

## Online Procedure Rule Committee

Minutes of meeting 12 February at 14:30 -16:00

### Members in attendance

- Sir Geoffrey Vos, Master of the Rolls (MR)
- Sir Andrew McFarlane, President of the Family Division (PFD)
- Sir Keith Lindblom, Senior President of Tribunals (SPT)
- Sarah Stephens (SS)
- Brett Dixon (BD)
- Gerard Boyers (GB)

### Guest speakers

- Harriet Ainsworth-Smith, MoJ
- Rezina Rai, MoJ
- Antonia Perra, MoJ

### Non-members in attendance

- Lord Justice Baker
- Lord Justice Birss
- Amy Randall, MoJ
- Harriet Ainsworth-Smith, MoJ
- Irram Khan, OPRC Secretariat
- Nick Lee, Judicial Office
- Bee Ezete, PFD's Private Secretary
- Sam Allan, MR's Private Secretary
- Joshua Gibson, SPT's Private Secretary
- Wan Fan, MoJ Legal
- Kate Gregory-Smith, MoJ (item 3)
- Amy Caldwell-Nicholls, HMCTS (item 4)

### Item one - Welcome, Apologies and Introductory Remarks

1. Minutes of the last meeting approved.
2. Apologies from Mrs Justice Joanna Smith.
3. MR opened the meeting by providing an overview of the current stage of the OPRC's work. He emphasised the need to consider the OPRC's statutory remit and set the work programme of the committee.
4. MR emphasised the importance of carrying forward the momentum from the launch. MR suggested continuing active engagement with legal advice sector and developing the eco system map.

### Item two – Programme update

#### Programme governance:

5. AR introduced herself as the interim Director for Judicial and Legal Services Policy for MoJ and would be co-chairing the newly established programme board for this work alongside the MoJ Digital Director.
6. AR confirmed that a programme mandate would be issued shortly from the Director General of Policy to MoJ policy teams, HMCTS and LAA which will set out the scope and approach of the programme of work.

7. HAS summarised the work taking place to develop the next phase of the system design work which builds on both the vision statement and eco system mapping. HAS emphasised that this work requires continuous system-wide external engagement, and a series of roundtable discussions are being planned as part of this next phase.

### **Exemplar projects:**

#### **Private Family Law exemplar:**

8. RR provided an overview of the private family law exemplar seeking to resolve disputes earlier. RR reminded the committee of the aim of the policy-digital multi-disciplinary project, which is to create a digital tool that offers a guided pathway for separating or separated families with children looking to resolve child and/or financial arrangements.
9. RR updated that the discovery stage had completed in December. A key finding of the user research demonstrated a need to support parents with accessible and tailored information. An external supplier had been onboarded at the end of January and the next phase of the project (which will complete at the end of March) is to develop a decision tree that takes users through a pathway that is tailored to their circumstances.

#### **Civil exemplar:**

10. RR explained that the team has also launched a second exemplar project in the civil jurisdiction. It will start with an initial discovery (research) phase until the end of March. An external supplier had been onboarded at the end of January.
11. The scope of the exemplar covers the pre-action resolution of civil disputes over £10,000, with a focus on supporting individuals and small businesses (users). The work seeks to understand why users are not attempting earlier resolution before making a court claim, and how their experiences can be improved so that disputes can be resolved earlier in the journey. RR explained that the key aspect of this project will be speaking to real users.
12. The committee discussed the scope of this exemplar, and it was agreed the MR and Lord Justice Birss would meet the team leading this work to discuss further.
13. HAS confirmed the exemplars work complements the work commencing on system mapping in helping to identify the systemic issues users experience. A further update on both exemplar projects will be given at the next meeting.

### **Item three - Work Programme**

14. HAS introduced the paper drafted with input from MoJ Legal and invited steers on the two broad categories of types of proceeding for inclusion in the OPRCs statutory work programme – Category A) discrete areas with HMCTS online processes operational and rules or practice directions already in place or Category B) transformational proposals which allow the OPRC to consider a novel approach to rule making and potential look at the pre-action space and HMCTS rules in the

round. The paper also included some specific jurisdictional proposals within those two categories.

15. MR sought further clarity from MoJ on the interpretation of Section 24 in relation to the OPRCs rule making power in the pre-action space. It was agreed MoJ Lawyers and policy would consider and update at the next meeting.
16. MR supported the proposal discussed previously that the OPRC should begin with financial remedies for the family jurisdiction and property for the civil and tribunal jurisdictions to showcase the benefits of the cross-jurisdictional nature of the committee. MR recommended taking a transitional approach in commencing work in these areas.
17. The PFD and Lord Justice Baker gave their support for financial remedies to be included in the OPRCs initial work programme, which would fall into Category A.
18. The MR and SPT gave support for property/possession that would fall into Category B.
19. MR recommended having a full discussion at the next meeting about what it would mean to transfer an area to the remit of the OPRC.
20. It was agreed the MoJ Policy team would bring a paper to the next meeting providing detail on timelines and approach to the OPRCs initial work programme in the terms discussed, as well further consideration of S24 of the Judicial Review and Courts Act.

#### **Item four - Data landscape**

21. AP gave an overview of the data landscape across government recognising its importance as the work commences on building a digital justice system. AP reflected on the disjointed nature of the landscape with no central information that presents a clear picture and approach to data standards.
22. ACN explained that a HMCTS perspective focuses on what happens to data after it has been created on case management systems, how it is governed and used properly. ACN identified the gap in data passed onwards in creating an end-to-end process.
23. MR thanked ACN for sharing the data questions which assist in creating better data and are directly relevant to the OPRC. MR reflected on 3 further points:
  - Data questions in the pre-action space such as how data is collected by way of data transfer or API.
  - Section 24 allows the OPRC to set data standards for those dealing with cases in the pre-action space and then transferring into court space.
  - How if you are regulating the data do you protect it? Considering HR issues, the National Archives, and data protection issues.
24. ACN commented the primary focus of her work is data creation and there should be an understanding of the standards used to create the initial data.

#### **Item five – Discussion points**

**Conflicts of Interests:**

25. The MR summarised the issue of conflicts of interests identified by the sub-committee and the balance between bringing in the necessary skills and experience vs public confidence in the committee's work. It was agreed that the OPRC secretariat should put in writing a one-page conflicts of interest policy for the OPRC sub-committee recruitment for approval by the OPRC. This would provide a basis to guide discussions and decisions regarding conflicts of interest at interview stage.

**AOB**

26. SA provided an update on the judicial sub-committee recruitment campaign. 13 applications have been received.

**ACTIONS & DECISIONS**

1. DJS policy team to arrange a meeting with the MR and Birss LJ to discuss the civil exemplar.
2. DJS policy team to arrange a meeting with the PFD and LJ Baker to discuss the family exemplar.
3. MoJ Legal and MoJ policy to jointly consider the interpretation of S24 on the JRCA and report back to the committee.
4. MoJ Policy to draft paper for next meeting setting out the role and requirement of the OPRC when transferring a specified jurisdiction to them with corresponding timescales.
5. OPRC secretariat to draft a one-page policy document on conflicts of interest relating to sub-committee members.