

Approved

Minutes of the Civil Procedure Rule Committee

Friday 8th October 2021 (via video conference)

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

Brett Dixon

Masood Ahmed

Lizzie Iron

Dr Anja Lansbergen-Mills

John McQuater

Isabel Hitching QC

Tom Montagu-Smith QC

Apologies

District Judge Cohen, David Marshall (members); Mr Justice Holgate (Item 8)

Item 1 Welcome, Minutes, Action Log & Matters Arising

1. The minutes of the meetings on 9th July 2021 and 10th September 2021 were, respectively, **AGREED**.
2. The Chair raised the following matters arising:
 - **Richard Viney's Memorial Service:** a date is provisionally booked, but a time is yet to be confirmed.
 - **Civil Procedure Amendment (No.4) Rules 2021:** the Joint Committee on Statutory Instruments' (JSCI) Memorandum and MoJ's response was duly **NOTED**. Particular thanks were expressed to Master Dagnall for his contributions in formulating the response.
3. The Action Log was duly **NOTED**. The following updates were provided:
 - **AL(20)83 - TBD v Simons [2020] EWCA Civ 1182 (Imaging Orders):** Draft proposals have been produced by Mr Justice Mead and are with legal and policy officials to consider. **Action:** matter to return to 5th November or 3rd December meeting.
 - **AL(21)53 - Renting Homes (Wales) Act reforms:** this Sub-Committee was previously led by Richard Viney. Lawyers and officials are working to produce a perfected set of final drafts for consideration at the November meeting. Consequential form changes will be considered by His Honour Judge Jarman QC and Master Cook. **Action:** matter to return to 5th November 2021 meeting if ready.
 - **AL(21)65 - Rolling Consultations:** the new facility for ongoing consultation to enable users to comment on drafting proposals has now been launched online. This has been

communicated to internal and external stakeholders (including the senior judiciary and judicial associations) by letter and/or auto web alert. Thanks were conveyed to all involved with setting it up. It was seen as a significant milestone in the work of the s.2(7) Sub-Committee as well as supporting the CPRC's wider programme and as a means of providing increased transparency of business generally.

- **AL(21)72 – r.27.6 (CJC Report on Small Claims):** Master Dagnall highlighted a typographical error in the Action Log against this item which the Secretary will amend. The Chair will also discuss next steps with Master Dagnall out-of-committee.
- **AL(21)77 - Damages & Money Claims (DMC) Committee Terms of Reference:** The Chair explained that the comments from the last CPRC meeting had been reviewed and a revised draft Terms of Reference has been produced. In respect of the status of the committee, and in particular its relationship to the CPRC, the first paragraph under the heading "governance" has been re-drafted to expressly provide the following, "*Insofar as it has responsibility for reviewing and approving draft Practice Directions, the DMC Committee is answerable to the CPRC. When working on DMC Committee matters, DMC Committee members who are also CPRC members may represent the views and interests of the CPRC, and the CPRC representative and rules lead for Damages is responsible for reporting to and liaising with the CPRC. In all other respects the group will ultimately be answerable directly to the Master of the Rolls as the designated senior judicial decision maker on civil reform.*" Other changes were also made. The name of the Committee also now denotes its wider remit than purely a Sub-Committee of the CPRC. This was duly **NOTED**. The Chair requested that the revised Terms of Reference be circulated to members, out-of-committee, with a deadline to register any objections. Subject to that, the DMC Committee's Terms of Reference are to be taken as agreed. **Actions:** (i) Secretariat to circulate out-of-committee (ii) Members to provide any objections by Friday 15th October 2021.

Item 2 Possession Proceedings PD55C Coronavirus: Temporary Provisions CPR(21)52

4. The Chair introduced the item with thanks to Lord Justice Males, the Housing Sub-Committee, His Honour Judge Jan Luba QC and policy officials for their collective input.
5. Males LJ set out the background, explaining that this matter was last before the CPRC on 9th July 2021, when it was resolved to extend PD 55C until 30th November 2021 to enable the MR's cross-sector Working Group to report with recommendations for the future conduct of possession claims. In consulting Designated Civil Judges and the Association of District Judges, quite a consensus emerged. Wider work is continuing, from which further reforms were also possible.
6. The proposals for consideration today are limited in scope, so as to amend PD55C paragraph 1.1 and insert two new paragraphs 1.8 and 1.9.
7. The intention being to provide transitional arrangements for claims commenced before 1st December 2021, including the existing requirements (at paragraphs 6.1 and 6.2 of PD55C) regarding compliance with Pre-Action Protocols and for the claimant to set out what knowledge they have as to the effect of the pandemic on the defendant and their dependants; these requirements will also be preserved in relation to claims issued after 30th November 2021, until 30th June 2022.
8. A discussion ensued, following which the following proposed **amendments to PD55C** were **AGREED**:

1.1 This practice direction is made under rule 55.A1 and provides for temporary modification of Part 55 during the period beginning with 20 September 2020 (the end of

the stay imposed by rule 55.29) and ending (save as provided by paragraphs 1.8 and 1.9) on 30 November 2021 ('the interim period').

1.8 This practice direction continues to have effect after 30 November 2021 in relation to claims issued before 1 December 2021.

1.9 Paragraphs 6.1 and 6.2 of this practice direction continue to have effect until 30 June 2022 in relation to any claim issued on or after 3 August 2020, including any claim issued after 30 November 2021.

9. **Actions:** (i) Drafting Lawyers & Secretariat to incorporate into an urgent, out-of-cycle, PD Update to come into force before the 30th November 2021 (ii) HMCTS to facilitate the necessary communications to court users/staff et al (iii) Sub-Committee to appraise Secretariat as to when any further reforms are ready for CPRC consideration.

Item 3 Tenancy Reform – Section 21, Housing Act 1988 CPR(21)47

10. Tashi Warr, from the Department for Levelling Up, Housing and Communities, was welcomed to the meeting. Ms Warr was grateful for the opportunity to provide an introductory presentation. It was explained that there was a 2019 Government Manifesto commitment to reform housing possession grounds and thus future changes to CPR Part 55, together with consequential changes to court forms and processes, were anticipated. A White Paper providing further information on Government proposals is expected in due course. Officials were keen to engage with the Committee and with the judiciary, as the policy develops. A discussion ensued.
11. The Chair appreciated officials making early contact and agreed it was suitable for the Housing Sub-Committee to be consulted, along with others. It was noted that officials had already made initial contact with Judicial Office. Master Dagnall endorsed the need for an integrated approach to consultation. Males LJ observed the formation of a new user group, following the work of the MR's cross-sector working party on possession proceedings, as being another likely forum for further engagement. Lizzie Iron urged engagement with the third sector.
12. District Judge Parker highlighted that if the intention was for rules of court to define evidential thresholds, then that was a novel approach and would require careful consideration. The challenges experienced with drafting the current accelerated possession forms was also aired in the hope that improvements could be achieved.
13. It was **RESOLVED:**
- officials may consult the CPRC Housing Sub-Committee, out-of-committee, in the first instance;
 - a District Judge member is to be co-opted (in DJ Cohen's absence) to the Housing Sub-Committee pro tem.
14. **Actions:** (i) Chair to consider co-optee membership (ii) Secretariat to be updated on timings for CPRC programming purposes.

Item 4 Electronic Working (CE Filing) Pilot – PD510 CPR(21)44

15. Master Cook provided an overview as to the background. It was explained that since the publication of the 133rd PD Update in July 2021, some operational and technical IT issues concerning the listing function had been identified. This has resulted in a need to urgently revise the operative dates in PD510 in relation to implementation for the Court of Appeal

(Civil Division). The proposed revised dates have been agreed with the MR, other judiciary and HMCTS Senior Operations Manager.

16. The following **revised drafting to PD510** was presented and **AGREED**:

1.1.

(1)

(c)

(vi) to existing proceedings and proceedings started on or after ~~22 November 2021~~ 10 January 2022 in the Court of Appeal (Civil Division).

2.2I In the Court of Appeal (Civil Division) from ~~22 November 2021~~ 10 January 2022, for a party who is legally represented, as well as for a party who is not legally represented, Electronic Working may be used by that party to start and/or continue any appeals or applications.

2.2J In the Court of Appeal (Civil Division) from ~~17 January 2022~~ 14 February 2022, for a party who is legally represented, Electronic Working must be used by that party to start and/or continue any relevant appeals or applications.

17. **Actions:** (i) Drafting Lawyers & Secretariat to incorporate into an urgent, out-of-cycle, PD Update to come into force before the 22nd November 2021 (ii) HMCTS to facilitate the necessary communications to court users/staff et al.

Item 5 Anti-Social Behaviour Injunctions (ASBI) Sub-Committee CPR(21)45

18. His Honour Judge Bird presented the matter.

19. The Sub-Committee was established following the Civil Justice Council's (CJC) 2020 report, (<https://www.judiciary.uk/wp-content/uploads/2020/10/ASBI-final-accessible.pdf>) in which Recommendation 12 invites the CPRC to consider eight points. Broadly this includes proposals for a Pre-Action Protocol and other rule/PD changes. The report was very well received when presented by Mr Justice Cotter (as he now is) to the Designated Civil Judges' conference.

20. Given the subject matter, the Sub-Committee's composition includes the following co-opted members, to whom the Chair expressed thanks for the extensive work carried out thus far: District Judge Robert Taloga-Davies (Birmingham DJ), Robin Denford (Bristol City Council, to represent landlord interests) and Harriet Bosnyah (of Shelter, to represent tenant interests).

21. This is the Sub-Committee's preliminary report to the CPRC; HHJ Bird took members through each of the eight remaining points requiring CPRC consideration (one point, at recommendation 12 (e) which sought restoration of the jurisdiction of District Judges to deal with committal applications in respect of the breach of orders made under the 2014 Act, had already been dealt it by the CPRC). Each was discussed in turn, during which, DJ Parker also raised whether the Sub-Committee could consider any related points regarding a breach of ASBI creating a mandatory ground for possession.

22. It was **NOTED** that the following matters were ongoing:

- consideration of **recommendation (b) proposing amendments to CPR 65** and/or PD 65 to require judges to ensure that a respondent at a first hearing of an application for an injunction under the 2014 Act is aware of the potential availability of legal aid (replicating the requirements set out in PD81 15.6, and the revised

CPR 81.4 as set out in the Civil Procedure (Amendment No 3) Rules 2020, in respect of committals).

- consideration of **recommendation (d)** on whether the requirement for evidence upon an application under the revised CPR 81.4 in relation to a committal under the 2014 Act to be by affidavit (as opposed to statement) should be removed either by amendment to CPR 65.47 and/or PD 65 and/or CPR 81.
- although it was not a formal recommendation from the CJC report, it did raise possible reforms to the N79 Form. However, this form no longer exists, as it was replaced with new forms under the reformed Part 81. The Sub-Committee do not consider further bespoke forms to be needed, but will consult with the Part 81 & Forms Sub-Committees on any necessary action.

23. It was **AGREED** that the Sub-Committee should continue its work on drafting a **Pre-Action Protocol, in response to the recommendation under (a)** but in doing so, to take account of the CJC's report on PAPs generally, which was due to be published soon. HHJ Jarman QC highlighted that in Wales, there can be a reluctance amongst solicitors to take on this type of work and a lack of civil legal aid. Sometimes criminal lawyers are approached, but they are not specialists in this area of law. He asked that this be considered when drafting the PAP.

24. It was **RESOLVED** that the **CPR remains unchanged** in relation to:

- **recommendation (c) providing guidance as to the principles to be adopted when considering bail.** The discussion aired one possible drafting option but also recalled an authority in caselaw which may address the issue. It could also be that the Sentencing Council has a role to play in this. Overall, the CPRC concluded, as a matter of principle, that it should not be for the CPR to address this point. The CPR is for practice and procedure; it was, therefore, not appropriate to cite (criminal) substantive law (the Bail Act 1976) within the rules.
- **recommendation (f) concerning penalties for contempt.** The general consensus being that the Sentencing Council is the body set up to deal with this area and this is not something the CPRC can take forward.
- **recommendation (h)** concerning whether, when the revised CPR 81 is in force, a shorter time limit than three days for the service of an application to discharge a committal order (purging contempt) should be specified in the rules or a Practice Direction.
- **recommendation (i) concerning the removal of the requirement for robes** to be worn for urgent committal hearings covered by CPR 65.47. Although the Sub-Committee did not have a firm view, it was acknowledged that the provision of robes was expressly considered as part of the Part 81 Contempt of Court reforms in 2020 and were retained; robes demonstrate the seriousness of the matter in which liberty is at stake.

25. In relation to **recommendation (g) concerning the route of appeal** in respect of a committal order, it was noted that the Court of Appeal (CoA) had looked at the issue on more than one occasion and, broadly, interpreted it as not being an exclusive route of appeal to the CoA. Issues with the Destination of Appeals Order and CPR PDs 52A-E, specifically PD52D which identifies an appeal in respect of contempt is to the CoA were also raised. The Chair recalled the extensive work done previously on this topic under the previous Chair and did not think there were currently sufficient resources to treat this as a priority area for possible further reform. However, the needs of the litigant in person

requiring clarity was acknowledged. In considering various options presented by the Sub-Committee, it was **RESOLVED**:

- the CPR should reflect the current law
- Policy Officials are urged to review the position as it needs clarification in the interests of the user

26. **Actions:** (i) HHJ Bird (in consultation with the Chair) to report back to Cotter J/CJC (ii) Drafting Lawyers and Secretariat to incorporate changes into mainstream Update (iii) Policy Officials to review the position regarding routes of appeal.

Item 6 Traffic Enforcement (Littering Regulations) – PD75 & Form TE9 CPR(21)46

27. Joe Minns & Jennifer Donnelly, from DEFRA, were welcomed to the meeting to present the item.

28. It was explained that technical changes to PD75 (Traffic Enforcement) were required in consequence of new Regulations from DEFRA regarding civil penalties for littering from vehicles. The Regulatory changes were due to be laid in December. No substantive policy changes were proposed. The amendments to PD75 are summarised as follows:

- In paragraph 1.3(2)(j), replace the reference to “penalty notice” with a reference to the new “enforcement notice”.
- Insert references to regulations 7A(3) and 7A(4)(d) of the amended 2018 Regulations in a new paragraph 4.1(2)(d) reflecting the new functions of the court contained within them, being exercisable by a court officer. Namely, that the court may allow a longer period of service for a witness statement if it considers it would be unreasonable in the circumstances not to allow for such; and that the court must serve written notice on the respondent and the local authority of the effect of the service of the witness statement on the court by the respondent. This will ensure consistency with other similar regimes.
- Insert a new paragraph 5.1(2)(e) to add regulation 7A(3) of the amended 2018 Regulations to the list of provisions to which paragraph 5 of PD75 applies. Regulation 7A(3) enables a respondent to apply for an order allowing a longer period than 21 days for filing a witness statement in circumstances where it would be unreasonable not to permit the longer period. Paragraph 5 sets out the procedural requirements surrounding the filing of witness statements after the 21-day deadline. This process is common practice across many traffic enforcement regimes.
- Correct of an unrelated typographical error in paragraph 3.1(e)(i) to omit a superfluous “is”.

29. The proposed amendments to PD75 (taken with the amendments to the 2018 Regulations) will ensure that the littering from vehicles penalty regime operates as originally intended and clarify the process by which litter authorities can recover unpaid penalties. No transitional arrangements are considered necessary. Consequential changes to form TE9 were also envisaged.

30. A discussion ensued in which DJ Parker raised some minor drafting points as to the proper use of “and” or “or” when adding the new sub-paragraphs to a list. DJ Parker also ventilated some points of process for possible policy consideration.

31. Master Cook urged officials to ensure the drafting of the new enforcement notice clearly states the way in which and venue to which the notice can be challenged.
32. It was **RESOLVED**:
- The proposed changes to PD 75 (Traffic Enforcement) were **AGREED subject to final drafting**.
 - Consequential form changes are to be considered, out-of-committee, by the Forms Sub-Committee in due course.
33. **Actions:** (i) DEFRA & MoJ Policy to finalise drafting with Drafting Lawyers and in consultation with the Secretariat for incorporation into the next mainstream PD Update (ii) Policy/HMCTS officials to refer proposed form changes, via the Secretariat, to the Forms Sub-Committee to ensure operational delivery is aligned with PD implementation.

Item 7 Vulnerable Parties Sub-Committee CPR(21)48

34. District Judge Byass was welcomed to the meeting.
35. This was last before the CPRC at the July 2021 meeting when alternative drafting options were considered. Since then, DJ Stephen Byass has kindly agreed to take the Chair in DJ Cohen's absence.
36. A general overview as to background, current position and next steps was provided.
37. The revised drafting of CPR Part 1 and amended PD1A, now incorporating the CPRC's comments from July was duly **APPROVED**.
38. DJ Byass explained the multi-jurisdictional nature of the Domestic Abuse Act 2021 ("the Act") and the remaining items requiring consideration, thus:
- the proposed four stages at which the requirements of the Act and the vulnerability provisions generally, should be highlighted to the parties. It was **AGREED** that the Sub-Committee (i) liaise with the CJC in relation to the PAP/s and (ii) work with Master Cook as to consequential form changes.
 - Civil & Family proceedings related matters, for example, what happens where there is a dispute about the underlying allegations. It was **AGREED** that DJ Byass be appointed as the CPRC member lead for liaison with the Family Procedure Rule Committee; if any other matters arise, he will report back to the CPRC.
 - Domestic Abuse Protection Orders (DAPOs). Under s31 of the Act, the Secretary of State is required to introduce Regulations that will define "relevant [civil] proceedings" where the Court may make a DAPO. The Sub-Committee take the view that any prescriptive approach would be unhelpful and contrary to the flexible approach recommended in the original CJC report and adopted in the general amendments to support vulnerable parties and witnesses previously approved by the CPRC. The Sub-Committee has, therefore, recommended to the MoJ that any definition of "relevant proceedings" is drafted as widely as possible to include all civil cases. MoJ concurred. Accordingly, the Sub-Committee conclude there is no further work for the CPRC on this aspect and this was duly **NOTED**.
39. It was also **NOTED** that there was no need for the CPR to make special provision regarding the definition of a victim, this being a point previously raised by the FPRC. The issue was a perception that there was a potential problem for the Family Court when the CPR is applicable in that court when it deals with matters such as Inheritance Act and

Trusts of Land and Appointment of Trustees Act cases. The concern was that the definition of a victim in s.64 (which applies in civil) appeared to be narrower than the definition of a victim in s.63 (which applies in family). However, on examining the provisions, the terms of s.64 now appear to be wider than those in s.63. MoJ legal advisers who support the CPRC also take that view because s.64 applies to, “victims of domestic abuse” as does s.63, however, s.64 also includes a further additional class of persons, namely persons who are or are alleged to be, “victims of a specified offence”. This does not narrow the definition of who is a victim of domestic abuse.

40. **Actions:** (i) The Chair to write to the FPRC regarding DJ Byass serving as the CPRC point of contact (ii) Drafting Lawyers and Secretariat to incorporate changes into the next mainstream Update as part of the April 2022 in-force cycle. iii) Forms Sub-Committee to consider changes required to relevant court forms.

Item 8 Section 2(7) Sub-Committee

Proposed New Draft Consolidated Planning PD CPR(21)49

41. Mr Justice Kerr proposed the adoption of a new consolidated Planning PD, which was discussed.
42. It was explained that the intention is to put all the planning claims PD provisions in one place, the proposed drafting does not contain any new matters of substance; it is a “lift and shift” exercise moving PD 8C into PD 54D (where it becomes a new Section IV) and moving para 22 of PD 8A, Section C, also into PD 54D (where it becomes the new Section V) and does not lengthen the CPR. Consequential amendments to CPR 54.22(3) and 54.24 also need to be considered, so as to refer to PD 54D.
43. Mr Justice Holgate, Planning Liaison Judge, has been consulted and his comments were duly **NOTED**. Holgate J raised a point regarding the proposed new Section VI dealing with appeals to the Planning Court and whether to move text from PD52D (Statutory Appeals and Appeals subject to special provision), into PD54D. Two possible options for the new Section VI were reviewed. Members recognised there are arguments both ways, but on balance took the view that this was a specialist area and thus weight should be placed on the Liaison Judge’s view. It was **AGREED**:
- new consolidated Planning Practice Direction, PD 54D is approved, subject to final drafting
 - reproduce the text of what is currently PD 52D paragraph 26.1 and convert PD 52D paragraph 26.1 to a signpost to Section VI of PD 54D.
 - consequential amendments to CPR 54.22(3) and 54.24 so as to refer to the new PD 54D agreed in principle, subject to drafting lawyer’s review.
44. **Actions:** Drafting Lawyers & Secretariat to incorporate into the next mainstream PD Update as part of the 6th April 2022 common-commencement date cycle.

Proposed Amendment to PD3C on Civil Restraint Orders (CRO) CPR(21)50

45. Mr Justice Kerr explained that this is not strictly a s.2(7) related matter, but has arisen from discussions at and following the July CPRC meeting, when the sub-committee saw the opportunity to propose a change whereby the maximum duration of an Extended Civil

Restraint Order (ECRO) and a General Civil Restraint Order (GCRO) be increased from two years to three years.

46. It was observed that there appears to be no constitutional objection to this; CPR rule 3.11(c) provides that a PD may set out the consequences of the court making a CRO. While Article 6 ECHR requires reasonable access to court, experience shows some vexatious litigants are using the two-year period to make repeated applications for permission to proceed by way of exception to the CRO, while awaiting expiry of the two-year period.
47. The matter was discussed, during which it was noted that other judges had raised points concerning this PD which may indicate a need for the PD to be further reviewed; Master Cook highlighted that CROs are an important judicial tool and raised the aspect of digital reform.
48. The Chair **NOTED** the preliminary view from MoJ Policy is that no immediate issues have been identified and that it seems to be a proportionate response to a particular problem. Drafting lawyers are yet to consider.
49. Overall, there was support in principle for the proposed increase in the maximum duration from two years to three years. However, consultation was important, whereupon it was **RESOLVED** to:
- consult the senior judiciary and judicial associations
 - re-schedule the matter for further consideration in/around December with a provisional plan to allocate time in the New Year if further work is required.
50. **Actions:** (i) Chair write to the judiciary and judicial associations (ii) Secretariat to allocate time in December and the New Year.

Item 9 Any Other Business & Close

Road Traffic Accident (RTA) Small Claims Protocol CPR(21)51

51. His Honour Judge Bird presented the item. It was explained that three issues have arisen since the Official Injury Claim (OIC) Portal became operational. The report from MoJ was duly **NOTED**. The Sub-Committee have considered a suite of non-controversial amendments to the PAP to address the identified issues. Each was explained and can be summarised as follows:
- **Definition of compensator** (revised paragraph 1.2(9) (b)), to deal with, for example, situations where the employer has delegated authority to deal with insurance claims.
 - **Address for service** (revised paragraphs 4.5, 4.6 and 12.6 to 12.8) to change the procedure on the portal for when there is no address for service for the defendant and such cases drop out of the portal. The remaining provisions of paragraph 4.5 already invite the claimant to consider seeking advice.
 - **Disputed causation cases** (a new paragraph 8.9A and minor consequential amendment to paragraph 6.7) to address a practical problem where there is an admission of fault, but a dispute that the accident caused any injury. The proposed amendment provides that where the compensator's actions make it clear that the dispute is being abandoned, this is treated automatically as a deemed admission of liability. The minor consequential change proposed to paragraph 6.7 is to

ensure that revision fits in with the procedure for deemed admissions at response stage.

52. Following discussion, it was **RESOLVED to recommend to the MR, subject to final drafting, the approval** of:

- the **revised 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).

53. **Actions:** (i) MoJ Policy to confirm in-force date (ii) Drafting Lawyers to produce PAP Update for onward passage (via Secretariat) to the MR for consideration and signing (iii) MoJ & Secretariat to facilitate the usual communications and updating of online rules.

54. It was also **NOTED** that Andrew Underwood, having remained involved in the Sub-Committee's work following the end of his term of office on the CPRC, had now retired from practice and, in turn, stepped down from the Sub-Committee. Thanks were conveyed for Mr Underwood's extensive contributions, which were greatly valued. It was not considered necessary to re-fill that place on Sub-Committee, given the advance nature of its work. However, in the interests of balance, Nicola Critchley remains involved.

Member Appraisals

55. The Chair confirmed that members' annual appraisals had been completed and held on record as per normal. Andrew Caton (Judicial Office) can be contacted should there be any questions or to request a copy. This was duly **NOTED**.

Civil Justice Council Report on Guideline Hourly Rates

<https://www.judiciary.uk/announcements/civil-justice-council-publishes-final-report-on-guideline-hourly-rates/>

56. It was **NOTED** from the Chair that the CJC's report was published on 30th July 2021 and although it did not appear to cite any specific points requiring CPR related changes, members were encouraged to review it and raise any related issues.

Possessions Enforcement and related matters

57. Master Dagnall raise the following points; HHJ Luba QC has urged action on the first topic. Each was discussed in turn.

- County Court areas (postcodes) being readily available, publicly. It was **NOTED** that Master Cook was endeavouring to garner progress on this. The Chair gave his support to that, recognising the constraints with the current, 'court finder' online search facility. A related possible lacuna in the County Court/District Registry legislation itself, but is outside the purview of the CPRC. It was **RESOLVED** to await presentation of the proposals from the s.2(7) Sub-Committee (concerning CPR Part 2) at the November meeting to consider appropriate next steps.
- localisation, reforms in this respect are working well for Writs of Possession which raises the question of whether it might be considered for Writs of Control. In response to a question from the Chair, HMCTS confirmed that the national Reform Programme was scheduled to commence its work on enforcement in July 2022 and within which this issue can be considered. **Action:** HMCTS to review as part of the Reform Programme.

Civil Justice Council Report on Compulsory ADR

<https://www.judiciary.uk/wp-content/uploads/2021/07/Civil-Justice-Council-Compulsory-ADR-report.pdf>

58. It was **NOTED** from the Chair that the report concludes that mandatory (alternative) dispute resolution is compatible with Article 6 of the European Convention on Human Rights and is, therefore, lawful. Key factors are dealt with at paragraph 10, and in more detail at paragraphs 90-113. Lizzie Iron observed the wider discussion on referring to “appropriate” (rather than, “alternative”) Dispute Resolution.

Return to In-Person Committee Meetings

59. The Chair explained that it was presently unrealistic to have an immediate return to all in-person meetings, whereupon members’ views were canvassed. It was decided to scope the feasibility of introducing *hybrid* (a mix of in-person and remote attendance) meetings as of the next meeting on 5th November 2021. **Action:** Secretariat.

Closing Remarks

60. Before closing the meeting, the Chair was pleased to acknowledge Andrew Caton and his 15 years of service supporting the CPRC. As a highly valued member of the Private Office team, his dedication and good humour contributes to the smooth running of committee business, for which grateful thanks were expressed.

C B POOLE
October 2021

Attendees:

Carl Poole, Rule Committee Secretary
Nicola Critchley, Civil Justice Council
Amrita Dhaliwal, Ministry of Justice
Marcia Williams, Ministry of Justice (Items 2 & 3)
Alasdair Wallace, Government Legal Department
Katie Fowkes, Government Legal Department
Andy Currans, Government Legal Department
Luke Classen, Government Legal Department
Andy Caton, Judicial Office
Maddie Ollerhead, Judicial Office (Item 2)
Faye Whates, HM Courts & Tribunals Service
Angela Carpenter, HM Courts & Tribunals Service
Master Dagnall, Chair, Lacuna Sub-Committee
Lord Justice Males (Item 2 & 3)
Tashi Warr & Mark Lambert, Department for Levelling Up, Housing & Communities (Item 3)
Jennifer Donnelly & Joe Minns, Department for the Environment, Food & Rural Affairs (Item 6)
District Judge Byass (Item 7)