

Online Procedure Rule Committee

Minutes of meeting 11 November 2024 at 15:30-17:30

Conducted in a hybrid format at The Rolls Building (Royal Courts of Justice), Fetter Lane, London and via video conference.

Members in attendance

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

Non-members in attendance

- Lord Justice Baker
- Lord Justice Birss
- Mrs Justice Joanna Smith
- Sarah Rose, MoJ
- Harriet Ainsworth-Smith, MoJ
- Irram Khan, OPRC Secretariat
- Wan Fan, MoJ
- Amrita Dhaliwal, MoJ
- Marcia Williams MoJ
- Vijay Prakash, TPC Secretariat
- Rosemary Rand, HMCTS
- Emma Petty, HMCTS
- Rachel Peters, HMCTS
- Nick Lee, Judicial Office
- Bee Ezete, PFD's Private Secretary
- Sam Allan, MR's Private Secretary
- Joshua Gibson, SPT's Deputy Private Secretary

Item one - Welcome, Apologies and Introductory Remarks

1. Apologies: Senior President of Tribunals
2. Minutes: the minutes from last meeting on 11 October 2024 were approved.

Item two – Statutory Instrument Update

3. WF provided an overview of the key provisions of the draft Statutory Instrument (SI) explaining it has been kept intentionally short and focused on granting rule-making powers.
4. The committee welcomed the update that Alastair Wallace has been appointed to the GLD panel of retired lawyers and will be involved in the drafting of the subsequent rules.
5. The committee discussed concerns about the broad scope of the SI covering all property related civil proceedings. The MR clarified that the SI does not compel the OPRC to make rules immediately but provides the authority to do so when necessary. The SI should be broad enough to cover future expansions to other types of proceedings relating to property, without requiring further SI's.

6. The committee addressed concerns about overlapping rule-making powers with other rule committees. They agreed that the first set of OPRC rules should clearly define the scope to address any potential conflicts between the new rules and the existing rules set by other rule committees.
7. The judicial members of the committee agreed to meet with WF for a further discussion of the SI.
8. The committee considered issuing a public statement in January to clarify the intentions of the SI, coinciding with the laying date.

Item three – Sub Committee approach for next phase

9. The committee discussed the revised priorities of the sub-committee, focusing on property and possession, pre-action space model (including financial remedies), and the future of the CFT system.
10. The core six sub-committee members proposed restructuring the sub-committee's work to achieve short-term deliverable outcomes while exploring long-term opportunities. They also highlighted the importance of inclusion as a cross-cutting area across all workstreams.
11. The committee discussed assigning leads to each workstream. It was proposed that Birss LJ would lead the property and possession workstream, while Baker LJ would lead the Pre-action space model workstream. The senior sub-committee members would decide on the lead(s) for the future of the CFT system workstream.
12. The committee extended their gratitude to the new members of the sub-committee for their diligent efforts, commitment, and active participation throughout the summer.
13. The committee agreed to hold an event with the sub-committee members in January.

Item four – Possession requirements sign-off

14. The committee reviewed the requirements for the digital possession system [Annex A] being built by HMCTS and discussed the importance of future-proofing the possession system in relation to the tribunals. They agreed that the system should be developed in a way that would accommodate expansion to other property disputes.
15. EP expressed concerns about committing to future expansions without guaranteed funding. MR clarified that the intention is not to anticipate or pre-empt any decisions by the government but to ensure that the system can accommodate future expansions should government policy require it.
16. The committee approved the requirements document and agreed to change in wording in para 9 to:

The new digital system must be future proof in relation to the work of the tribunals' Property Chamber, so that in due course the system would be able to handle the work of that Chamber too.

Item five: Decision on governance and make-up of the sub-committee

17. The committee agreed that, in light of the revised workstreams, the outstanding questions were now resolved. Additionally, the committee agreed that the senior sub-committee members should keep the OPRC informed of developments, without imposing any requirements

AOB

18. Next meeting – 9 December 2024

Actions

- JO to arrange a meeting with the judicial members and WF to discuss the wording of the draft SI.
- The senior sub-committee members to assign leads for the revised workstreams.
- JO/Secretariat to arrange an event in January with the OPRC and sub-committee members.
- Secretariat to add public statement as an item for discussion at the next meeting.
- Secretariat to review process for assigning timings to agenda items, to ensure meetings run to the time allocated, and adjust length if needed.