Approved

Minutes of the Civil Procedure Rule Committee: Annual Open Meeting

Friday 9th May 2025, conducted in a hybrid format, namely, at The Rolls Building (Royal Courts of Justice), Fetter Lane, London and via video conference.

Members attending

The Rt. Hon. Sir Geoffrey Vos, Master of the Rolls & Head of Civil Justice (Chair)
Lord Justice Birss, Deputy Head of Civil Justice in England and Wales
Mr Justice Trower
Mr Justice Pepperall
Master Sullivan
His Honour Judge Bird
His Honour Judge Hywel James
District Judge Clarke
District Judge Johnson
David Marshall
Dr Anja Lansbergen-Mills
Isabel Hitching KC
Campbell Forsyth
Ian Curtis-Nye
Elisabetta Sciallis

Apologies

Members: Ben Roe and Tom Montagu-Smith KC
Non-members and officials: Kelly Stricklin-Coutinho (new member elect); Phil Harper, Department of Health and Social Care (Item 4).

Item 1 Welcome and Introduction from the Master of the Rolls

1. The Rt. Hon. Sir Geoffrey Vos, MR, statutory Chair of the Civil Procedure Rule Committee (CPRC), opened the annual public meeting.

2. The meeting was co-chaired by the Master of the Rolls (MR) and Lord Justice Birss, Deputy Head of Civil Justice (DHCJ).

3. **TRIBUTE IN MEMORIAM TO THE RT HON THE LORD ETHERTON GBE KC**. The MR marked Lord Etherton's sad passing earlier this week, remembering him fondly as a valued colleague, having worked with him very closely over many years. Sir Geoffrey succeeded Lord Etherton as MR and Chair of the CPRC in 2021. Committee members joined the MR in expressing their deep condolences. The Lady Chief Justice's statement observed that, "…*Lord Etherton was an inspiring judge and leader, with a passionate commitment to access to justice, and a true friend to so many of us….our thoughts are with his husband, Andrew, and family."* This sentiment was shared by the MR, DHCJ and all in attendance.

4. The MR was pleased to **WELCOME** the two newest members, Campbell Forsyth, who joined the committee at the start of the year and Kelly Stricklin-Coutinho, who starts her term of office in July 2025.

5. The opportunity was also taken to **THANK** His Honour Judge Bird and Dr Anja Lansbergen-Mills as their respective terms of office come to an end later in the summer.

Both have been hugely effective and enthusiastic members of the committee for the past six years and have made a positive and lasting contribution.

6. Reflecting on the CPRC's busy and important work programme, the MR observed the "fantastically effective" committee and extended his praise to Carl Poole for leading such an efficient secretariat.

7. As well as being statutory chair of the CPRC, the MR also chairs the Online Procedure Rule Committee (OPRC) which, was established under the Judicial Review and Courts Act 2022, to make rules governing the practice and procedure for specific types of online court and tribunal proceedings across the Civil, Family and Tribunal jurisdictions. This month sees a landmark for the OPRC, as Parliament has approved the necessary statutory instrument providing powers to the OPRC to make rules for specific specified proceedings. This is the first time ever, that a rule committee can make rules across the Civil, Family and Tribunal jurisdictions: for Civil & Tribunal proceedings, this power is in relation to property proceedings and for Family proceedings it is for financial remedy.

8. The MR emphasised that the CPRC's "essential work" will continue for the feasible future, because the concept of a fuller transfer of responsibilities to the OPRC will be a "generational" change. The future phase of development for the OPRC will look to focus on the pre-court environment with the aim to bring coherence to the system so that disputes are resolved as quickly as possible and in turn, yield wider economic advantages for the country as a whole.

9. Naturally, the CPRC and OPRC will work closely together. The MR expressed his sincere appreciation to Lord Justice Birss for his commitment to this. By being so actively involved in these projects it directly benefits both committees and civil justice generally.

10. The MR looked forward to the discussion, to make a contribution to topics on the agenda and to answer some of the public questions at the end of the meeting. He reiterated his **THANKS** to all the public attendees who have submitted questions and are devoting their time to see the committee in session.

11. The DHCJ held the chair from item 2 onwards. The MR remained present throughout.

Item 2 Minutes of the last meeting, Action Log and any matters arising not covered by later items:

12. **Minutes of the last meeting.**

    The minutes of the last meeting, on 4th April 2025, were **AGREED.**

13. **Action Log and any matters arising not covered by later items.**

    The following item was **NOTED**:

    - **AL(24)96 – Compliance with the Aarhus Convention.** This was noted at the November 2024 meeting and then again at the February 2025 meeting. Since then, a further update from government has been provided to the DHCJ, out-of-committee, to explain that the Ministry of Justice's (MoJ) call for evidence has closed and government expect to propose a suite of CPR amendments to ensure compliance with the international convention regarding costs rules in environmental claims. The work will now be programmed in and is to be expected in due course.

Item 3 Digital Markets, Competition and Consumers Act 2024 CPR(25)19

14. Elisabetta Sciallis **DECLARED A PERSONAL INTEREST** given her work with *Which* and this was duly **NOTED.**

15. The DHCJ welcomed Mr Justice Jacobs, co-opted Chair of the sub-committee, to the meeting and expressed **THANKS** to him and all concerned for their work on this topic. He commented that the reforms have occupied the best part of the last year. The project had various work strands and has been a fairly monumental commitment. Dr Anja Lansbergen-Mills is the CPRC member on the sub-committee and has done much of the detailed work, and then sub-committee has been further complemented by the co-option of Bridget Lucas KC and Pat Treacy. Jacobs J re-emphasised the praise to fellow sub-committee members for their support.

16. Denny Jicheva, Department for Science, Innovation and Technology (DSIT), and Vivienne Goulburn, DSIT Legal, were also welcomed to the meeting.

17. Jacobs J explained that this is the third and final suite of amendments to give effect to the various provisions flowing from the Digital Markets, Competition and Consumers Act 2024.

18. The purpose of this final suite of amendments is to give effect to a new regulatory regime for competition in digital markets, in consequence of Part 1 of the Act, and to provide the procedure by which individuals can bring a claim in the High Court. Part 1 entered into force in January 2025.

19. Various issues have been considered by the sub-committee. Each was explained and discussed. In summary, they included how to manage the potential for a dual process, whereby there is a Competition and Markets Authority (CMA) investigation and a private claim; the question of a stay; whether costs sanctions should apply; disclosure of pre-action correspondence and compatibility with the Competition Appeals Tribunal procedures.

20. A discussion ensued, which highlighted some points of drafting detail requiring further review, including some modest consequential tidying up, for example, to remove outdated and/or superfluous detailed address information, such as RCJ room numbers and the CMA postal address. Inconsistent use of “Admiralty” as well as “Commercial and Admiralty Court”. This appeared to be drawn from legacy Practice Direction (PD) text, which can be updated alongside conducting a final review in the interests of simplicity and brevity. Isabel Hitching KC undertook to do so, in liaison with Dr Lansbergen-Mills.

21. In response to a question from District Judge Clarke regarding vires, it was clarified that Section 102(6) of the Digital Markets, Competition and Consumers Act 2024, provides that, “ Rules of court or Tribunal rules may make provision in respect of assistance to be given by the CMA to the appropriate court or the Tribunal in proceedings brought otherwise than by the CMA in respect of a breach, or an alleged breach, of a relevant requirement”. This was **NOTED** with thanks**.**

22. It was **FURTHER NOTED** that:

    - The CMA has been consulted in the course of formulating the proposals and they have no objection to the proposal as currently formulated.

- Additionally, the proposals have been tested by DSIT with a range of interested parties over a number of months. In March 2025, DSIT met with key interested parties to talk them through the proposed sub-committee drafting. DSIT report that the response was positive overall, with no strong objections raised. A summary of the responses was tabled.

- Competition Appeal Tribunal (CAT) have also been consulted and are content. The working position is that they are preparing to update their rules in parallel, to come into effect on 1st October 2025, in line with the CPR amendments, subject to Ministerial approval.

- The proposed amendments include amending PD52D and as such there is an interaction with Item 4 below, which should be borne in mind when producing the final drafting.

23. It was **RESOLVED,** to:

    APPROVE IN PRINCIPLE, subject to the above points and to final drafting, to make a suite of amendments in consequence of Part 1 of the Digital Markets, Competition and Consumers Act 2024, namely to amend:

    - The Competition PD

    - PD 16 (Statements of Case)

    - Part 30 and PD 30 (Transfer)

    - PD 31C (Disclosure and inspection in relation to competition claims)

    - PD 52 D (Statutory appeals and appeals subject to special provision)

24. The matter can return to the June meeting for a brief mention/ratification if required, prior to being incorporated into the next mainstream CPR update cycle as part of the 1st October 2025 common-commencement date.

25. **Actions:** DSIT, in consultation with the sub-committee, to provide perfected drafting to MoJ legal and the Secretariat by 23rd May, if being presented to the June CPRC meeting, otherwise by 9th June for incorporation into the summer update cycle which, subject to Ministerial approval, is due to be published in July for commencement on 1st October 2025.

Item 4 PD 52D Appeals: Anaesthesia Associates and Physician Associates Order 2024 CPR(25)20

26. Kathryn Flynn and Duncan Hall, Department of Health and Social Care (DHSC) and Kin Pan, Government Legal Department were welcomed to the meeting.

27. This was last before the committee in February 2025 (paragraphs 21 - 25 of those minutes refer).

28. The background was summarised. In 2014, the Law Commissions of England and Wales, Scotland and Northern Ireland published a comprehensive review of the legal framework for professional regulation in the UK. The reforms recommended by the Law Commissions aimed to consolidate and simplify the existing legal framework and introduce greater consistency across the regulatory bodies. Between 24th March 2021 to 16th June 2021 the

former administration consulted on detailed policy proposals to modernise each of the healthcare professional regulators' legislative frameworks and on the introduction of physician associates (PAs) and anaesthesia associates (AAs) into statutory regulation by the General Medical Council (GMC). On 13th December 2023, the draft Anaesthesia Associates and Physician Associates Order (AAPAO) was laid in Parliament. It has now passed into law and the majority of the provisions within the Order came into force on 13th December 2024, except for article 19(1)(b) which comes into force on 13th December 2026.

29. It was **NOTED** that the Minister of State for Health, Karin Smyth MP, wrote to regulators and the Professional Standards Authority for Health and Social Care on 2nd May 2025 confirming the government's commitment to delivering regulatory reform. The Government's reforms will be made via a series of statutory instruments and build on proposals consulted on by the previous administration in *Regulating Healthcare Professionals, Protecting the Public* (2021).

30. At present, DHSC are proposing a revised suite of modest amendments to Part 52 (appeals) and PD52D (statutory appeals and appeals subject to special provision) to bring it up to date by reflecting the relevant High Court appeal routes within the AAPAO in the PD. The proposed amendments would also remove reference to the Pharmacy Act 1954, which has been repealed. This suite of amendments will provide greater transparency more generally as to the relationship between the CPR and the legislation creating statutory appeals, in particular in relation to time limits for appeals.

31. A discussion ensued. It raised a number of points of detail which required further work before the amendments could be agreed for inclusion into an update cycle.

32. It was **RESOLVED** to **FURTHER NOTE** the following and for the matter to return when ready:

    - Currently, the way the proposed drafting is presented, it suggests that there are changes to PD52D paragraph 5.1 which concerns appeals to the Chancery Division of the High Court, however, the Table to be amended forms part of PD52D paragraph 4.1 (provisions about specific appeals).

    - Drafting to be simplified wherever possible, recasting proposed new r.52.12(i) and (ii) and PD52D paragraph 19.1(3) in the interests of clarity and brevity.

    - Reconsider how the drafting can best reflect the practical application of appeals in the County Court and consider whether County Court appeals are to be by way of review, i.e. as under r.52.21; or by way of re-hearing. This is because High Court health appeals are by way of re-hearing, under PD 52D paragraph 19.1(2). This, therefore, needs clarifying to ensure it aligns with the policy intention.

    - Consider whether a definition of, "statutory appeal" should be included in the interests of usability for a non-legal user.

    - As the proposed reforms include amending PD52D, there is an interaction with the amendments in Item 3 above and this should be borne in mind when producing the final suite of amendments.

    - The relevant aspects of the legislation came into effect in December 2024, however any appeals are anticipated to be low in volume and not expected until the end of 2025 at the earliest.

- The desired in-force date is 1st October 2025, but that may not be possible if the drafting cannot be finalised at the next (June) meeting for inclusion in the summer update cycle.

- His Honour Judge Bird, Ian Curtis-Nye and Isabel Hitching KC all volunteered to assist out-of-committee.

33. **Action:** DHSC to work with MoJ legal, HHJ Bird, Ian Curtis-Nye and Isabel Hitching KC to bring perfected draft proposals to the June meeting if ready.

Item 5 Extending Fixed Recoverable Costs (FRC) Stocktake – update CPR(25)21

34. Niccola Parkes (Ministry of Justice) was welcomed to the meeting and provided a brief update on the progress with preparing the consultation (the stocktake) following the introduction of the extended FRC regime in October 2023.

35. **THANKS** were conveyed to the observers who had submitted public questions for today's meeting in relation to cost related matters. It was confirmed that each will be considered out-of-committee and covered during the planned stocktake, which is due to commence in October this year. Alongside the questions received, the stocktake is expected to consider high-level questions on key topics on the operation of the new regime, to assess how it is working. It was explained that, while the specific matters for consideration have not been finalised, the outline position includes the following (non-exhaustive list):

    - The operation of the complexity bands in both the fast track and the intermediate track, and how cases are being allocated;

    - The transitional arrangements;

    - Exceptions from FRC (the housing claims exemption at rule 45.1, and other types of claims at rule 26.9(10) (which are exempt from the intermediate track)), how the arrangements here are working and whether any amendments may be required;

    - Unreasonable behaviour and exceptional circumstances; and

    - Whether it may be necessary to further uprate for inflation before October 2026.

36. This was duly **NOTED.**

37. It was **FURTHER NOTED** that:

    - In the interest of clarity, it was confirmed from the Chair, that the housing claims exemption (at rule 45.1) continues unless or until the rules are amended. MoJ may wish to make a public statement on this for the avoidance of doubt;

    - MoJ will also be conducting a wider, post implementation review, in 2026. Some of the public questions concern the levels of costs and relate to vulnerability provisions, which are topics intended for consideration in the 2026 review rather than this year's stocktake.

38. **Action:** (i) In consultation with the Costs sub-committee, MoJ provide a fuller report (and draft stocktake material) to the July committee, (ii) Secretariat to allocate agenda time.

Item 6 Parole Referrals CPR(25)22

39. Abi Marx, Ministry of Justice, was welcomed to the meeting.

40. The Chair made some brief introductory remarks, observing how significant and important the work was. **THANKS** were conveyed to the sub-committee, comprising Mr Justice Pepperall and Master Sullivan, together with co-opted member, Mr Justice Chamberlain (judge in charge of the Administrative Court).

41. Mr Justice Pepperall explained that the sub-committee had undertaken some very helpful work with MoJ thus far, during which various key issues of principle have been identified and advanced. However, the draft rules have only been discussed once and are not yet ready for substantive consideration, because there is still a lot of work to do with MoJ to get the rules ready for the committee's consideration.

42. At this stage, it has been agreed to (a) use a modified Part 8 procedure; (b) the court should sit in public, save where required to sit in private in accordance with the usual principles under CPR.39.2(3); and (c) it is appropriate to adopt Part 82 in respect of the rare referral that raises national security issues. A summary of the other points explained is as follows:

43. Open Justice considerations. This presents a cultural clash between the essentially private nature of parole board proceedings and the principle of open justice. It is important that the parole referral cases are heard in public and that the confidentiality and sensitivity of some evidence presented in parole board proceedings can be accommodated within a proper application on a case-by-case basis of r.39.2 and not by a private-by-default approach.

44. The sub-committee are very mindful of the considerable public interest in release decisions in respect of the very serious offenders likely to be the subject to referral proceedings and the public nature of the earlier criminal proceedings. The statutory purpose of increasing confidence in the parole system points to the same conclusion: public confidence is not increased merely by having a High Court Judge remake the parole decision in an essentially private process but by the transparent and public conduct of the referral in open court and through public judgments.

45. Timeliness**.** At the moment there is some tension between the imperative for parole referral cases to be heard expeditiously and draft rules which allow a further 21 days after the referral is made before the Secretary of State is required to file any grounds or evidence and which then extends the usual time under Part 8 for the defendant to respond.

46. Simplicity and Brevity. The aim is to apply existing procedures and avoid the temptation to devise an entirely bespoke court process, hence using Part 8, but there are concerns that the current draft makes unnecessary modifications to the extent that it is difficult to see what is left of Part 8, meaning further drafting work is required.

47. Nature of proceedings. The sub-committee considered that, as these referrals are started by the Secretary of State setting out the grounds and evidence upon which they invite the court to conclude that it cannot be satisfied that further imprisonment/detention is no longer necessary for the protection of the public, this issue can be litigated in an adversarial manner, rather than through an inquisitorial process.

48. Process**.** The legislation requires the referral to be made by the Parole Board although it is agreed that it should not be a party to the proceedings in the High Court. Some further

work remains, but the sub-committee favours a rule requiring the Secretary of State (who will be the claimant in the referral proceedings) to file grounds and evidence at the outset.

49. Closed Material Procedure. Notwithstanding that MoJ confirmed there is vires to make these draft rules, a number of issues arise. The draft r.77.26 seeks to introduce a "closed-material-light" procedure modelled on Part 82 for further material that would adversely affect the prevention of disorder or crime, or someone's health or welfare. The sub-committee is also uncomfortable with the current draft rules directing, for example, that a requirement that the court must ensure that information is not disclosed in a way which would be damaging to the interests of national security shall be read as meaning something entirely different.

50. Consultation. The sub-committee's report concluded by observing that any proposal that the rules should be amended to include a new closed-material procedure in circumstances in which national security is not engaged, is something upon which the committee should consult.

51. A brief discussion ensued which endorsed the sub-committee's views and proposed direction of travel. The DHCJ summarised the matter, whereupon it was **RESOLVED to:**

    - **NOTE** the progress made in formulating draft rules and the significant detailed work ongoing.

    - **AGREE IN PRINCIPLE** the broad architecture.

    - **CONDUCT A CONSULTATION** prior to final approval; the consultaion to include the settled draft rules and a cover note.

52. The DHCJ reiterated his thanks to MoJ and the sub-committee for all the positive work and assured officials that the committee remains seized of the importance placed on these reforms. However, he concluded that as there was significant further work required, MoJ would need to reconsider the overall timetable for implementation and revert to the committee when ready.

53. **Actions:** MoJ to keep the Secretariat appraised for agenda planning purposes.

Item 7 Welsh Language CPR(25)23

54. His Honour Judge Hywel James explained that, as the Welsh judicial member of the committee, he has been tasked with reviewing the CPR in the context of Wales.

55. The CPR and its supplementing PDs contain a variety of provisions specifically directed to matters concerning Wales and the Welsh language. Both English and Welsh languages have equal status in law. They are applicable in both Wales and England and the provisions have been introduced and amended piecemeal over the years.

56. Overall, he is pleased to advise that the rules are generally working very well. However, there are some minor textual amendments required to the various rules and PDs to update the language, for example, to reflect the Welsh Assembly becoming a Senedd.

57. The review has also included consideration following a specific query as raised by the Welsh Government as to the implication of the decision of the Court of Appeal in Driver v Rhondda Cynon Taff County Borough Council [2020] EWCA Civ 1759. The suggestion

being that where there is a dispute as to interpretation of the text of Welsh and English versions of legislation, a Welsh speaking judge should be appointed to the case.

58. In relation to issues of interpretation of the text of bilingual legislation, there is a mismatch between provisions which relate to devolution issues and otherwise. The use of a Welsh speaking judicial assessor to assist the court was explained. An assessor is provided for in relation to devolution issues by the devolution specific PD, last amended in 2017. However, since then there have been two important developments: first, there is now a growing cohort of Welsh speaking judges available to assist and, secondly, there is also now significant Welsh legislation in force (such as Renting Homes (Wales) Act). Moreover, there is no known record of an assessor having been appointed pursuant to the provisions in the PD.

59. It was suggested that the concept in the Devolution PD be amended and expanded to allow for at least the possibility of Welsh speaking judges sitting in cases involving legislation in the Welsh language, where practicable and always subject to the Overriding Objective.

60. The general PD on the Welsh Language applies to any proceedings in or having a connection with Wales. It ensures that parties inform the court if the Welsh language is going to be used or if documents in Welsh will be placed before the court. The PD identifies the role of the Welsh language Liaison Judge and the HMCTS Welsh Language Unit.

61. Various possible options were raised and discussed: Option one was not to make any further amendments to the CPR in relation to Wales, but that was not favoured because it would not address the current ambiguity and not provide a provision as to the need of a Welsh speaking judge where there is an issue as to the interpretation of Welsh language text.

62. Option two provided for a provision within the Rules that, in a case where there is a dispute as to interpretation of Welsh language text, a Welsh speaking judge must be appointed to hear the case. This would require an amendment to the CPR and an extensive review of the Rules and various specialist guidance. It may also require provision for the “ticketing” of judges to hear such cases and this may not be entirely straightforward. His Honour Judge James also observed that it was unclear if such a provision exists within the Devolved Tribunals.

63. The third option was for the PD relating to the use of the Welsh language to be amended and expanded.

64. A discussion ensued. The MR recalled the case of Driver, as he (at the time, the Chancellor of the High Court), gave the judgment. Considering the proposed amendment to the Welsh language PD, the MR recognised that it is very popular in Wales to have hearings in Welsh and increasingly, judges are fluent in Welsh. However, he emphasised the need to try and cater for various different situations, because it may or may not be necessary to have a Welsh speaking judge to determine a matter justly. The question of whether, “Welsh speaking” needed a definition was also posed.

65. The DHCJ said that this was an important and serious issue. The workability of the rules in practice was a material consideration and, should amendments be agreed in principle, prior to consultation, the practical context should be explained in the consultation material.

66. It was **NOTED** that:

- Informal consultation has taken place with the appropriate judges in Wales, including the Welsh language liaison judge and the feedback received has been supportive.

- The Welsh Government has not yet been consulted.

67. It was **RESOLVED to approve in principle, subject to final drafting and to consultation**, to amend the Welsh Language PD (PD Relating to the use of the Welsh Language in cases in the civil courts or having a connection with Wales) specifically to amend paragraph 4.1 (listing by the court).

68. **Action:** (i) HHJ James to provide (a) revised drafting in readiness for consultation (b) explanatory text for inclusion in the consultation as soon as practicable (ii) Secretariat and MoJ legal, in consultation with the Chair and HHJ James to finalise the consultation material (iii) Secretariat to facilitation consultation and provisionally fix a future agenda slot in the committee programme (circa November/December) for the matter to return, post consultation.

Item 8 Public Question Forum CPR(25)24

69. The Deputy Head of Civil Justice (DHCJ) reiterated his and the MR's thanks to everyone who submitted questions. Below is a list of those questions duly answered.

	Question	Answer
1	**Upcoming Changes** Are there any upcoming amendments to the Civil Procedure Rules (CPR) that practitioners should be aware of (which will be particularly impactful / important) on the horizon?	The DHCJ hoped that today provided a flavour of things to come, with a typically mixed agenda. Often items return for several appearances before being finalised. Wherever possible and unless urgent, the plan is to contain amendments within the two common commencement date amendment cycles (October and April) in order to provide maximum notice to users and make best use of Parliamentary time. However, there are times when there are ad hoc (PD) amendments for urgent or reform related items. The CPRC is a busy committee with competing priorities, and the committee does not always know what is coming (from across government and elsewhere) so the agenda programme is under constant review and is subject to change. Some topics the CPRC expects to be asked to consider are:

		• Housing possession. reforms/integration with OPRC • Service and electronic service. This is a big project with a package of possible reforms. The aim is to approach this in a phased way. • E-Signatures, on which a consultation will be forthcoming and published online for comments (cross ref question below). • FRC stocktake in/around October 2025 (as has been discussed at item 5 on the agenda above). • The Lacuna Sub-Committee reports regularly, but again, the intention is to try and contain amendments within the two common commencement date cycles (October and April) in order to provide maximum notice to users. • Incremental enhancements to the Online Civil Money Claims and Damages Claims Pilots will continue to be made (and indeed the pilots may need extending beyond the current 1st October 2025 operational period before being transferred to the Online Procedure Rules (OPR) in time. • Mediation pilot evaluation. • Court Documents (Cape v Dring) monitoring of new pilot scheme when introduced and possible extension/s. • E-Working to replace PD51O. • Some reforms to Civil Restraint Orders.
2	**Consultations** What are the current or upcoming consultations on proposed rule changes, and how can practitioners contribute to these consultations to help make a meaningful difference?	The DHCJ explained that the CPRC has wide discretion as to when and how it consults. Not all consultations are public, some may be conducted with a focused audience of particular users or internally with, for example, the judiciary. A decision on whether to consult is often informed by – but not determined by - the extent of any consultation already undertaken. For some years now, it has been a regular feature of our work to publish consultations on the CPRC's committee

		web pages on Gov.uk and on the homepage to the CPR online. Anyone can follow the links online to set up alerts so that you receive auto-generated emails whenever the web page is updated and when a new consultation is published. The CPRC is very grateful to everyone who spends their time considering and responding to the committee's consultations. Every comment is read with significant care, and all points of view are fed into forming the final decisions. Naturally, it may not be possible to adopt everything that is suggested, but all comments are valued. Upcoming consultations include: • Paper Determinations - proposed amendments following the pilot scheme to test the determination of small claims on paper (without a hearing and without the consent of the parties). • E-Signatures - proposed amendments to CPR Part 5. • Service – proposed amendments regarding email service. **Post meeting note:** This is the link to set up these alerts to receive updates to the CPRC web page, whether this be when minutes are uploaded or consultations are published: https://www.gov.uk/email-signup?link=/government/organisations/civil-procedure-rules-committee
3	**Simplification Projects** Can you provide updates on the project to simplify the CPR, and what specific areas are being targeted for simplification?	Isabel Hitching KC explained that keeping the rules simple has always been a statutory aim, but it was decided that a specific project focussed on simplification would be useful. That project commenced in 2021. Phase 1 was to simplify Parts 1 to 30, broadly the generic parts of the rules. A sub-committee was set up to lead on the drafting under the leadership of Mr Justice Kerr and with Ms Hitching KC as the other member. When Kerr J's term on the CPRC came to an end (in 2023), Ms

		Hitching KC became the chair and, His Honour Judge Nigel Bird and Ben Roe joined as fellow sub-committee members. In April this year (2025) the Part 25 reforms came into effect, and they represented the conclusion of the first phase to review Parts 1 to 30 of the CPR, April 2025 coincided (not planned but usefully) with advances in the establishment of the Online Procedure Rule Committee (OPRC) which the MR mentioned in opening and that presents an opportunity to take stock before defining future phases. Any further proposals will continue to be published, for consultation online. However, the overall principle of simplification remains an active part of the CPRC's main work. This meeting has demonstrated how that works in practice: those initially drafting bear in mind the need for clear and simple structure and then it is considered at the full committee stage – often Ms Hitching KC will raise it.
4	**Training and Resources** Are there any new training programs or resources available to help practitioners understand and implement recent changes to the CPR?	The DHCJ explained that training and development is generally industry specific and not something the CPRC itself provides. However, HM Courts & Tribunals Service (HMCTS) and the Ministry of Justice (MoJ) work very closely with the CPRC and do provide a fair amount of public information and guidance. Additionally, from a digital reform perspective, HMCTS engage with users on an ongoing basis and prior to each CPR amendment governing the IT releases which update the Online Civil Money Claims (OCMC) and Damages Claims Pilot (DCP) services, HMCTS: • host demonstrations of the upcoming change to a legal rep stakeholder group; • hold fortnightly meetings with the legal rep stakeholder working group, which provides a Q&A platform for legal reps directly with the civil team; • produce a guidance document that sets out changes but also how to

		interact with a Damages or OCMC case from a legal rep perspective. In addition, any practitioners who sit as fee paid judges will also be familiar with the continuation training provided by the Judicial College, which keeps abreast of CPR changes. One former member of the CPRC, retired judge, HHJ Lethem, delivered the training on the extension to FRC, which highlighted some tweaks in consequence and which the CPRC acted upon with dispatch.
5	**Feedback Mechanisms** What mechanisms are in place for practitioners to provide feedback on the effectiveness of the current rules and suggest improvements?	This was answered jointly by the DHCJ and District Judge Clarke (Chair of the Lacuna Sub Committee). It was explained that anyone can contact the Secretariat – the email address is on the CPRC pages on Gov.uk. However, resources are limited. To help manage the workload to best effect, each enquiry undergoes a triage process in order to prioritise workloads. Given the wide-ranging nature and complexity of enquires, it is not always possible to give a specific timetable for action, and it can often take several months for a CPR amendment to be considered, and any changes enacted. Naturally, if the enquiry can be addressed any earlier, it will be. It is also important to try and avoid hasty action given the risk of unintended consequences and clearly the CPRC can not undo Government policy. It may also assist if anyone does have an issue to try in canvassing the views of, or channelling the issues through, their representative body (if they have one). This means that the general approach is that issues in practice are brought to the attention of the CPRC via a number of methods - including correspondence, member insight, court judgments, judicial associations, government officials and professional bodies. If an authoritative judgment specifically refers a matter to the CPRC, then that is

		duly considered and generally takes priority. It is usually considered by the Lacuna Sub-Committee in the first instance. DJ Clarke observed that there are around 180,000 regulated professionals in England and Wales and not all enquiries require action as some are addressed by the courts. Equally, not all matters require CPRC consideration, because judges have inherent powers which can allow for judicial discretion in appropriate cases. Or it may be that it is a matter for Government and not the CPRC, in which case the enquiry will need to be redirected.
6	**Technology and Innovation** How is the CPRC addressing the integration of technology and innovation in civil procedure, especially in light of recent advancements?	The MR explained the forthcoming new digital service to deal with housing possession cases that will be the first service for which new Online Procedure Rules will be developed by the Online Procedure Rule Committee (OPRC). He reiterated that the OPRC will work closely with CPRC members in the development of these rules, making sure and implications for the Civil Procedure Rules are properly considered. This is a huge amount of work. The context of AI (artificial intelligence) was also referred to, observing that the CPRC wants to see how the AI process will impact practice and procedure in the modern age. The Civil Justice Council project concerning guidelines on the use of AI by lawyers is important. Guidance for judges has also recently been refreshed. This demonstrates that he is alive to it and that it can be used but with protections.
7	**Future Direction** What are the long-term goals and strategic priorities of the CPRC for the development of civil procedure rules?	The MR explained that the CPRC's fundamental purpose and powers are set out in the Civil Procedure Act 1997. The CPRC's strategy serves to achieve its statutory function and the Overriding Objective that the power to make Civil Procedure Rules is to be exercised with a view to securing that the civil justice

		system is accessible, fair and efficient and that the rules should be 'simple and simply expressed'. He referred to his time as Editor in Chief of the White book. Our strategy has three guiding principles: • Legislation: amendments to the rules driven by primary or other legislation – these are often required on a challenging timetable. • Modernisation: to keep the rules up to date, relevant, accessible and intelligible; this has a broad application. It includes work to further simplify the rules to improve clarity and reduce the overall length of the rules, to test pilot schemes across civil justice and also incorporates wider work, such as interaction with the developing Digital Justice System and the Online Procedure Rules – the first significant project being the anticipated introduction of a digital property possession service. • Comprehensive Reviews: these are largely instigated by Government or other statutory bodies such as the Civil Justice Council, but topics can be agreed with the committee and preferably focused around issues of concern to the judiciary, practitioners and litigants generally. Committee members will also suggest projects to be undertaken. Amendments to be considered outside these three priority areas generally need to pass a reasonably rigorous test for consideration based on urgency, scale of (potential) injustice, political imperative and scale of difficulties being encountered in practice.
8	**Review Process**	The DHCJ explained that essentially the process for reviewing CPR changes, post

	What is the process for reviewing changes made to the CPR by the Committee once they have been in force for a period of time, for example a year? Are stakeholders involved in this process, and how is their feedback considered? Are such reviews periodic / ad hoc?	implementation, varies depending on scale of reform and member or government imperative. Given that all members of the CPRC are themselves engaged within the civil justice system, user insights are of course considered and where appropriate, wider user input is sought. For example, with the planned FRC stocktake. However, it was highlighted that the Civil Justice Council has the statutory function to keep the civil justice system under review and to advise government and the CPRC and this it does with expertise.
9	**Monitoring** What is the monitoring process for provisions which are in their early stages of entering into force? How does the Committee ensure provisions function as intended?	The DHCJ noted that this is interlined with questions 8 and 5 (above) and emphasised that the committee is made up of judges of all levels of the civil justice system and practitioners – so they handle the work, and this provides a readily organic method of monitoring as a matter of business as usual.
10	**Part 36 and Part 45** Historically Part 36 has trumped Part 45, specifically in the case of *McGreevy v Kiramba* [2022] EWHC 2561 (SCCO) (26 September 2022) it was held that cases under what was SIIIA of Part 45 could not apply for exceptional circumstances. Part 36 has now been updated (as has Part 45) Part 26.23(1) addresses the costs consequences of accepting a Part 36 offer to which Part 45 applies, specifically it states that (underlining my emphasis): "36.23- (1) Where a Part 36 offer is accepted within the relevant period, the claimant is entitled to a) the fixed costs in Table 12, Table 14 or Table 15 in Practice Direction 45 for the stage applicable at the date on which notice of acceptance was served on the offeror; and b) <u>any applicable additional fixed costs allowed under Section I, Section VI, Section VII or Section VIII of Part 45</u> incurred in any period for which costs are payable to them." Part 36 only refers to the applicable fixed costs and additional fixed costs Part 45 allows parties to apply for costs outside of fixed costs where	*This is being considered out-of-committee*

	exceptional circumstances (45.9) and vulnerability (45.10). There may be a tension in the language used under Part 36.23 in that the additional costs under 45.9 and 45.1 may be viewed strictly as the not 'fixed costs.' If that's the case, then parties may find themselves in a similar situation as per *McGreevy* that Part 36 trumps Part 45 and deprives a party of seeking additional costs on a non-fixed basis where either vulnerability or exceptional circumstances apply. Is the Committees view that the phrase 'additional fixed costs' is wide enough to cover 45.9 & 45.10 even though they are applications for non-fixed costs or alternatively does a slight amendment need to be made, perhaps to change 36.23(1)(b) to 'applicable additional costs' i.e. omitting fixed? It cannot be the intention to prevent apart from using 45.9 & 45.10 where it could be used with no potential shut out if the identical claim settled without Part 36.	
11	**Fixed Recoverable Costs – Clinical Negligence** Is the Committee able to provide an update on the Fixed Recoverable Costs in lower damages clinical negligence claims? It is widely understood that the same remain paused pending direction from the government. Is this still the current position?	Mr Justice Trower (Costs Sub-Committee Chair) explained that, in essence, "yes". Currently, the government is considering the way forward on clinical negligence fixed recoverable costs and an announcement on the government's position is anticipated in due course.
12	**Fixed Costs Determination** Section X of Part 45 deals with the procedure for Fixed Costs Determination. The rules stipulate that a Precedent U (Statement of Fixed Costs) should be provided prior to a final hearing i.e. after the final hearing then Section X, 45.63, appears to include no provision for the payment of any costs of the Fixed Costs Determination procedure. Whereas, if the claim concluded without a final hearing and the receiving party applied for Fixed Costs Determination, they would be	*This is being considered out-of-committee*

	entitled to the FRC at Table 17 of Practice Direction 45. Is it correct that the receiving party is not entitled to any additional FRC for the preparation of the Precedent U and it is intended that it be subsumed within the Fixed Recoverable Costs of the claim? Has this at all been factored into the formulae for the FRC? The only costs permitted under 45.63 appear to be where the FCD is not completed at the final hearing, but this is restricted to interim application costs of £250-£333 less than the £500 plus VAT allowed by Table 17 of PD 45. In short, there appear to be three scenarios: 1. 1. FCD undertaken at the final hearing – no costs 2. FCD requested to be undertaken at the final hearing but court orders it to be dealt with at a further hearing either in person or on paper - £250-£333 3. FCD without a final hearing - £500 Is the above what was intended? As under the current system if the court runs out of time at the final hearing a party gets some payment but seemingly nothing if it's dealt with on the day, even if it were contested between the parties.	
13	**Assessment of Medical Agency Fees** In the past 12 months there have been a plethora of County Court and SCCO decisions relating to what evidence (if any) is required to allow the assessment of medical agency fees (where used\0. The decisions reached have been inconsistent with some Judges taking the view that a breakdown is required (but the exact form of this varies). Given this issue is showing no signs of abeyance is	Mr Justice Trower (Costs Sub-Committee Chair) explained the background. This is an issue of high-cost medical reports obtained by claimants via a Medical Reporting Organisation (MRO). MROs are organisations which arrange for medical reports of many different types sourced via a panel of experts with whom they contract and when a request for a report comes in from a lawyer the MRO checks their panel and arranges for a suitable expert to provide a report. They

	there any desire from the Committee to address this matter? At the annual open meeting last year, it was noted the issue would be considered within the fixed costs regime as part of the fixed costs stocktake thought the approach to fixed and non-fixed cots matters differs and the stocktake itself has already been delayed.	charge for these services, and the invoice usually combines into a single figure the cost of arranging the report the fee paid to the expert and other 'admin' charges/profit which goes to the MRO. The argument is that the defendant should only be paying reasonable costs for the report under CPR rules and not funding large MRO's profits. This has led to a number of legal challenges requesting a detailed breakdown of supplied invoices. Claimant industry associations such as the Association of Personal Injury Lawyers (APIL) and the Association of Consumer Support Organisations (ACSO) have raised this issue with MoJ and indicated they are worried this could lead to claimants not using MROs and resulting in a loss of expertise/MROs from the market and an imbalance in favour of defendants. The MoJ do not currently have a set policy position on this issue which, as noted by the questioner, is currently before the courts and may yet be referred to the Court of Appeal for a definitive ruling. They are discussing this directly with all interested parties to try and get an agreed cross industry agreement which is satisfactory to all, and which can bring an end to the current litigation. MoJ has no problem in principle with practical cross industry agreements and (subject to seeing the detail) would likely be supportive of any such approach agreed here.
14	**Provisional Assessment Cap** Has any progress been made in considering the Provisional Assessment cap of £1,500 plus VAT at CPR 47.15(5). The cap continues to remain static since inception over 12 years. In that time Guideline Hourly Rates have increased in 2021,	*This is being considered out-of-committee*

	2024 & 2025. The cap has remained static. When the cap was set, 12.7hrs would in effect be permitted at GHR for Grade D, Band 1 £118, now that same cap would give 10.7hrs at £139 (Band1, Garde D). That is a real terms drop in the time available at Grade D of circa 15%. Is the Committee able to update whether this has matter has been looked at and if not timescales for review?	
15	**Default Costs Certificate** The court has confirmed that the cost of a Default Costs Certificate will rise to £80 (this change may have come into force by the time of the meeting). The fixed costs for requesting DCC has remained at £80 plus VAT. With the court fee now equating to the fixed costs is there any intention to consider the fixed costs for the DCC?	Mr Justice Trower (Costs Sub-Committee Chair) explained that MoJ will review the FRC tables in 2026.
16	**Simplified Costs Budgeting Pilot PDs.** The Simplified Costs will be in force come time of the meeting in May. These documents remove hourly rates. At CCMC the courts have often placed emphasis on the Court of Appeal decision of Samsung Electronics Co Ltd v LG Display Co Ltd, despite Part 3 been clear that the court's role is not to fix or approve rates Is the intention to ensure more consistency in approach i.e to remove the temptation to address rates in some capacity at the CCMC?	His Honour Judge Bird (sub-committee Chair) explained the front sheet of Precedent H is the basic model for Precedent Z and it does not refer to hourly rates. Precedent Z does include hourly rates in the Assumptions on page 2, should they be relevant to any consideration of what is reasonable and proportionate and whether and how to costs manage any claim consistent with the provisions of the relevant part of PD51ZG. CPR 3.15(8) has not been displaced.
17	**Simplified Costs Budgeting Pilot PDs.** The Simplified Costs Budget requires the parties to include the value of the claim, presumably to aid the court in considering proportionality. However, it does not appear to give any overt weight to other CPR 44 proportionality factors. Is the express inclusion of space for the claim value reflective of the fact that the intention is to place more emphasis on the sums in issue than other proportionality factors?	His Honour Judge Bird (sub-committee Chair) said the essential answer was "no". He explained that CPR 44.4 (3) is not displaced by the Pilots. The purpose of having the value of the claim and any counterclaim on the front page of Precedent Z is practical and to assist the Judge and the parties. For example, it will help to identify which part of the PD51ZG1 the claim falls into as a starting point (whether a case falls within the less than £1m or £1m or more part).

		The value of the claim and any counterclaim and the overall total of the phases in the Precedent Z will also be a factor for the Judge and the parties when the Judge is considering whether to exercise their discretion to costs manage a claim at all and/or to give further directions about how it should be costs managed under the relevant part of the Practice Direction. In an appropriate case this may include directing the parties to file Precedent H's and directing a further costs management hearing.
18	**CJC's recommendations for Guidance Hourly Rates** Is there any update on the CJC's recommendations for Guidance Hourly Rates for Counsel and the introduction of a new band for complex, high value work irrespective of whether the work was undertaken in London or elsewhere?	*This is being considered out-of-committee*
19	**Guidance Hourly Rates (CJC's May 2023 Final Costs Review Report).** Can the Committee update on the position with the CJC's recommendation for there to be clarity given to the test to be applied when the court considers a departure from GHRs. Suggestions by the CJC include adopting the current case law test of providing a clear and compelling justification to depart or departures should only be considered where a case falls outside average complexity?	*This is being considered out-of-committee*
20	**Disclosure (BPC PD 57AD)** The less complex claim regime contained within Practice Direction 57AD is a good and sensible approach to most disclosure exercises. Does the CPRC have any insight on how often the less complex claims regime is being applied?	The MR responded having consulted the Chancellor of the High Court and indicated that the sense is that the PD is working well on the basis there have been no complaints raised either directly or raised by the Chancery Court Users' Committee.

21	**Disclosure (PD 57AD applying beyond the BPC)** Is there appetite in the CPRC to use the less complex claims regime as the basis for a consistent approach to disclosure across the civil jurisdiction rather than having two distinct regimes that are similar in many ways?	The MR explained there are no plans to extend PD 57AD beyond the Business & Property Courts. However, if there were, then a consultation would likely take place prior to implementation.
22	**Access to Court Document** The Committee indicated in the minutes of 6 December 2024, that the reconstituted sub-committee will look at the rule changes required to implement 'Access to Court Documents' and come back to the Committee in due course. Does the Committee intend to engage further with the stakeholders on 'Access to Court Documents' before finalising these rule changes?	District Judge Clarke explained that since the consultation in April 2024 (which attracted a significant response of conflicting views), the context has slightly changed because the Lady Chief Justice introduced a Transparency and Open Justice Board and the MoJ have conducted a call for evidence on open justice. The CPRC Sub-Committee was re-constituted and is now chaired by Mrs Justice Cockerill, who is a High Court judge member of the Transparency and Open Justice Board. At the last CPRC meeting in April (2025) a draft pilot PD was proposed to operate in the Commercial Courts. This was agreed in principle, and work to finalise it is ongoing. In addition to the April 2024 consultation responses, the main practitioner groups with a material interest in the current proposal, namely the Commercial Bar Association, London Solicitors' Litigation Association and City of London Law Society, have been consulted more recently. As such, another full public consultation is not being planned, because the proposed new scheme is to operate as a pilot. More detail can be seen on this in the April minutes which are online: https://assets.publishing.service.gov.uk/media/682499f4ab96d4ed0b262f11/cprc-4-april-2025-minutes.pdf The pilot will be monitored in the usual way, and this can include feedback via the relevant court user group meetings.

		The DHCJ also mentioned his experience, in the Court of Appeal, where a pilot practice (which did not need rule changes to be introduced) has been operating, whereby skeleton arguments that were always intended to be public, have been made publicly available on live stream.
23	**Fixed recoverable Costs Stocktake** The Committee indicated in the minutes of 10 May 2024 that, following the decision in *CXR v Dome Holdings*, the Ministry of Justice would include the issue of whether a breakdown of agency and expert fees should be required in its 2025 FRC stocktake. Does the Committee know if this issue will be included in the postponed Extended FRC Stocktake or whether it will be addressed separately, and if so, when?	*This is being considered out-of-committee*
24	**OPRC** The CPRC have shown a commitment and reliability in transparency through regular meetings and the publication of minutes. We are yet to see a similar approach by the OPRC. Is it your understanding that the OPRC will begin to mimic the CPRC's helpful approach in time? And when might that develop?	The MR explained that the OPRC ensures transparency by publishing all meeting minutes on the OPRC web page: https://www.gov.uk/government/organisations/online-procedure-rule-committee/about#minutes. Interested parties can sign up for alerts by clicking the "Get emails" icon on the main OPRC web page: https://www.gov.uk/email-signup?link=/government/organisations/online-procedure-rule-committee This summer, the OPRC will host their first annual open meeting, where attendees can observe and ask pre-submitted questions to the Committee. Further details on this will be published on the OPRC web page in due course.
25	**Fixed Recoverable Costs Stocktake** It is understood that the Fixed Recoverable Costs stocktake will begin in October this year. The CPRC has previously committed to including medical agency fee breakdowns in that review? And to what extent will	*This is being considered out-of-committee*

	the review tie into the ongoing work by the Civil Justice Council. If at all?	
26	**Fixed Recoverable Costs Stocktake** And further to question 2, could you share now what other specific topics of review are on the provisional agenda for the FRC stocktake?	*This is being considered out-of-committee*
27	**Closed Material Procedures** Are further changes to the CPR 82, closed material procedure under consideration or envisaged given that not all the changes discussed in the previous Government's report of May 2024 (in particular regarding CPR 82 having its own practice direction, enabling special advocates to attend ADR processes and establishing a legal professional privilege channel of communication without specific court approval) were brought into the CPR in April 2025?	District Judge Clarke said that essentially the answer was "yes, but the reforms were always going to be approached in stages". He expanded by explained that MoJ has been working with the CPRC to introduce the changes that were accepted in the previous government's response to the Ouseley report, which the present government undertook to implement. In December 2024 the CPRC approved two of the proposed changes to Part 82 of the Civil Procedure Rules (CPR); namely that section 6 application and directions hearings will only take place in the absence of the Open Representative and the Specially Represented Party where necessary to protect national security (recommendation 12); and the exemption of CMP cases from cost budgeting provisions in Part 3 of the CPR (recommendation 15). These changes came into effect in April 2025. Draft rule changes to implement the recommendation requiring the government to provide a closed draft defence to assist the Court in deciding a s6 application where necessary (recommendation 4) were approved by the CPRC in April. The intention is that these will come into effect in July 2025, parliamentary time allowing, otherwise they will take effect in October 2025. Work is ongoing to progress the remaining accepted CPR-related recommendations from the Ouseley report. These are: the ability for Special Advocates to make closed submissions or pleadings in draft (recommendation 5); the ability for communication requests to be agreed between parties

		(recommendation 8); and the creation of guidance (which may take the form of a practice direction) on various aspects of the CMP process to ensure a consistent approach is taken in proceedings involving the use of CMP across the board, including how confidential communication requests should be dealt with (recommendations 9 and 13). In its response to the Ouseley report, the previous government decided not to take forward recommendation 6, which relates to Special Advocates' involvement in Alternative Dispute Resolution procedures."
28	**CJC Report – Pre-Action Protocols** As reflected in the minutes following the 6 December 2024 CPR Committee meeting (item 6), we understand that the CPR Committee is awaiting further directions from the Master of the Rolls concerning the Civil Justice Council's (CJC) report on the Pre-Action Protocols (PAPs), but are there any reflections on the CJC's recommendations, the expected direction of travel and/or the timing of any developments related to the PAPs that the CPR Committee can share at this stage?	The MR explained that the report suggested a number of changes and there is an overlapping context with the OPRC and CPRC, so it is necessary to look at it in the round and established where the responsibilities best sit. This work is ongoing. However, there are a number of PAP amendments, such as those in consequence of the ADR related reforms and the Churchill judgment that are likely to be progressed first.
29	**Service** Is the committee in a position to provide any insight into the work of the service subcommittee and whether there is likely to be substantial changes to Part 6, practice directions 6A and 6B as well as other Parts and PD provisions that address service issues. In addition, while acknowledging that timetables change, can the committee confirm whether the current intention is for the changes to come into force through the October 2025 update?	Anja Lansbergen-Mills explained the Service Sub-Committee, chaired by Mr Justice Richard Smith (co-opted) last presented to the CPRC in March this year and the minutes of that meeting are now publicly available online. The current focus is on domestic service. At the March meeting, the CPRC agreed the sub-committee should approach its task in a phased way, in various stages, given the complexities and risk of unintended consequences. 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 and further phases/stages

		could include drafting a new pilot scheme/s, either jurisdiction specific or to test a new regime for litigants in person. A timetable for the initial consultation (on which LiP are not in scope) is not yet fixed, but it is hoped to take place before the summer if possible.
30	**Fixed Recoverable Costs** We have discussed with APIL members about their experiences of the extended fixed costs regime in practice, and flag the following areas that we consider should be included as part of the Ministry of Justice's stocktake review: Clarity need for greater clarity of the intermediate track complexity bands. The complexity bands in the intermediate track are much less clear than those in the fast track with the risk of uncertainty and friction. Furthermore, for a case to fall within band 1, there must be a full admission of liability, as defined by paragraph 6.3 of the PI Protocol, with any admission to take place within the relevant protocol period. A need for greater clarity on complexity for the purposes of the distinction between band 2 and band 3.	*This is being considered out-of-committee*
31	**Part 45** **"Unreasonable behaviour"** Part 45.13 and "unreasonable behaviour". This is vaguely defined as "behaviour for which there is no reasonable explanation", which we believe will lead to satellite litigation. There needs to be clarity to avoid this. [continued overleaf] We appreciate that there will be a separate consultation on vulnerability, and that the post-implementation review in 2026 will review the levels of costs, but for completeness, we flag here that both vulnerability, and the lack of a mechanism to uplift costs, remain issues within the extended fixed recoverable costs scheme.	Mr Justice Trower (Costs Sub-Committee Chair) responded with thanks for bringing this to the committee's attention. As noted (under item 5 above), these issues will be considered in the review on vulnerability and the post-implementation review, respectively. He also emphasised that it is of assistance when issues of operation are encountered to provide evidence of any satellite litigation to help assess whether rule changes need to be made and if so how and what changes are desirable.

32	**FRC and Part 36 Offers** We are hearing from our subscribers that there is some confusion and disagreement among practitioners about the correct interpretation of the rules regarding how to calculate the amount of fixed recoverable costs (FRC) due to a defendant where a defendant's Part 36 offer is accepted late (i.e. after the end of the relevant period). For cases on the fast or intermediate tracks, the relevant fixed costs are set out in Tables 12 or 14 of PD 45, (as specified in Sections VI and VII of CPR 45) and they are calculated in part as a percentage of damages. However, it is not clear what damages figure is to be used when calculating the defendant's costs. CPR 45.6(2) and (3) provide that, when assessing the costs payable to a defendant by reference to the fixed costs in Tables 12 and 14, damages shall be calculated by reference to the amount specified in the claim form. However, CPR 36.23(6) provides that the fixed costs "shall be calculated by reference to the amount of the offer which is accepted". In addition, CPR 45.15 states that, where a Part 36 offer is accepted, CPR 36.23 applies instead of "the relevant Section". We assumed that this means the relevant Section in CPR 45.15, and that, therefore, CPR 36.23(6) applies both to defendants and claimants, so that, when a claimant accepts a defendant's Part 36 offer late, the defendant's FRC will be calculated by reference to the amount of the accepted offer instead of the amount specified in the claim form. In other words, CPR 45.6(2) and (3) are subject to CPR 45.15, so that CPR 36.23(6) applies both to claimants and defendants. Some practitioners agree with this interpretation. However, it has been suggested to us by some others that the words "relevant Section" in CPR 45.15 refer	*This is being considered out-of-committee*

	to the relevant section in CPR 36 and not to Sections VI, VII (or VIII) of CPR 45. This is on the basis that, since CPR 36 covers all types of cases, not just FRC cases, there is a need to distinguish between FRC cases and other cases; there is a need in CPR 45 to make clear that, within Part 36, CPR 36.23 applies instead of CPR 36.13. Accordingly, CPR 36.23(6) is only referring to the claimant's costs. The defendant's costs would still be calculated by reference to the amount specified in the claim form. It is also said that this would better fit with the "scheme" in CPR 45, which awards a winning claimant costs based on the amount settled or awarded and awards a winning defendant costs based on the value of the claim. We would be very grateful if members of the CPRC were able to clarify and let us know the correct interpretation.	
33	**Disclosure** Access to justice has been in the spotlight recently. One aspect of this is transparency of the Civil Procedure Rules. In the context of disclosure, the starting point is to identify the appropriate regime. Changes to the CPR (including changes to CPR 28.2 and CPR 31.5 implemented through the Civil Procedure (Amendment) Rules 2024 (SI 2024/106)) have had the effect of making the rules far more opaque. Previously CPR 31.5(1) (now deleted) very clearly set out the application of standard disclosure and the regime under CPR 31.5(3) to (8). Now, CPR 31.5(2) provides that, unless the court otherwise orders, paragraphs (3) to (8) apply to all intermediate and multi-track claims, other than those which include a claim for personal injuries. The rules do not expressly state what approach applies for claims including a claim for personal injuries. It is necessary to do a fair bit of digging around and to look at the model directions in order to establish the applicable approach.	*This is being considered out-of-committee*

	A number of questions arise, including: • Where are the provisions for standard disclosure to be the norm for fast track, intermediate track and multi-track claims including a claim for personal injury (which we understand to be the intention)? • Where are the provisions (previously in CPR 31.5(1)) stating that the court may dispense with or limit standard disclosure, and the parties may agree in writing to dispense with or to limit standard disclosure? • Should CPR 28 make some reference to PD 57AD? As a separate point, with the introduction of the intermediate track, should PD 31B.3 (which currently provides that "Unless the court orders otherwise, this Practice Direction only applies to proceedings that are (or are likely to be) allocated to the multi-track") be revised so that it also extends to intermediate track claims?	
34	**Disclosure** PD 31A.1.1 still states: "The normal order for disclosure will be an order that the parties give standard disclosure." This does not reflect changes made back in 2013	The DHCJ noted the question with thanks and directed officials to list the matter for consideration at the next meeting.
35	**Disclosure in the BCP (PD 57AD)** We also have a number of observations regarding PD 57AD, as follows: • Might it be time for the wording in PD 57AD.1.2 which reads: "This Practice Direction is substantially in the form of (and replaces) Practice Direction 51U" to be deleted? Readers won't be able to see PD 51U now. Or is it helpful as	*This is being considered out-of-committee*

	it makes clear the fact that court decisions considering PD 51U are still relevant? • PD 57AD.9.8 provides: "In considering Extended Disclosure as well as when complying with an order for Extended Disclosure the parties should have regard to the guidance set out in Section 3 of the Disclosure Review Document". The reference to Section 3 of the DRD needs updating. PD 57AD.10.8 provides: "The parties must each file and serve a signed Certificate of Compliance substantially in the form set out in Appendix 3 not less than two days before the case management conference. A Certificate of Compliance is not required for cases where a Disclosure Review Document has been dispensed with under paragraph 10.5.". The reference to paragraph 10.5 seems to be incorrect. Where is the provision allowing parties to dispense with (rather than modify, as provided for in paragraph 10.2) a DRD in cases where search-based Extended Disclosure is sought)?	
36	**Statements of truth** CPR 31.5(3) requires a disclosure report verified by a statement of truth. No form of words for this statement of truth is specified in CPR 31.5(3) or in CPR 22 or PD 22 (Statements of truth). However, Form N263: Disclosure Report provides wording as follows: "I believe that the facts stated in this disclosure report are true." We wanted to check that this wording continues to be acceptable rather than using the revised wording for certain statements of truth introduced by the 113th Practice Direction Update and by the 122nd Practice Direction Update? If the latter was the	The DHCJ noted the question with thanks and said that the matter will need looking into and the Lacuna Sub-Committee will be asked to do so. The matter will then be programmed in for CPRC consideration in due course.

	case, the wording would presumably read: "[I believe OR [The claimant OR AS MAY BE] believes] that the facts stated in this disclosure report are true. [I understand OR [The claimant OR AS MAY BE] understands] that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth."	
37	**Application Notices** Form N244 (other than the Commercial Court version) does not make it clear that an application notice must be signed (PD 23.2.1), even if no statement of truth is required because the applicant does not intend to rely on matters set out in that notice as evidence (CPR 22.1(3)). Should all versions of form N244 include a separate box for the applicant's (or their legal representative's) signature, as well as the signature box for the statement of truth (like N244(CC))? If so, while this is not the case, what should practitioners do when completing form N244 if they do not intend to rely on matters set out in the notice as evidence?	Master Sullivan explained for most applications, the applicant is likely to need to rely on evidence in support of the application and so will need to provide a statement of truth. In practice, the most frequent situation where there is no evidence within box 10 is when there is an attached witness statement. In that case, the relevant statement of truth box in the N244 should be ticked and the signature box completed indicating that the information in the witness statement is true (even though the witness statement will itself have a statement of truth). In a case where the application does not include any facts on which the applicant wishes to rely in section 10, they should nonetheless sign in the signature box on N244 but need not tick the box to say that they, or the applicant, believes the facts stated in section 10 (and any continuation sheets) are true. There is therefore currently no plan to amend the N244, but the forms sub-committee would consider this further if there is any evidence that litigants or practitioners are finding significant difficulties with this issue.
38	**CPR 5.4C (supply of court documents to a non-party)** The approved minutes of the December CPRC meeting noted that the CPRC consultation on proposed amendments to CPR 5.4C received a high number of responses and that Cockerill J is leading a sub-committee to review possible	District Judge Clarke referred to the answer given to question 22 above which explained the matter returned to the CPRC at the April 2025 meeting. The sub-committee has recommended a new pilot for public (i.e. non-parties) to access certain documents. The pilot is drafted to operate in the Commercial Court and function via CE-file. It is intended to run

	amendments to the CPR, which aligns with the goals of the Transparency and Open Justice Board. We understand that matters have moved on significantly. What is the current position and expected timing of further developments please?	for 2 years (commencing in October 2025, subject to final drafting and Ministerial concurrence). The intention is to keep the pilot under review, perhaps conducting an initial evaluation after the first six months with the possibility to expand to other courts.
39	**Electronic Signatures** Again, we understand that this is a matter of which the CPRC has made significant progress recently, and that there will be a consultation regarding proposed changes. What is the latest position/expected timing of future developments please?	Anja Lansbergen-Mills explained that at the March (2025) CPRC meeting, draft amendments were agreed in principle, subject to final drafting and subject to a public consultation. The proposals comprise reformed: • CPR 5.3 (signature of documents by mechanical means) • PD 5A (court documents) • PD 5B (communication and filing of documents by e-mail) No fixed timetable for consultation has been set due to the weight of other work, but it will be published online as soon as possible, so please keep an eye on the CPRC web pages.
40	**Electronic Working** The minutes of the February CPRC meeting said that the new electronic working practice direction (which is intended to replace PD 51O in due course) was being worked on and likely to come up for consideration at the April meeting. We would be very grateful for any "heads up" about whether there will be significant changes to the current procedure for electronic filing, and the likely timing.	Master Sullivan explained the intention is not to make a significant change to the current way in which CE-file is used, but to end the pilot in the CPR under which CE-file has been operating in some courts since November 2015 and to make, so far as possible, rules which will mean it is used consistently across the different CE-file Courts. A draft was considered at the April meeting which has gone out to various courts, judges and solicitors for consultation and which is now complete. It is hoped that the matter will be reconsidered shortly, possibly at the June 2025 meeting.
41	**Online Procedure Rule Committee** We have read with interest the published minutes of the Online Procedure Rule Committee. The minutes of the February 2025 meeting noted that the draft SI to give the OPRC rule making power was laid before Parliament on 29 January 2025 and that updates on the debate schedule were awaited.	The MR referred to his remarks in opening the meeting (under item 1 above) when he explained about the OPRCs recently acquired powers and work programme.

	We would be interested to have an update on how matters are progressing, and whether there are any further insights regarding how the CPRC and OPRC are likely to work together.	
42	**Arbitration** Now that the Arbitration Act 2025 has been passed (although not yet in force), is the CPRC able to say if there will be any form of consultation or proposed timetable for the new CPR contemplated by the amendments to section 67 of the Arbitration Act 1996 introduced by the new legislation? The relevant new sections are highlighted, below. **Section 67 (AS AMENDED)** 1) A party to arbitral proceedings may (upon notice to the other parties and to the tribunal) apply to the court— (a) challenging any award of the arbitral tribunal as to its substantive jurisdiction; or [(b) challenging an award made by the tribunal on the merits because the tribunal did not have substantive jurisdiction.] A party may lose the right to object (see section 73) and the right to apply is subject to the restrictions in section 70(2) and (3). (2) The arbitral tribunal may continue the arbitral proceedings and make a further award while an application to the court under this section is pending in relation to an award as to jurisdiction. [(3) On an application under this section, the court may by order— (a) confirm the award, (b) vary the award, (c) remit the award to the tribunal, in whole or in part, for reconsideration, (d) set aside the award, in whole or in part, or (e) declare the award to be of no effect, in whole or in part. (3A) The court must not exercise its power to set aside or to declare an award to be of no effect, in	DHCJ explained that a final decision has not yet been made, but the working assumption from government is that no CPR changes are necessary before the commencement of the Arbitration Act 2025. However, consultation with Commercial Court judges is to take place, after which the CPRC will await a more formal report, which will be programmed in as required and progress can be followed via the published minutes.

	whole or in part, unless it is satisfied that it would be inappropriate to remit the matters in question to the tribunal for reconsideration. [(3B) Rules of court about the procedure to be followed on an application under this section may, in particular, include provision within subsection (3C) in relation to a case where the application— (a relates to an objection as to the arbitral tribunal's substantive jurisdiction on which the tribunal has already ruled, and (b) is made by a party that took part in the arbitral proceedings. (3C) Provision is within this subsection if it provides that subject to the court ruling otherwise in the interests of justice— (a) a ground for the objection that was not raised before the arbitral tribunal must not be raised before the court unless the applicant shows that, at the time the applicant took part in the proceedings, the applicant did not know and could not with reasonable diligence have discovered the ground; (b) evidence that was not put before the tribunal must not be considered by the court unless the applicant shows that, at the time the applicant took part in the proceedings, the applicant could not with reasonable diligence have put the evidence before the tribunal; (c) evidence that was heard by the tribunal must not be re-heard by the court. (3D) Subsection (3B) does not limit the generality of the power to make rules of court	
43	**AI** We have read with interest judicial speeches (by Sir Geoffrey Vos MR and others) considering the potential role of AI in the future of civil justice. Is the CPRC expecting to consider any rule changes to reflect developments in AI, in the near future?	The MR referred to his earlier answer to question 6 above.

44	**Future CPRC work programme** Changes to CPR 25 (and the revocation of PD 25A) resulting from the review by the Simplification Sub-committee took effect on 7 April 2025. What rules are next in line to be considered? What are the other key issues expected to keep the CPRC busy over the next six months or so?	The DHCJ addressed the point concerning simplification (question 3 above) he also explained other key projects include: • Service – which is a particularly big project with a package of possible reforms. • E-Signature – (proposed amends to Part 5) • FRC Stocktake • Lacuna Sub-Committee referrals • E-Working – the replacement for PD51O • Court Documents (Cape v Dring) monitoring of new pilot scheme and possible extension • JR reforms in significant planning cases • Parallel working with the OPRC • Other strands of work from Government
45	**Credit Hire Standard Directions Orders** A claimant solicitor and professional trainer (who is also the Deputy Vice President of a regional branch of the Law Society) has raises concerns with the Damages Claims Portal Standard Directions Orders in credit hire cases and an apparent conflict with PD16 (which they report is causing satellite litigation).	The DHCJ explained this matter has been noted and is being investigated as a priority. A report from the Damages and Money Claims Committee (who approved them) will be forthcoming as soon as practicable.

Item 9 Any Other Business from Committee members:

70. **PD3E (Costs Capping) Guidance Notes.** The DHCJ explained and **AGREED** that the link within the CPR online, for what is now defunct guidance to the legacy PD3E on cost budgeting, should have been removed when PD3E was replaced by PD3D (costs management). **THANKS** were conveyed to Master Sullivan and Mr Justice Trower who had looked at this out-of-committee. **Action:** Secretariat to instruct the web team accordingly.

71. **Rule 54.5 (Judicial Review – time limit for filing claim form).** Mr Justice Pepperall explained that the Public Contracts Regulations 2015 were revoked in February upon the implementation of the Procurement Act 2023. Rule 54.5 still refers to the revoked regulations and not to the Act. The necessary consequential amendments are, therefore, required to bring the CPR up to date. It was **NOTED** that Mr Justice Chamberlain (judge in charge of the Administrative Court) is aware. It was **AGREED** that Drafting Lawyers prepare draft amendment/s, in consultation with Pepperall and Chamberlain JJ before reverting to the committee for approval. **Action:** MoJ Legal to prepare draft amendment/s

and keep the Secretariat appraised in order to list the matter on the agenda as soon as practicable.

72. **Alternative Dispute Resolution (ADR) and Education.** Isabel Hitching KC explained that she had led a session for law students at Middle Temple on the CPR amendments flowing from the *Churchill* judgment and on ADR generally. The aspiration is to introduce an annual lecture and extend participation to practitioners. This was **NOTED** with thanks.

73. **Close:** The meeting was closed with thanks to everyone for taking the time and trouble to attend, whether in person or remotely.

Date of next (mainstream) committee meeting: 6th June 2025

C B POOLE
May 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
Amrita Dhaliwal, Ministry of Justice (MoJ)
Andrew Currans, Government Legal Department (MoJ)
Katie Fowkes, Government Legal Department (MoJ)
Faye Whates, HM Courts & Tribunals Service (HMCTS)
Mr Justice Jacobs (Item 3)
Denny Jicheva, Department for Science, Innovation and Technology (DSIT) (Item 3)
Vivienne Goulburn, Government Legal Department (DSIT) (Item 3)
Kathryn Flynn, Department for Health and Social Care (DHSC) (Item 4)
Phil Harper, DHSC (Item 4)
Kin Pan, Government Legal Department (DHSC) (Item 4)
Niccola Parkes, MoJ, (Item 5)
Abi Marx, MoJ (Item 6)