

Approved

Minutes of the Civil Procedure Rule Committee

Friday 7th March 2025, conducted in a hybrid format, namely, at The Rolls Building (Royal Courts of Justice), Fetter Lane, London and via video conference.

Members attending

Lord Justice Birss, Deputy Head of Civil Justice (Chair)
Mr Justice Trower
Mr Justice Pepperall
Master Sullivan
His Honour Judge Hywel James
District Judge Clarke
District Judge Johnson
David Marshall
Dr Anja Lansbergen-Mills
Isabel Hitching KC
Ben Roe
Campbell Forsyth
Elisabetta Sciallis

Apologies

Members: His Honour Judge Bird, Tom Montagu-Smith KC, Ian Curtis-Nye

Non-Members: Master Dagnall (Item 2 Housing Possession), Kelly Stricklin-Coutinho, Amrita Dhaliwal (Ministry of Justice).

Item 1 Welcome

1. The Chair welcomed everyone and opened the meeting.
2. **Minutes of the last meeting:** The minutes of the last meeting, on 7th February 2025, were **AGREED**.
3. **Action Log and any matters arising not covered by later items:** The following items were raised:

- **Transparency & Open Justice Board's Key Objectives Consultation**

The CPRC's response to the consultation was duly **NOTED** and acknowledged with thanks by Board member, Mrs Justice Cockerill, who also provided a brief oral update on the progress of the CPRC Sub-Committee on Access to Court Documents, which she Chairs. The project follows the work undertaken by the previous sub-committee, chaired by Lord Justice Bean and on which there was a consultation which attracted a reasonably high volume of responses. The current sub-committee's work is progressing well. Specific **THANKS** were conveyed to MoJ Drafting Lawyers for their helpful contributions in preparing draft amendments, intended for presentation at the next meeting. The provisional position is that the CPRC will be invited to consider a proposed draft pilot PD to test a scheme for non-parties to access court documents. The principle having been highlighted by the UK Supreme Court judgment in *Cape Holdings -v- Dring*.

Isabel Hitching KC raised feedback received from practitioner users which highlighted that some **Court Guides** needed updating, for example, to reflect the Alternative Dispute Resolution (ADR) changes last year. The Court Guides are not within the purview of the CPRC; the editorial function is overseen by jurisdiction specific leadership judges. Sara Cockerill and Pepperall JJ confirmed that the process of updating the Court Guides, with which they are concerned, was underway and this was duly **NOTED WITH THANKS**.

Action: Secretariat to provisionally schedule an agenda slot for the April meeting.

- **Contempt of Court – Law Commission Consultation.**

It was **NOTED** that the Law Commission has published a brief supplementary consultation paper. Closing date for responses is 31st March 2025.

Since the main consultation on 9th July 2024, there has been renewed and acute focus on contempt of court liability as a result of issues arising out of the Southport attacks on 29th July 2024 and the subsequent disorder. The supplementary consultation paper includes only two main questions, both of which were included in the 2024 consultation paper. The questions concern liability for contempt by publication when proceedings are active and possible defences to liability. A webinar is taking place on 12th March to explain the issues covered in the supplementary consultation. Individuals can register to join the event via the Law Commission website.

The Law Commission intend to publish the outcome report in two parts. Part one will be published in autumn 2025 and will address liability for contempt and the role of the Attorney General in contempt proceedings. Part two will be published in 2026 and will address all remaining issues.

Item 2 Housing Possession Reform (Renters' Rights Bill) CPR(25)08

4. David Torrance and Michael Marshall (Ministry of Housing, Communities and Local Government (MHCLG)) were welcomed to the meeting and presented the matter.
5. **THANKS** were conveyed to the CPRC Housing Sub-Committee for their time and expertise thus far.
6. MHCLG last presented to the CPRC on 12th April 2024 (paragraphs 28 to 35 of those minutes refer) however, that was under the auspices of the last Government's proposed legislation. The current Government's reforms are different.
7. It was a Labour manifesto commitment to abolish Section 21 of the Housing Act 1988 (no fault evictions). The Renters' Rights Bill is a means of doing so, as well as introducing other reforms to the tenancy system in England.
8. The Bill does not change the tenancy system in Wales (but the anticipated future state digital service, will cover England and Wales).
9. The Bill is currently progressing through Parliament and is anticipated to commence (assuming it becomes an Act) in three stages.
10. The focus of this item concerned Stage 1 implementation: commencement of the tenancy reforms in the private rented sector (PRS). It was proposed that no CPR changes are required for this stage, because the existing rules need to be retained for

social landlords. This will mean that they can continue to issue assured shorthold tenancies and evict tenants via Section 21, which will require the accelerated possession process. The new tenancy system will use assured tenancies (for which the Rules currently provide).

11. David Marshall advised that the sub-committee, chaired by Master Dagnall, had a very productive meeting recently and agrees with the approach that no CPR changes are required for Stage 1.

12. A discussion ensued, in which the following was **NOTED**:

- The Bill's proposed new possession grounds and notice periods, together with a table analysing each Bill measure and whether CPR amendment/s are required;
- The proposed transitional arrangements of three months after the Act comes into force (paragraph 3 of Schedule 6);
- Initial thinking is that (a) although no CPR changes are required for Stage 1, some small CPR changes will be required for Stage 2, this being commencement of the remainder of the Bill provisions, except for the tenancy reforms in the social rented sector and (b) the reforms forming Stage 3, which concern the commencement of the social rented sector reforms and are therefore likely to be more significant;
- The Welsh Government consider that wholesale changes to Part 55 and PD55A (possession claims) will be required for Wales following the complete removal of the accelerated process in England. For PD55A, the relevant provisions will be updated, and a new section VI created to replace the removed accelerated procedure as that will still be relevant in Wales in its amended form;
- Various changes to court forms are envisaged, in particular to form N5 (claim form for possession) and form N119 (particulars of claim);
- N5B form (claim form for accelerated possession/assured shorthold tenancy – England only) will still be available for private landlord claims issued within the three months transitional period after the Act comes into force, but thereafter be limited to social landlords. Form N5B will, at least initially, therefore still have to contain its existing text, but thereafter should clearly state it is for use by social landlords only;
- MHCLG are also reviewing some MHCLG owned forms and can update those independently as they are not CPR prescribed court forms;
- Guidance and training (including liaison with the Judicial College) is being formulated;
- A variety of wider issues connected with this work, including Awaab's Law (requiring landlords to address health hazards in rental properties within specific timeframes) is also being considered and is expected, in due course, to require changes to Pre-Action Protocols;
- Officials are also engaging with the Online Procedure Rule Committee (OPRC) as regards a future digital service for property possession proceedings.

13. It was **RESOLVED** that, subject to the Bill receiving Royal Assent:

- No CPR changes are required for commencement of “Stage 1” of the tenancy reform provisions, in so far as they apply to the PRS , noting that assured shorthold tenancies and the accelerated procedure in Section 21 is being retained for social landlords (Chapter 1 of Part 1 of the Renters’ Rights Bill);
- Form N5 should be updated to reflect three new grounds for possession (the landlord or one of their family members want to move in; the landlord wants to sell the property; the tenant has passed away). These are seen as the most commonly used of the new grounds. By containing the number of new grounds being added to the form it will avoid the form being over-complicated, but aid accessibility. The reforms are applicable only in England (under Stage 1). In time, a new digital service should be better equipped to contain all the grounds (perhaps via drop down options).
- No material issues arise as a result of not making like amendments to the current possession claim online digital service (PCOL). The form that is generated from PCOL will look different from the updated paper form N5, but this is not considered to detrimentally impact on users or the courts, because PCOL is only used for rent/mortgage arrears so would not be expected to reflect addition grounds for possession and the difference between the paper form and the PCOL generated form, should only be in place until the new digital service supersedes PCOL;
- Form N119 (particulars of claim) should be updated and include an express provision requiring the claimant to state the possession ground on which they rely;
- No consultation is considered necessary for Stage 1 (because no CPR rule, PD or PAP changes are being proposed and the Form changes are modest).

14. It was **FURTHER RESOLVED** that:

- In the event that any statutory provisions change during the Bill’s Parliamentary passage, Government is requested to advise the CPRC of the changes and when Royal Assent is granted.

15. **Action:** In consultation with the sub-committee, MHCLG/MoJ Policy/HMCTS to (i) prepare the form amendments for onward referral to the Secretariat for approval by the Forms Sub-Committee (ii) keep the Secretariat informed for programming purposes as to when the matter will need to return to the CPRC (to consider reform stages 2 and 3).

Item 3 PD51ZC Small Claims Paper Determination Pilot CPR(25)09

16. The Chair made some brief introductory remarks, setting out the background. PD 51ZC came into force in June 2022 (but did not commence operationally to any great degree until 2023). It is due to expire on 31st October 2025. The pilot operates in six court centres: Guildford, Bedford, Luton, Staines, Cardiff and Manchester. HMCTS have undertaken an evaluation of the pilot comprising both qualitative and quantitative insight.

17. Faye Whates (HMCTS) was welcomed to the meeting and presented the matter, with **THANKS**.

18. It was explained that the pilot has been mainly used to determine claims involving airlines for flight delays and private parking claims. It seemed to have little impact on the settlement and determination rate of these claims. While it provided some benefits, such as flexibility and reduced stress for users, it also highlighted challenges related to the quality of paper bundles and the additional judicial resources required to work through issues on paper. Often, it was quicker and more effective to address issues at a hearing.
19. Given the important concerns raised within the pilot, particularly that it is adding additional steps to some processes and therefore negatively impacting the workload of the judiciary, HMCTS do not recommend paper determination be mandated within the rules for any case types and this was **NOTED**. A discussion ensued, during which various options were considered and debated. The options included mandating paper determination for certain category of claims or reverting to the pre-pilot state of requiring the consent of both parties before determining a small claim on its papers; neither option was favoured. The importance of the Overriding Objective with parties being on an equal footing and participating fully in proceedings was reiterated. The Chair observed that the discussion highlighted sensitive and important issues.
20. Overall, it was recognised that paper determinations are usefully used already in some courts and that there are benefits in the flexibility to listing etc. As such, the preferred option which was **AGREED IN PRINCIPLE, SUBJECT TO PUBLIC CONSULTATION**, was that:
 - The CPR be amended to allow a judge to give directions for a matter to be determined on the papers if deemed appropriate, without the consent of all parties;
 - Retain the amendments to the Directions Questionnaire (N180) and equivalent screens in the digital journey, that allow parties to consider whether they are content for the claim to be dealt with on paper and if not the reasons for that. Remove any reference to the legacy pilot PD;
 - Not to extend the pilot scheme, thus allow PD51ZC (the small claims paper determination pilot) to expire naturally on 31st October 2025;
 - District Judge Johnson, Elisabetta Sciallis and Ben Roe to work with MoJ and HMCTS to prepare the consultation material.
21. **Actions:** (i) Consultation material to be prepared by DJ Johnson, Elisabetta Sciallis and Ben Roe with support from MoJ and HMCTS (ii) Secretariat to facilitate online publication of the consultation (iii) HMCTS and Secretariat to finalise form amendments for consideration/approval by the Forms Sub-Committee (subject to the consultation); (iv) Katie Fowkes to update HHJ Bird and the DMCC as regards the digital services.

Item 4 Foreign Process Section (FPS) at the RCJ (PD34A and PD6B) CPR(25)10

22. Senior Master Cook was welcomed to the meeting; he and Master Sullivan presented the matter. Part of the Senior Master's role is to act as Central Authority for foreign process. Since taking office, a number of reforms to the Foreign Process Section (FPS) at the Royal Courts of Justice have been instigated.
23. In response to a question from Elisabetta Sciallis regarding guidance for litigants in person, post Brexit, the Senior Master confirmed that his programme of improvement activity includes updating and improving public facing guidance, the King's Bench

Division Court Guide and the web site. In addition, liaison with the Family Procedure Rule Committee is also ongoing as part of a wider suite of work to improve efficiency overall.

24. It was explained that the suite of proposed CPR amendments intend to make references to the FPS consistent and to clarify that applications under r.34.17 (depositions in England for foreign courts) should be to the FPS. This was discussed.

25. It was **RESOLVED to approve, the amendments**, as drafted, to:

- PD6B (service out of the jurisdiction of England and Wales);
- PD34A (depositions and court attendance by witnesses) paragraphs 4, 5 and 6;
- Add the relevant email address to the central CPR E-mail list, in consequence;
- Advise the Chair of the Insolvency Rule Committee that a consequential amendment to the Insolvency PD (paragraph 11.3) has also been identified.

26. **Actions:** Secretariat/Drafting Lawyers to (i) incorporate into the next mainstream CPR Update (as part of the October 2025 in-force cycle) (ii) update the central E-mail list (iii) refer the proposed drafting revision to the Insolvency PD to Trower J for onward referral to the Insolvency Rule Committee, in consultation with the Chancellor of the High Court and (iv) co-ordinate, if possible, the coming into force of the CPR and Insolvency PD amendments.

Item 5 Appellant's Notice - proposed amendment to CPR 52.12(3): consultation outcome (Lacuna Sub-Committee item LSC2024/1) CPR(25)11

27. District Judge Clarke presented the matter.

28. The origin of this item is a Lacuna Sub-Committee report from October 2024 (paragraph 6 of those minutes refer). The issue concerns the sealing of an appellant's notice of appeal and the time from which the deadline for service should run.

29. In October 2024, the CPRC agreed to consult on an amended rule 52.12(3), proposing the appellant's notice should be sealed prior to service upon the respondent/s and the time allowed for service of an appellant's notice, if served by the appellant, be extended from 7 days to 14 days.

30. The consultation took place from 10th January 2025 to 21st February 2025 and attracted 13 responses, from judges, lawyers and professional representative bodies. **THANKS** were expressed to everyone who took the time to reply. The responses were explained and discussed.

31. On the first limb of the proposed amendment, two objections were raised, first that a sealed appellant's notice is unnecessary and would make the process more onerous for the parties and the court. Secondly, a concern that requiring a sealed appellant's notice would add an administrative burden on the court and would cause further delays.

32. The CPRC acknowledged the concerns about additional administrative burdens, however, the proposed amendment is intended to reflect, and not alter, current court practice.

33. On the second limb, respondents expressed an overwhelming preference for time to run from sealing rather than *filing*. However, views on the point at which the time for service begins to run, was more mixed. No one respondent submitted changing “sealed” and “14 days”. Members talked through the various practical aspects in the process. By doing so, the vagaries of the post were highlighted which might warrant a little more time for service, because 7 days was deemed unrealistic, when operating in a physical (not digital) environment. It was also considered that most of the issues identified by respondents (administrative burden, delay etc) are resolved by the proposed change from “filed” to “sealed”.
34. It was **RESOLVED, subject to final drafting, to amend** CPR 52.12(3) to read as follows:
- “Subject to paragraph (4) and unless the appeal court orders otherwise, ~~an~~*
a sealed copy of the appellant’s notice must be served on each respondent —
(a) as soon as practicable; and
(b) in any event where it is served by the appellant not later than 7 14 days,
after it is ~~filed~~ sealed.”
35. **Action:** (i) Secretariat/Drafting Lawyers to incorporate into the next mainstream CPR Update (as part of the October 2025 in-force cycle) and (ii) HMCTS to advise operational colleagues/update any related guidance etc.

Item 6 Standard Directions Orders

36. The Chair advised that His Honour Judge Simon Monty KC has raised, via the Damages and Money Claims Committee (DMCC) the need to review the suite of approximately 30 standard directions orders (SDO) online and amend a cross reference in some of the SDOs which still appear to refer to the former PD 39A. This was discussed. Master Sullivan indicated that there had been a previous tranche of work on the SDOs but was unsure whether those updates had been reflected online. This should be clarified before further work is commenced in order to avoid duplication and this was **AGREED**. Given the pressure of other work, the Chair did not consider this to be urgent, but hoped it could be concluded by year-end and requested an update in the summer.
37. **Action:** Secretariat to (i) make enquires regarding the progress of work already undertaken and report back to Master Sullivan before embarking on any outstanding work to review the SDOs and (ii) provisionally schedule in time for the June CPRC meeting to review progress; Kate Fowkes to update HHJ Monty KC via the DMCC.
38. Separately, it was also **NOTED** that **Form PF10 (Anonymity Order)** may require review in due course. The January White Book update (Civil Procedure News) discusses the case of PMC v Local Health Board, and in relation to form PF10, it comments that “urgent consideration of its terms and their revision by the CPRC would seem to be justified”. Master Sullivan drew the CPRC to the attention of the MR’s judgment on 25th February 2025 in *PMC*, wherein he directed that form PF10 should continue to be used pending the CoA decision in that case. It was **AGREED** that no changes to form PF10 were required at this time.

39. **Action:** Master Sullivan to maintain a watching brief as to whether form PF10 requires review in due course.

Item 7 E-Signatures CPR(24)12

40. Dr Anja Lansbergen-Mills presented the matter with **THANKS** to Mr Justice Pepperall and Katie Fowkes for their invaluable assistance.
41. The background and legislative context was explained. The Law Commission's report on the Electronic Executive of Documents in 2019 concluded that the uptake of e-signatures was being hindered by uncertainty. In consequence, the Industry Working Group (IWG) was established, co-chaired by a Law Commissioner and a Judge. It reported in February 2023. During its work, it was asked to consider reforms to CPR 5.3 (signature of documents by mechanical means). The IWG prepared three alternative drafting proposals for CPRC consideration, following which the CPRC sub-committee has been preparing amendments intended to make clear in the CPR that electronic signature of court documents is permitted.
42. This matter has been before the CPRC on two previous occasions (in October 2022 and February 2023) for a steer on certain points of principle.
43. Essentially, the proposed amendments aim to simplify the applicable rules by consolidating a collection of provisions throughout CPR Part 5 and its supplementing PDs into one place and to ensure clarity and a consistent approach across the CPR.
44. A discussion ensued in which it was **NOTED** that:
- The drafting is purposely cast in broad terms and has avoided any attempt at definition. For completeness, it is noted that this approach departs from that adopted by the Family Procedure Rules, which were amended to provide for electronic signatures of statements of truth in FPR PD17A (which, notably also retains a discretion for the court). However, there is an ongoing dialogue between MoJ Legal and the Family Procedure Rule Committee regarding possible FPR reforms and that may be informed by the CPRC's work;
 - The drafting proposal confers discretion in the court by (i) an '*unless provided otherwise*' style carveout in the operative provision at proposed PD 5A paragraph 1.1 and (ii) an express ability for the court to direct that a document be provided in hard copy form at proposed PD 5A paragraph 1.2. The former was intended as a safety valve, the benefits of which include ensuring consistency between PD 5A paragraph 1.1 and online processes. The sub-committee consider that neither provision is inconsistent with Section 7 of the Electronic Communications Act 2000, which should be signposted (this being consistent with the FPR);
 - The text "mechanical" is retained in CPR 5.3 to cover the use of ink stamps, but "by mechanical means" is proposed for deletion from the title of paragraph 1 in PD5A (court documents);
 - Paragraph 1 in the current PD5A is proposed for deletion as it is now redundant;
 - Proposed new paragraph 1.3 PD5A is an amended version of the current PD5B paragraphs 5.1 and 5.2 which are proposed otherwise to be deleted;

- No wider consequential amendments are considered to be required to Part 22 or PD 22 (statements of truth), or to Rule 32.14 (false statements). In relation to PD 22 paragraph 3.8 (*"The individual who signs a statement of truth must print their full name clearly beneath their signature"*) it was concluded that, on balance, an amendment would be unwieldy and unnecessary;
45. The Chair clarified the intention of the proposed new paragraph 1.1 in PD5A by observing that it would not override a more specific provision elsewhere in the CPR; for example if another rule mandates a wet signature or the use of a tick-box in the digital service, then those provisions still apply and mindful of the body of case-law determinative of what constitutes a valid signature. This was **AGREED**.
46. Several other points of detail were raised by other members, which resulted in some drafting revisions, thus:
- Proposed new paragraph 1.1 PD5A be recast to simplify the language by the insertion of, "a signature" in place of, "a document to be signed";
 - "the" [document] should be replaced with "a", in the proposed new paragraph 1.2 PD5A;
 - "interrogation" should be removed from the proposed new paragraph 1.3 PD5A because it is now seen as too strong a phrase for modern use in this context.
47. It was **RESOLVED** to **AGREE THE AMENDMENTS IN PRINCIPLE**, subject to the above points and to final drafting and **SUBJECT TO A PUBLIC CONSULTATION** on the reformed:
- CPR 5.3 (signature of documents by mechanical means)
 - PD 5A (court documents)
 - PD 5B (communication and filing of documents by e-mail)
48. **Actions:** (i) Dr Anja Lansbergen-Mills and Secretariat to prepare the consultation and facilitate its online publication as soon as practicable and (ii) Secretariat to advise (a) members of the former IWG (b) the Family Procedure Rule Committee Secretariat as part of the consultation.

Item 8 Service Sub-Committee CPR(24)13

49. Mr Justice Richard Smith was welcomed to the meeting and presented the matter.
50. **THANKS** were expressed to all members of the sub-committee, including Alasdair Wallace who has been co-opted following retirement from MoJ Legal. The Chair observed how useful it was to be considering this item during the same meeting as the e-signature item (above).
51. This was last before the Committee on 12th April 2024 (paragraphs 63 to 68 of those minutes refer) when the outline proposals were agreed in principle.
52. Richard Smith J reiterated the background and talked through the suite of draft amendments intended to make service by email the effective default service option for

represented parties. The proposals also intend to improve the mechanics for service on unrepresented companies and other non-persons.

53. During the sub-committee's deliberations, a number of points of principle and detail have arisen which were discussed. In summary they comprise: identifying a test of "*representation*" (especially pre-action) and identifying a suitable email address for service if not volunteered; the impact of electronic service on service out of the jurisdiction of England & Wales; technical limitations and requirements for email service.

54. A discussion ensued which recognised the complexities of reform in this area, which potentially, go beyond the direct question of electronic service and possible unintended consequences. District Judge Clarke raised grave concern over the risk to access to justice and transferring the legal responsibility of identifying a defendant's service details away from the claimant. This position carried weight amongst the committee and led to the suggestion of a carve out for the advice sector. Elisabetta Sciallis also raised whether the focus on email service limited the prospect of future proofing the rules. Various other practical scenarios were talked through.

55. It was **RESOLVED**:

- To revisit the package of reforms with the aim of approaching the proposals in a phased way in various stages;
- The first next stage will comprise revised draft amendments, for public consultation, and which provide that where a legal representative is instructed to accept service, service includes email;
- The consultation material will identify that the proposals are part of a bigger project being formulated by the Service Sub-Committee;
- Further phases/stages could include drafting a new pilot scheme/s, either jurisdiction specific or to test a new regime for litigants in person.

56. **Action:** Sub-Committee to (i) draft material for public consultation and send to the Secretariat to facilitate publication in consultation with the Chair (ii) agree a phased work plan out-of-committee and advance the future phase of preparing further proposals for the CPRC in due course and (iii) keep the Secretariat apprised for programming purposes.

Item 9 Any other business / possible items for future business. The following were raised by the Chair, in addition to a number of **housekeeping matters**. Each was duly **NOTED**:

57. **Annual Open Meeting in May 2025:** The process and indicative timetable for the annual open meeting was explained. ***Post Meeting note: advert published on Monday 10th March 2025, closing date for expressions of interest and any questions is 7th April 2024: <https://www.gov.uk/government/news/civil-procedure-rule-committee-annual-open-meeting-9-may-2025>***

58. **Correspondence from the Civil Court Users Association (CCUA) in response to the Civil Justice Council's final report on Pre-Action Protocols:** The current working position is that CPRC action arising from the PAP report is subject to direction from the MR and as such, it is not currently programmed in to the Committee's work plan. However, **THANKS** were expressed to the CCUA for taking the time to write.

59. **Correspondence from the Forum of Insurance Lawyers (FOIL) concerning the Civil Justice Council's Mental Capacity Report:** Given the wide-ranging suite of recommendations in the report and the financial impact of the legal aid and central fund related proposals, the CPRC is awaiting a policy steer from Government before considering the CPR proposals substantively. The Secretariat is monitoring the position with the MoJ and will report back in due course. **THANKS** were expressed to FOIL for their offer to assist the CPRC should any work be undertaken.
60. **Correspondence from the Association of Child Abuse Lawyers** concerning the Government response to the consultation on limitation law in child sexual abuse cases and the potential development of a specific PAP for child sexual abuse claims: MoJ have advised that their immediate focus is on delivery of the legislative changes necessary to implement the removal of the limitation period in these types of claims. As yet, no public announcement on how and when the Government will implement these changes has been made. Accordingly, the CPRC awaits confirmation of the Government's position before programming the matter in for consideration, subject to any directions from the MR. **THANKS** were expressed to the practitioner body for their offer to assist with any future work.
61. **Damages and Money Claims Committee (DMCC) post HMCTS Reform:** notwithstanding the HMCTS civil digital reform programme officially coming to an end. A number of enhancements to the digital services governed by the CPR Pilot PDs are in train and as such further PD amendments are envisaged. It is therefore expected that the DMCC will continue to operate unless or until the MR advises otherwise.
62. **Costs Budgeting:** judicial feedback concerning the practice of parties agreeing each other's budgets was aired to enable the Chair to gain a sense of the issue from across the membership. It was concluded that this was not an issue which required programming in for substantive consideration. **Action:** Chair to relay back to those concerned.
63. **Civil Procedure (Amendment) Rules 2025 – Memorandum from the JCSI:**
64. The Joint Committee on Statutory Instruments (JCSI) has requested MoJ explain the intended meaning of "nominal claimant" in relation to rule 25.27(b)(v) within the amending instrument which replaces the current Part 25 with a new, simplified version.
65. MoJ legal have prepared a preliminary view which noted that the above-mentioned rule replicates rule 25.13(2)(f) (including the phrase "nominal claimant") in the current version of Part 25. The existing rule, in its current form, came into force on 2nd May 2000 and is itself the successor to a previous provision in the Rules of the Supreme Court, Order 23, rule 1(1). The phrase "nominal claimant" only appears in this rule.
66. The meaning of "nominal claimant", both under Order 23, rule 1(1) and the current rule, has been the subject of case law, which have made clear, that the concept of a "nominal claimant", is quite case-specific.
67. The CPRC reiterated that, before making the new Part 25, it did consider including a definition of "nominal claimant". However, it was concluded that there would be a risk of inadvertently cutting across existing case law. The remit of the simplification work was not intended to alter substantive procedure, but rather, in this case, to continue to use the term "nominal claimant" and rely on the body of case law to determine whether in any particular claim there is a "nominal claimant", rather than risk

inadvertently making a substantive alteration to the established meaning, if a precise definition was provided.

68. The phrase “nominal claimant” has been used in the same context (being one of the circumstances where the court may make an order for security of costs in favour of the defendant), and only in that context, for a significant period.

69. In reviewing the position in light of the JCSI’s request, it was **RESOLVED** that, the CPRC’s view remains unchanged. The word “nominal” is capable of everyday interpretation. Where parties have challenged the boundaries of its meaning, those issues have been settled by case law. As such, it is considered appropriate to continue to rely upon the body of case law when determining the meaning of “nominal claimant”, and the risks arising from attempting to define that phrase outweigh any potential benefit from attempting to do so. This was **NOTED** by MoJ who will provide a response in the usual way. **THANKS** were expressed to MoJ Legal for their assistance. **Action:** MoJ, in consultaion with the Secretariat, to provide a written response to the JCSI within the prescribed timetable.

70. Judicial Membership:

71. An expression of interest (EOI) for **applications to appoint a civil Circuit Judge**, to succeed His Honour Judge Bird, has been published. HHJ Bird reaches his maximum term on the Committee in the summer. All eligible Circuit Judges are encouraged to apply. The closing date for an EOI is 14th March 2025.

72. The MR, following consultation with the Lord Chancellor, has **appointed DJ Clarke for a second term on the Committee**. DJ Clarke’s second three-year term runs until 31st January 2028.

Next meeting: 4th April 2025

C B POOLE
March 2025

Attendees:

Carl Poole, Committee Secretary
Kate Aujla, Deputy Committee Secretary & Policy Adviser
Nichola Critchley, Civil Justice Council (observer)
Andy Caton, Judicial Office
Crystal Hung, Judicial Office
Andrew Currans, Government Legal Department (MoJ)
Katie Fowkes, Government Legal Depart (MoJ)
Faye Whates, HM Courts & Tribunals Service (HMCTS)
Smita Smith, Judicial Office - Chancellor of the High Court’s Private Office
Mrs Justice Cockerill (Item 1)
David Torrance, Ministry of Housing, Communities and Local Government (MHCLG) (Item 2)
Michael Marshall, MHCLG (Item 2)
Cara Campbell, Ministry of Justice (MoJ) (Item 2)
Joanne Earley, HMCTS (Item 2)
Senior Master Cook (Item 4)
Mr Justice Richard Smith (Item 8)