced approach which reduces the length of the rules wherever possible; the current drafting will remain as proposed but this principle should be followed with any future drafting.

11. **PD 55B Amendments:** This concerns Possession Claims Online (PCOL) and the proposed amendments reflect the need to extend the scope of the online system to include claims under the 2016 Act. It was **AGREED** to recast paragraphs 5.1(2) & 6.2(A).
12. **Part 56 Amendments:** This includes a new Part III. Welsh lawyers raised whether a signpost should be included at PD 56A, paragraph 1.2 and this will be determined when the final drafting is cast. It was **AGREED** to (i) remove proposed paragraphs 2.1 & 2.2 of PD56A in the interests of brevity (ii) add in the text, “normally” (be commenced under Part 7) to PD56A paragraph 4.7. It was also **NOTED** that there are fees related issues concerning paragraph 2.3; **Action:** MoJ to consider.
13. **Part 65 Amendments:** This includes modest changes throughout, with an extended r.65.11 under Section II Demotion Claims, which is now “Prohibited Conduct”. It was **AGREED** to (i) recast r.65.1(c) to consolidate the legislative references to, “Housing Acts” (ii) remove the references to, “right to buy” because of related wider issues and there is no right to buy scheme in Wales in any event (iii) drafting to reflect the single County Court in the interests of consistency.
14. **PD 65 Amendments:** It was **AGREED** to (i) recast paragraph 5B.1(3) to replace, “Renting Homes (Wales) Act 2016” with, “2016 Act” (ii) move the signpost regarding suspension claims to paragraph 5A.1.
15. **PAP Amendments:** The challenges of revising the related Pre-Action Protocol (PAP) were acknowledged, given the existing PAPs merit review in their right and this work was paused to await the outcome of the Civil Justice Council’s (CJC) review of PAPs generally. The situation concerning Alternative Dispute Resolution (ADR) options also needs further clarification, so that the revised PAP can reflect how different Welsh landlords are provided for within the 2016 Act.
16. It was **NOTED** that:
 - PD65 paragraph 6.2 will require review when a decision has been made as to whether there will be separate forms for Prohibited Conduct Standard Contract (PCSC) Claims.
 - Creation/Modification of any other digital and paper forms are still under consideration; PD 4 is expected to require consequential amendment.
 - PD55C (Coronavirus) has not been reviewed as part of this work, but will require attention if it is in force at the time of implementation.
17. It was **RESOLVED:**
 - Proposed amendments to CPR Part 55, PD 55A and PD 55B were **AGREED subject to the above and final drafting**
 - Proposed amendments to CPR Part 56 were **AGREED subject to the above and final drafting**
 - Proposed introduction of the new PD 56A was **AGREED subject to the above and final drafting**
 - Proposed amendments to CPR Part 65 and PD 65 were **AGREED subject to the above and final drafting**
 - Proposed amendments to the (Housing Disrepair) Pre-Action Protocol (PAP) **ADJOURNED** to allow more time for further detailed consideration and for the CJC

review of PAPs generally to report. Proposed PAP amendments to return to the CPRC for determination in readiness of the April 2022 implementation.

18. **Actions:** (i) Drafting lawyers/Secretariat to provisionally include in the “Winter” rule amending SI & PD Update cycle for April 2022 in-force (ii) In liaison with the Secretariat, the Sub-Committee/MoJ Officials to return with re-drafted PAP in readiness of April 2022 implementation (iii) HMCTS (et al) to advise on form changes to and return to the CPRC for determination in advance of the April 2022 implementation.

Item 3 Environmental Reviews CPR(21)27

19. Robert Ashcroft and Rupinder Binning from the Department for Environment, Food and Rural Affairs (Defra) were welcomed to the meeting.
20. Mr Ashcroft provided an overview of the anticipated proposed amendments in consequence of the Environment Bill and this was discussed.
21. The Bill is currently before Parliament and will create (Clause 37) a new statutory Office for Environmental Protection (OEP). As such, it is proposed that a new mechanism for Environmental Reviews should be established within the CPR.
22. Extensive consultation on the policy regarding establishment of the OEP, its enforcement functions, and the development of a new litigation mechanism took place during the Bill’s development. In 2018, the Government’s, ‘Environmental Principles and Governance after EU Exit’ consultation also took place. Defra is now preparing a further technical consultation to seek views of stakeholders regarding matters of procedure to better understand what users consider should be addressed through the Rules.
23. It was highlighted that there are some key differences between the proposed Environmental Review procedure and the existing CPR Part 54 Judicial Review procedure, for example the lack of a permission stage and the lack of a time limit within which to bring Environmental Reviews. It was also noted that the Environmental Review itself is expected to be a relatively infrequently used mechanism, as it is anticipated the new statutory OEP will resolve the majority of cases without the need for litigation, through its own investigation and notice procedures.
24. Defra Officials were advised to consult the leadership Judges (including Mr Justice Swift as the judge in charge of the Administrative Court, Mr Justice Holgate for the Planning Court, Lords Justice Dingemans and Lewis, as Court of Appeal judges with particular responsibility for appeals in public law cases and the President of the Queen’s Bench Division). It was **NOTED** that the Chair had alerted the PQBD and Swift J before the meeting, but further consultation was urged. Mr Justice Kerr offered to assist officials with disseminating information if required; His Honour Judge Jarman QC should also be included as the CPRC’s Welsh judicial member.
25. Overall, members welcomed the opportunity for this preliminary notice, advised that at this stage it was not possible to say, either way, whether the proposed changes will be agreed and confirmed the need for more than one appearance at the CPRC. The CPRC’s remit to conduct its own consultation was also explained so that officials are mindful of that in the context of the overall timetable.
26. Master Cook observed the need for officials to consider any consequential changes to court forms and to engage on that at an early stage, so as to co-ordinate publication with the revised rule changes and in advance of implementation.
27. Mr Ashcroft confirmed that he was in contact with MoJ Legal and Policy officials and thanked them for their time thus far. He was also aware of the recent suite of CPR changes

concerning Judicial Review and was following the Independent Review of Administrative Law developments.

28. The intention is to return to the CPRC in the Autumn to present the consultation results along with a first draft of the necessary amendments, in order to have the drafting settled for incorporation into the “winter” CPR Update in readiness of an April 2022 in-force.
29. **Actions:** (i) Secretariat to provisionally schedule in time for the matter to return in October (ii) Defra, in consultation with MoJ, to prepare a fuller paper (including consultation responses) and developed drafting by 24 September, for the 08 October CPRC meeting.

Item 4 Electronic Working Pilot Scheme (PD51O) CPR(21)28

30. Master Cook provided a summary of the background, explaining that this was last before the Committee in February, when it was resolved to add in Queen’s Bench District Registries with effect from 19th July 2021. The project was now in a position to invite the CPRC to make provision for the Court of Appeal (Civil Division) and Administrative Court jurisdictions. The current pilot runs until 06 April 2022.
31. It was **NOTED** that the proposed drafting had been agreed by the respective judicial leads and followed consultation with the judiciary, operations, and lawyers from the Civil Appeals Office and Administrative Court Office.
32. The amendments and related drafting notes were reviewed and discussed in detail. Given that the latest version (reflecting the amendments agreed at the February CPRC) had not been used, there were several points that had already been resolved upon; the numbering would need to be revisited. Other observations included the following, which were **AGREED**:
 - Include reference to the “Planning Court” throughout the PD;
 - At the start of paragraph 2.2, to remove the text, “Save as provided for in paragraph 1.1(1)(c) above”;
 - Paragraph 2.2 was cast with the intention of making it clear that Extradition Appeals remain subject to the CrimPR, including CrimPR 4.1.
33. The point raised in the drafting note regarding the interplay between PD54A, paragraph 4.5(1) and the application of PD51O, paragraph 5.1 (General rules regarding issue and filing) was not considered to be an issue, because of the express provisions concerning Trial bundles at paragraph 13 of PD51O and separate provisions for the Court of Appeal.
34. Some supplementary comments were aired, in response to which Master Cook reiterated that the drafting would be subjected to a wholesale review once the remaining jurisdictions had been incorporated and the pilot PD was being considered for importing into the mainstream rules. At this stage, the intention was that the amendments were essentially limited to provide for the additional jurisdictions to be included.
35. It was **NOTED** that, precise implementation dates for the Court of Appeal and Administrative Court jurisdictions are yet to be inserted because, although there are milestone dates for E-Filing rollout, the Project Board is still awaiting User Acceptance signoff by Senior Operations managers; however it was expected to be a phased programme. An indicative in-force timetable suggested use by external users from Autumn 2021, but this would be confirmed before the final drafting was cast.
36. In response to questions from members as to why the version agreed in February was not publicly available, the Secretariat confirmed that although the minutes of that meeting are,

the final PD was due to be published in July as part of the summer PD Update. **Post Meeting Note:** E-Working Project officials confirmed their proactive communications programme to ensure both internal (judicial and regional HMCTS operations) and external users (via front-line advertisements, digital means & Gov.uk promotions) were notified and trained in advance of implementation.

37. It was **AGREED, subject to final drafting** and confirmation of in-force dates, to amend PD51O to add in the additional jurisdictions.
38. **Actions:** (i) Project Team to confirm implementation dates (ii) Master Cook to provide updated drafting (iii) Drafting Lawyers/Secretariat to include in the upcoming mainstream PD Update for publication in July as part of the October 2021 common-commencement date cycle (iv) Project and Secretariat to provisionally timetable in a return to the CPRC no later than the December 2021 meeting for consideration of any further modifications/pilot extension/importing to mainstream rules, in advance of the current PD's expiry date to consider inclusion into the Winter PD Update cycle.

Item 5 Section 2(7) Sub-Committee Report CPR(21)29

39. The Chair thanked Mr Justice Kerr for his extensive preparatory work following the initial discussion on a "future vision" earlier in the year and since the 16 April meeting.
40. Kerr J explained his rationale for the proposed, phased, works programme to simplify the CPR. Phase one proposes an initial 12 month programme, phase two is likely to take a further 12 months; progress and future direction would remain under constant review. However, it was readily acknowledged that this is an on-going, continual process.
41. The guiding principles are that (i) rules of general application which set out basic tenets of procedural civil justice could be seen as, "general rules" and should not normally require amendment, (ii) non-fundamental rules are limited to particular types of case and could be considered as "particular rules"; these should be differentiated and treated separately. The "particular rules" being those which tend to need more frequent amendment and not all should qualify for inclusion in the CPR or a PD . It may also be possible to develop some kind of "online practice guidance library" aimed at specialist practitioners, overcoming the challenge of overloading the *general rules*.
42. "General rules" were broadly considered to be contained in Parts 1-50 (and Schedule 1 and 2). "Particular rules" were seen as Parts 53-68 and there are no current plans to propose changes to them at this stage, nor, initially, for Parts 69-89 being specific procedures concerning enforcement and remedies.
43. The sub-committee's focus over year one would be to consider revisions to rules and PDs under Parts 1-30 (broadly: the inception of civil proceedings, pleadings, parties, short cuts to judgment and interim remedies). Later phases would consider Parts 31-50 and Schedule 1 and 2 (broadly: disclosure, evidence, trials, settlements, judgments and costs). The plan, as currently, is that the Scheduled Rules be assimilated into the CPR.
44. A discussion ensued. Overall, there was general support for the proposed direction of travel. It is seen as a way of advancing the principles that the CPR is as clear, simple and concise as possible and more readily provides for the litigant in person/lay user. DJ Cohen raised the prospect of some kind of "CPR Style Guide". The Chair's view was that at this stage the new sub-committee's task could be approached in the broadest sense and it was not necessary to be prescriptive. However, he saw the potential value in considering a high level statement of drafting principles, which could be developed further in due course. This may be of use to officials as well as others. Any issues concerning Sub-Delegation will require consideration. The works programme will need to provide for consultation.

45. It was **RESOLVED** to:

- Establish the new sub-committee, membership being: Kerr J (Chair), Lizzie Iron and Isabel Hitching QC, with the support of Alasdair Wallace (MoJ legal); given the breath of the CPR, additional co-optees (pro tem) can be considered as/when required;
- Approve the phased works programme in principle, which will also need to incorporate opportunities for consultation;
- Various legacy actions (e.g. concerning PD2B & CCR 39) to be paused and potentially absorbed within the ambit of this newly established sub-committee.

46. **Action:** Kerr J to advise Secretariat when ready to schedule in further reports.

Item 6 Housing Possession Sub-Committee (Forms N54 & N54A) CPR(21)32

47. Master Dagnall set out the background. It was explained that last year, a set of possession enforcement reforms were introduced, following public consultation, to align possession enforcement processes in the High Court and County Court. Part of that was to formalise the previous informal procedure in the County Court of a notice of eviction (Form N54) having to be delivered to the relevant premises in advance of an eviction and to extend that procedure to the High Court (CPR83.8A).

48. HM Courts & Tribunals Service has now sought clarity on the procedure for giving any further notice of eviction, which the sub-committee have considered. Currently, the County Court do this via form N54A when the first attempt to execute the possession warrant failed.

49. The sub-committee, which includes His Honour Judge Jan Luba QC as a co-opted member, propose amendments to CPR83.8A(2) by way of a new rule (b) to provide that, if an eviction does not take place on the day stated in a notice of eviction (N54), a further notice of eviction is required to be delivered not less than 7 days before the writ/warrant is executed.

50. Master Dagnall explained that the proposed amendments were intended to make clear that:

- It is subject to sub-rule (5) which enables the court to dispense with a notice of eviction or to shorten or extend the time periods (and section 89 of the Housing Act 1980);
- The further notice of eviction (N54A) is only required where there has been a previous 14 day notice of eviction which has actually been delivered, but where the eviction has not taken place on the day which was specified in the first notice (i.e. the fact that the N54 gives a time, as well as a date, on which the eviction is to take place does not matter);
- It also applies in the case where an initial attendance has only secured a partial eviction, as well as where there is no eviction at all on the notified date.

51. It was **NOTED** that the MR's Possession Working Group has been consulted and support the above proposal. A discussion ensued. HHJ Lethem observed that the N54 and N54A Notices were put in place quite some time ago and for good reason; initially in consequence of Article 8 rights under the Human Rights Act. DJ Parker suggested that the proposed new text at (a) "(subject to sub-paragraph (b))" be removed and this was agreed. Other proposed modifications were not agreed.

52. It was **FURTHER NOTED** that the earliest possible in-force date, allowing for the necessary Parliamentary procedures and without compromising the existing timetable for the upcoming mainstream CPR SI & PD Update, was 7th August 2021.

53. It was **AGREED to amend CPR83.8A(2)**:

“(2) Subject to paragraph (5):

(a) A notice of eviction must be delivered to the premises not less than 14 days before the writ or warrant is executed; and

(b) If full execution of the writ or warrant has not taken place on the day specified in a notice of eviction delivered pursuant to sub-paragraph (a) relating to the writ or warrant, a further notice of eviction must be delivered to the premises not less than 7 days before the writ or warrant is or is further executed.”

54. **Actions:** (i) Drafting Lawyers/Secretariat to include in the upcoming CPR SI with an in-force date of 7th August 2021 (ii) HMCTS to note and disseminate.

Item 7 MR’s Working Group on Possession Proceedings (PD55C)

55. This item was deferred as work is ongoing. **Action:** Secretariat to provisionally schedule in for the July 2021 meeting.

Item 8 Lacuna Sub-Committee Report (LSC) CPR(21)33

56. Master Dagnall introduced the item, explaining that the sub-committee has been busy working with lawyers to finalise drafting to effect various residual Rule/PD changes resolved upon by the CPRC so as to include them in the upcoming Update. In consequence, there was only one item on which to report this month.

57. Tom Montagu-Smith QC presented the matter:

58. **LSC2021/21** concerns King -v- Stiefel [2021] EWHC 1045 and the requirement for a defence where there is an application for reverse summary judgment.

59. Mrs Justice Cockerill's judgment in King -v- Stiefel raises a possible lacuna in the Rules as to clarity on whether a defendant who applies for summary judgment must file a defence before the application is heard. This issue relates, principally, to CPR Part 15 and Part 24.

60. The LSC’s note clearly set out the position in detail and this was duly **NOTED**. In discussing the matter, it was recognised that there is scope for another judge to decide differently, but on balance the sub-committee concluded that the Rules did lack consistency and accordingly there were no good policy reasons why the Rules should not be amended. The Rules should be clear to litigants without need for recourse to the case-law.

61. The intention of the Rules on this topic is that, where a summary judgment application has been made, the defendant should not be required to file a defence before that application is heard, regardless of who has made it. The LSC agreed with the reasons given by Cockerill J. In addition, the sub-committee considered that there is no obvious good reason for CPR 15.11 to make the Rules for an automatic stay subject to the exception of a claimant’s application, but not a defendant’s application. However, a degree of tension was detected between the views of Cockerill J and those of Coulson J (as he then was) in Simmons & Simmons v Hickox [2013] EWHC 2141 (QB) and the LSC agreed in principle with Coulson J that there may be cases in which it will be of assistance to the Court to see

the defendant's defence when considering their summary judgment application. However, the LSC observed that it may not be consistent with the overriding objective to require a party to plead a defence to the whole of a claim in every such case.

62. Reviewing the drafting, Mr Montagu-Smith highlighted that DJ Parker had suggested that, although it may at first sight seem cumbersome, it could be better to repeat the phrase "by or against whom the application is made" in the proposed re-drafted CPR 15.4(2)(c) so as to reproduce CPR 24.4(2) exactly and this was **AGREED in principle**.
63. DJ Parker also raised the point that as there could be more than two parties, whether the proposed re-draft of CPR 15.11(1)(c) would be better beginning, "no party" rather than, "neither party" and this was **AGREED in principle**.
64. The issue of whether to include the provision of, "unless the court otherwise directs" at the end of CPR 24.4(2) was discussed as a means to enable the result desired by Coulson J in *Simmons & Simmons* to be achieved in an appropriate case. It was **AGREED not to include** that additional text, because the court's inherent power already provides for it.
65. Master Dagnall ventilated the option to consider possible amendments in relation to where an application to strike-out the claim is being made. It was decided that this required further consideration, out-of-committee.
66. The question of consultation was raised and it was decided to ask the LSC to consider this further, but as the principle is that there is no policy change, the preliminary view was that wider consultation was unlikely to be necessary.
67. It was **RESOLVED** not to make any changes at this stage and to remit the matter back to the LSC to consider (i) all the various drafting points raised (ii) position concerning strike-out (iii) any necessary further consultation.
68. **Action:** LSC to advise Secretariat when ready to return for CPRC consideration.

Item 9 Civil Procedure Amendment Rules SI & PD Update Content CPR(21)30

69. The Chair provided an update on the anticipated content and timescales concerning the summer Update cycle. The next mainstream CPR SI and PD Update is scheduled to be the Civil Procedure (Amendment No.4) Rules and the 133rd PD Update, which are due to be published in mid-July and, unless urgent and expressly provided for, will come into force inline with the October 2021 common-commencement date. The Chair also raised the following:
70. **Online Civil Money Claims PD Update:** An additional PD Update (the 134th) to provide for further functionalities within the OCMC pilot PD51R is also expected to be published at the same time, to come into force in July 2021.
71. **Revised drafting of PD5B paragraphs 2.3 & 2.4 (CPR(21)30):** Further to the resolution at the March 2021 meeting, to remove the obligation for parties to include a debit/credit card number when filing an application by email where a fee is payable, revised drafting was tabled. This followed consultation with the Family Procedure Rule Committee. The aim being to align said CPR amendments with the equivalent FPR amendments. The discussion ventilated the need for clarification concerning the scope and changes in paragraph 2.4 which deals with the consequences of non-compliance. The purpose of the amendments agreed in March was a technical change concerning payments by card only, not wider reforms. Alasdair Wallace agreed and felt that an inadvertent drafting slip had occurred because the CPR has some extra requirements compared to the FPR; he undertook to check it.

72. It was **RESOLVED**:

- Revised drafting of PD5B paragraphs 2.3 & 2.4 was **APPROVED**, subject to drafting lawyer's clarification concerning paragraph 2.4 (c).
- Amendments to come into force on the day after the PD Update is signed (anticipated to be on/around 16th July 2021) so as to align with the FPR amendments.

73. **Actions:** (i) Drafting lawyers to settle the final drafting, reverting to the CPRC if needed (ii) Subject to that, Secretariat/Drafting Lawyers to include PD5B amendments in the upcoming summer PD Update.

74. **Possible supplementary Items:** The Chair advised that, notwithstanding the practice of determining items for inclusion in the summer Update no later than the June meeting, it will be necessary, should time permit, to consider some additional, limited amendments at the July meeting. PD51U Disclosure Pilot is one such example and this was duly **NOTED**.

Item 10 Any Other Business & Close

75. **Whiplash Reform Programme - Official Injury Claim (OIC) Advisory Group:** The Chair advised that the MoJ is establishing an OIC Advisory Group, chaired by the MoJ, to provide expert and other user input on the operation of the OIC Service and the RTA Small Claims Protocol. It was **NOTED** that HHJ Bird is being nominated as the principal CPRC representative and a deputy is also being identified. Thanks were also expressed to HHJ Lethem for his contribution to the work on the post OIC launch governance arrangements, which is understood to have contributed to the OIC Advisory Board model. **Action:** Chair/Judicial Office to confirm the final membership and relay to MoJ as soon as possible.

76. **Volunteer to attend Civil Justice Council (CJC) meetings:** The Chair sought volunteers for a CPRC member to attend CJC meetings (in an observer capacity) as a reciprocal arrangement to that of Nicola Critchley attending CPRC meetings as a representative of the CJC. **Action:** Members to contact the Chair if interested.

77. **Sub-Committees Update (Online Civil Money Claims & Damages):** The Chair explained that with the Damages Pilot (PD51ZB) now operational and an expectation that there will be an increasing amount of cross fertilisation between the two online reform strands of OCMC and Damages, it has been decided to disband the existing OCMC sub-committee (for which Birss LJ retained the Chair on an interim basis) and establish a new combined group. Mr Justice Johnson who Chairs the Damages Sub-Committee, will take the Chair of this new joint sub-committee; His Honour Judge Simon Monty QC will join, and there will also be other membership changes. The CPRC will receive the Terms of Reference in due course and this was duly **NOTED**. Thanks were conveyed to everyone involved in the successes of both the OCMC and Damages Pilot schemes.

78. **Online Rules Migration:** It was duly **NOTED** that, with thanks to the Working Group chaired by Mr Justice Pepperall, that the *Justice* web site (which hosts the online CPR) will continue to operate in the medium term (understood to be in the region of 12 months) so as to provide more time to make the necessary changes required to GOV.UK. In the meantime, the online rules will be removed from GOV.UK so as to avoid inaccuracies with running two different sites. The Working Group will continue to maintain oversight.

79. DJ Parker requested that GOV.UK be updated to signpost users back to the *Justice* site, because recent communications to users had explained the migration to GOV.UK had already taken place. **Action:** Secretariat to advise MoJ Digital.

80. **Return to in-person Committee meetings:** The Chair confirmed that there was no fixed plan to return to in-person meetings at this stage. Meetings would, therefore, continue in a virtual format for the time being and that was working well; but the objective remains to return to in-person meetings as soon as is safe and practicable. The position is being kept under review.

81. **Part Transfer of Deeds Poll:** Master Cook provided a brief oral update to advise that a significant amount of progress was being made, but one issue of policy remained outstanding. The desire was for the matter to return to the CPRC in July. **Action:** (i) MoJ Policy to investigate (ii) Secretariat to provisionally schedule the item into the 09 July meeting.

C B POOLE
June 2021

Attendees:

Carl Poole, Rule Committee Secretary
Nicola Critchley, Civil Justice Council
Amrita Dhaliwal, Ministry of Justice
Marcia Williams, Ministry of Justice
David Hamilton, Ministry of Justice (Item 2)
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
Master Dagnall, Chair, Lacuna Sub-Committee
His Honour Judge Lethem
Richard Viney (Item 2)
Robert Ashcroft, Department for Environment, Food and Rural Affairs (Item 3)
Rupinder Binning, Department for Environment, Food and Rural Affairs Legal (Item 3)
Stephen Manger, Project Delivery Function (Item 4)
Helen Chaytor, Legal Operations, RCJ Group (Item 4)
Mr Justice Robin Knowles CBE (Item 6)