Approved

Minutes of the Civil Procedure Rule Committee

Friday 6th June 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 (until Item 4)
His Honour Judge Bird
His Honour Judge Hywel James
District Judge Clarke
District Judge Johnson
David Marshall
Dr Anja Lansbergen-Mills
Isabel Hitching KC
Tom Montagu-Smith KC
Ben Roe
Ian Curtis-Nye
Elisabetta Sciallis

Apologies

Members: Campbell Forsyth
Non-Members and Officials: Master Iain Pester (Item 3); 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 9th May 2025, were **AGREED.**

3. **Action Log and any matters arising not covered by later items:** The following items were raised and **NOTED**:

    - **AL(25)18 Forms and Standard Orders.** Various aspects of work in respect of forms and model and standard orders is ongoing. To rationalise and prioritise the tasks, a new working group will be established, with Master Sullivan as the non-executive Chair. **Action:** Chair and Secretariat to finalise details out-of-committee.

    - **AL(25)39 Digital Markets, Competition and Consumers Act.** This was agreed, subject to final drafting, at the last meeting and work has been underway to produce perfected drafting for inclusion in the summer Update cycle. The finalised worked-up draft is circulating amongst the sub-committee for approval, a couple of substantive points have arisen but are not expected to occupy the full committee.

    - **AL(25)41 FRC Housing Exemption.** MoJ advised that, the Government will extend the exemption of housing cases from the Fixed Recoverable Costs (FRC) regime until October 2028, when the exemption will be reviewed. This is due to the

ongoing developments underway in the housing sector, including changes resulting from the Renters' Rights Bill and Awaab's Law. The upcoming FRC stocktake will seek to gather more data on costs in housing claims, to support understanding of this area. The MoJ will work with the CPRC costs sub-committee on any necessary clarification to the rules.

Item 2 Open Justice & Access to Court Documents: Public Domain Documents Pilot Practice Direction CPR(25)25

4. Mrs Justice Cockerill was welcomed to the meeting.

5. The Chair made some introductory remarks and expressed **THANKS** to the sub-committee; those present being Mrs Justice Cockerill (co-opted Chair), His Honour Judge James, District Judge Clarke and Crystal Hung (Judicial Office) for their time and care on this important work. The matter was last before the Committee in April 2025.

6. The aim is to advance the principle of open justice in the civil courts by testing a new scheme to operate, via the existing CE-File system and initially in the Commercial Court, London Circuit Commercial Court and the Financial List, for an initial two-year period. Its operative context is that it is only in relation to documents which enter the public domain as a matter of common law principles as explained in the Supreme Court judgment of Cape Intermediate Holdings Ltd -v- Dring [2019] UKSC 38. The draft for the pilot is to introduce new rules governing documents which enter the public domain only. It does not affect existing CPR regimes relating to access to documents on the Court's own file etc. The pilot only applies to documents which enter the public domain via a hearing which takes place in open court. Where a hearing is conducted in private it does not apply. There is also no scope for inadvertent publication by the Court of private material. Instead, the matter of filing, as a public document, is in the party's control. Accordingly, publication is the default position and the party who wishes not to file, or to file in part only, will have to seek an order to that effect before the deadline for filing. These are termed "Restriction Orders" – or title yet to be settled. The pilot steers away from formal applications by the parties for Restriction Orders. What is envisaged is that there be a relatively informal process as part of the trial or hearing, where appropriate.

7. A revised draft pilot PD was presented. Cockerill J explained how each of the points from the April meeting had been carefully considered and responded to. A discussion ensued in relation to the form of title for the, "Restriction Orders". Because other types of restriction orders already exist, a more descriptive name should be found for orders under this PD, to avoid confusion. A revised title of "Filing Modification Order" (shortened to "FMO") was proposed, discussed and **AGREED**.

8. One point from the April meeting that has not been adopted is a point raised by Mr Justice Pepperall who suggested that an amendment that a judge considering making a Restriction Order may require a party to serve notice on the press and invite submission. The sub-committee's view is that, whilst this may be helpful in relation to documents that have already become public domain documents, there is a risk of inviting fishing expeditions and of overcomplicating what should, in most cases, be a relatively informal process which forms part of a hearing. This was **NOTED**.

9. In response to a question from Katie Fowkes (MoJ Legal) regarding the definition of the filing period and draft paragraph 6, it was **AGREED** to review the text and recast it if it is possible to be more explicit. Other points in the interests of consistency and simplicity were made and noted.

10. The associated draft guidance note for users had also undergone revision. This was not, directly, a matter for the Committee, but was duly **NOTED**.

11. The Chair reiterated his thanks for all the work on this thus far and explained that there were now various practical issues for MoJ to consider before the matter can be implemented and subject to approval from the Minister.

12. Cockerill J explained the working assumptions and ongoing work as regards evaluating the scheme, once it is introduced and this was **NOTED WITH THANKS.** The goal is to introduce the pilot scheme in October 2025.

13. It was **RESOLVED to agree in principle, subject to the above points, final drafting and completion of MoJ's investigations:**

    - new Pilot PD "Public Domain Documents" to be introduced under CPR Part 51 to test a new scheme for public access to certain court documents, in response to the Supreme Court judgment in Cape Intermediate Holdings Ltd -v- Dring [2019] UKSC 38. The pilot is intended to operate initially in the Commercial Court, London Circuit Commercial Court and the Financial List.

14. **Actions:** (i) In liaison with the Chair and Cockerill J, MoJ to complete the necessary policy and legal related work to effect implementation at the earliest opportunity (ii) MoJ to keep the Secretariat appraised.

Item 3 PD51O E-Working Pilot CPR(25)26

15. The Chair introduced the matter by expressing **THANKS** to Master Sullivan who has led the work, along with Master Pester (who sends his apologies due to sitting); and to Mr Justice Chamberlain and Senior Costs Judge Rowley, who have also contributed. Additionally, ICC Judge Catherine Burton is also engaged, given the interaction with the Insolvency Rules and for which the related drafting has been framed with great care.

16. Master Sullivan extended the thanks to Katie Fowkes (MoJ Legal) for her invaluable assistance and to David Marshall for facilitating some of the consultation.

17. This matter was before the Committee in June 2024 and more recently in April 2025, since which, further revisions have been made and consultations conducted with relevant court staff and lawyers, a number of District Registries, the Administrative Court Office, the Court of Appeal and with practitioners via the Law Society and the London Solicitors Litigation Association (LSLA). As a result, some drafting changes have been incorporated. Revisions have been made in relation to the Court of Appeal and Administrative Court where the processes are slightly different and time limits for service are very short and in light of urgent applications. Other points raised during the consultation were out of scope, for example issues with the CE-file system itself. A schedule providing all consultaion responses was duly **NOTED.**

18. The proposed amendments serve to replace the pilot PD 51O with a new mainstream PD 5C and make other amendments to the substantive rules in consequence. The reforms provide that the use of CE-File in the relevant courts is mandatory, subject to Mr Justice Chamberlain's view in respect of the Administrative Court, which only started to use the system last year, meaning it is still relatively new and mandation is currently being considered.

19. Various other points of detail were also raised, discussed and resolved upon (including the recasting of provisions referring to fee remissions in paragraph 1.5 of the draft PD and the

removal of “fax” from CPR 5.5(1) as an express term, because it is covered by “other electronic means” and does not change the scope of the rules); in doing so it was recognised that there are some jurisdictional variations in practice and they have been regulated within the PD to best effect. Central to this is the use of “date of filing” for the purpose of the rules and the “filed date” which is the issue date on the CE-File system. This raises an issue about the meaning of “submission”. A drafting solution will be settled out-of-committee. Mr Justice Pepperall urged those responsible to deal with these important points when designing the system to replace CE-File in the future.

20. The Chair observed that there needs to be a provision to reflect the practice in the Court of Appeal to make sure the outward facing text is correct, this too, will be settled out-of-committee.

21. The current e-working pilot PD51O is due to expire on 1st November 2025. The intention, therefore, is that the replacement rules and PD will be included in the forthcoming summer Update for an October 2025 in-force.

22. The Insolvency PD will also need amending in consequence, MoJ Legal are in contact with the Chancellor’s office to facilitate that.

23. It was **RESOLVED, to approve, subject to the above points and to final drafting:**

    - **Introduction of a new PD, PD5C (CE File electronic filing and case management system)** in place of PD51O (electronic working pilot scheme;

    - **Amendment to CPR Part 2 (Application and Interpretation of the Rules) r.2.8(5) (Time);**

    - **Amendment to CPR Part 5 (Court Documents) r.5.5 (Filing and sending documents).**

24. **Actions:** (i) In consultation with Master Sullivan and Chamberlain J, final drafting to be prepared for inclusion into the next CPR Update (ii) Chair to consult the Court of Appeal following receipt of final drafting.

Item 4 Part 75 and PD75 Traffic Enforcement CPR(25)27

25. His Honour Judge Ivan Ranson was welcomed to the meeting, along with Sam Toyn (Ministry of Justice) and Kimberley Thompson (HM Courts & Tribunals Service (HMCTS)).

26. The Chair gave some introductory remarks, explaining that HHJ Ranson was the Designated Civil Judge Online. The role was introduced at the end of 2023 to provide further civil judicial leadership capacity, particularly to national services and the digital system.

27. At present, there is ongoing work with HMCTS and MoJ to produce a suite of amendments to bring CPR Part 75 up to date in relation to practice at the HMCTS Traffic Enforcement Centre (TEC).

28. The amendments, which also extend to a package of proposed form changes, include general updating to the rules and PD under Part 75 (traffic enforcement). This includes updating address details, references to the single County Court, compatibility with future anticipated upgrades to the system under the Civil Project; other linguistic changes to better reflect certain Regulatory provisions (for example regarding warrants) and in doing

so, to provide improved efficiencies overall. The exercise also intends to clarify practice and procedure in relation to court officer functions at the TEC.

29. HHJ Ranson explained the issues being experienced in practice, which were discussed. A particularly acute issue concerns the practice and procedure regarding a court officer's order (using delegated powers) and that amendments have been introduced requiring reasons to be given when the court officer makes an order accepting or refusing an application for out of time witness statement or statutory declaration. The issue of the review of the court officer order raises wider issues for MoJ to consider, especially in the context of fees policy and any potential reforms to the TEC fee regime more broadly.

30. It was **RESOLVED** to:

    - **AGREE** the amendments in principle, subject to drafting proposals returning to the Committee for further consideration and resolution;

    - Provide the **STEER** that amendments should be cast to provide that a court officer's order does include reasons. It was **NOTED** that local practice has already been revised in this regard.

    - **AGREE** that the consultation audience should be further considered, to include wider representation, in particular to include advice centres. Ian Curtis-Nye indicated a willingness to assist with this and this was **AGREED.**

    - **NOTE** that MoJ are actively considering the policy implications and will report back in October.

31. **Actions**: Secretariat to allocate time in the October 2025 meeting for the matter to return; MoJ to keep the Secretariat appraised for programming purposes.

Item 5 Summary Assessment: R(Isah) v Secretary of State [2023] CPR(25)28

32. Mr Justice Trower presented the matter; **THANKS** were also conveyed to Ian Curtis-Nye.

33. The origins of this issue date back to a Lacuna Sub-Committee (LSC) matter in May 2023 and an action from the December 2024 meeting.

34. In the normal case, a summary assessment of costs is made at the conclusion of a hearing. However, PD 44 paragraph 9.7 contemplates that the assessment may be made at a later date, albeit at a further hearing before the same judge. The question of whether that assessment may be undertaken by another judge was most recently considered in R(Isah) v Secretary of State [2023] EWCA Civ 268, in which the Court of Appeal decided that the CPR did not permit this to occur.

35. When the LSC considered this issue, it highlighted circumstances that may arise where directing a summary assessment by another judge is appropriate, for example: where similar issues may arise in relation to the costs of other hearings as on the summary assessment, or the summary assessment has been adjourned and there would be practical difficulties of listing it before the hearing judge.

36. The intention of the proposed amendment is to provide sufficient flexibility to allow a judge, other than the judge who made the original decision, to summarily assess costs, where there is good reason to do so.

37. Trower J and Mr Curtis-Nye did consider whether to be more prescriptive of the circumstances which might amount to good reason but decided that this risked a different form of inflexibility. It was also considered whether the test should be "exceptional circumstances", but concluded this was too high a hurdle and that "good reason" provided the right balance between sufficient flexibility and it not becoming the norm.

38. It was not thought appropriate for this proposed jurisdiction to be extended to enable summary assessments to be carried out at a later date by costs officers. Such an extension is opposed by the costs judges, because of the danger that it would become a form of detailed assessment by another name, thereby blurring the important distinction between the two different forms of assessment.

39. It should, therefore, be limited to another judge of "coordinate jurisdiction". The proposed drafting of "coordinate jurisdiction" for r.44.6 was discussed. Tom Montagu-Smith KC suggested a possible alternative which garnered support. It was **AGREED** to settle the drafting out-of-committee.

40. Following an observation from Master Dagnall, who prepared the original LSC report, the Chair made clear that the amendments are not intended to introduce a new process for delegating summary assessment, it is addressing an issue in the judgment to improve the process.

41. Neither was it desirable for these assessments to be delegated to costs officers. Instead, the assessment should be carried out by another judge who would have had jurisdiction to make the decision which gave rise to the costs order.

42. The direction to deal with the summary assessment at a later date will be given at the time the substantive decision is made. The decision as to whether the same judge should deal with the matter does not need to be made at the same time.

43. The amendments should also make clear that the summary assessment made at the time of the substantive decision and any summary assessment made at a later date can be carried out after any decision at which a costs order is made; it does not need to be limited to occasions on which a decision has been made only after a hearing. This would be another change from the existing drafting of PD 44 paragraph 9.7.

44. It was **RESOLVED:**

- **To approve in principle, subject to final drafting** an amendment to the definition of summary assessment in CPR r.44.1 and amendments in r.44.6 and PD 44, paragraph 9.7.

- **Not to conduct further consultation.** At the time the LSC considered the matter in May 2023, there was a limited informal consultation with the then Senior Costs Judge Gordon-Saker and Master Brown. The scope of the change is relatively limited, and the proposal provides for a restricted discretion, the absence of which the Court of Appeal regarded as leaving the court in an inflexible position which did not meet the justice of every case.

45. **Actions:** (i) Trower J and Mr Montagu-Smith KC to consider, out-of-committee, alternative drafting for "coordinate jurisdiction" in r.44.6 and refer to the Chair for approval (ii) subject to that, Drafting Lawyers and Secretariat to include in the next CPR Update as part of the October 2025 in-force cycle.

Item 6 Arbitration Act 2025 CPR(25)29

46. Saqib Helal (Ministry of Justice) was welcomed to the meeting. The Chair provided some introductory remarks.

47. The Arbitration Act 1996 provides the legal framework for arbitration in England and Wales, and Northern Ireland. In late 2021, several stakeholders called for the 1996 Act's operation to be reviewed. The resulting Law Commission review recommended several targeted updates to the arbitral regime, to make arbitration fairer and more efficient. The Law Commission's recommendations are given effect in the Arbitration Act 2025, which received Royal Assent on 24 February 2025. However, the 2025 Act's substantive measures (section 1-15) require commencement regulations to be made by the Secretary of State. In the absence of transitional or saving provisions, the measures will apply to arbitration agreements whenever made, but not to arbitration proceedings commenced before the date on which the rest of the Act comes into force, nor to legal proceedings in respect of such arbitration proceeding (section 17(4)).

48. Following consultation with Commercial Court judges, the proposed amendments to CPR 62.10 (Arbitration Claims – Hearings) and PD62 (Arbitration) are tabled in consequence of the Arbitration Act 2025 and are intended to come into force at the same time as, or shortly after, the Act comes into force. They are essentially deletions to bring the rules up to date and are therefore modest in scale but important.

49. It was **RESOLVED** to:

    - **NOTE WITH THANKS** that Mr Justice Henshaw (Judge in Charge of the Commercial Court) has been consulted and is content.

    - **APPROVE** the amendments, subject to final drafting and consideration of any wider consequential amendments (such as renumbering). However, as the 2025 Act is not yet in force, the amendments will be incorporated into a suitable update cycle as soon as is practicable.

    - **NOTE** that if there are any form amendments required in consequence, specifically to the Arbitration claim form N8, the accompanying notes in forms 8A, 8B and the acknowledgement of service form N15) then they can be considered out-of-committee in consultation with the relevant judges and Forms Sub-Committee.

    - **NOTE** possible further work pursuant to the provision in the 2025 Act which empowers the Committee to make new rules of court for appeals under section 67 of the 1996 Act (Challenging the award: substantive jurisdiction) that depart from current case law. MoJ undertook to revert as to the necessity and timescale for this work. If a Sub-Committee is required, it should have Commercial Court judiciary representation.

50. **Actions:** (i) Drafting Lawyers and Secretariat to retain the drafting in readiness for inclusion in a suitable legislative vehicle/updating cycle (ii) MoJ to advise on the timings for commencement (iii) MoJ to confirm if/when work in respect of s.67 appeals is required.

Item 7 PD31A Disclosure and Inspection (public question from May meeting) CPR(25)30

51. The Chair explained that at the last meeting, a public question was tabled which raised the need to consider amending PD31A to bring it up to date by omitting para 1.1.

52. The question read: *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.*

53. The matter has been considered by MoJ Legal. It appears that this matter relates back to amendments made to rule 31.5 in 2013 and further amendments made as part of the introduction of the intermediate track; in consequence of which, the statement in paragraph 1.1 has been superseded.

54. It is right to say that Rule 31.5(1) which provided that an order to give disclosure was an order to give "standard" disclosure, was omitted as from 6 April 2024 (Civil Procedure (Amendment) Rules 2024 (SI 2024/106)), with the introduction of the intermediate track. But, even before then, the rule was subject to revision following the Jackson Costs Review, which saw the insertion of sub-rules (2) to (8) of r.31.5 by the Civil Procedure (Amendment) Rules 2013 (SI 2013/262), and, as the correspondent suggests, means that paragraph 1.1 was superseded then.

55. **THANKS** were expressed to the public observer for raising the point and to MoJ legal for their research and analysis.

56. It was **RESOLVED** to

    - Amend PD31A (Disclosure and Inspection) by omitting paragraph 1.1 altogether and, in this instance, renumber paragraphs 1.2 to 1.4, 1.1 to 1.3, respectively.

57. **Actions:** Drafting Lawyers and Secretariat to incorporate into the upcoming CPR Update as part of the 1st October common-commencement date cycle.

Item 8 Lacuna Sub-Committee (LSC) (LSC2025/3) CPR(25)31

58. District Judge Clarke presented the matter.

59. The referral arose following an approach by Mr Justice Roth, to consider whether CPR r.3.3(9) and r.3.4(6) ought to extend to a defendant's statement of case, namely that if the court strikes out a defence as totally without merit, that fact should be recorded in the court order.

60. DJ Clarke set out the LSC's analysis. The court has the power to control the issue of proceedings and applications by means of civil restraint orders (CRO). The threshold for making each type of CRO depends on the existence and number of findings that the party in question has made applications which are totally without merit. The court's power to strike out a statement of case is set out clearly at CPR r. 3.4(2) and applies equally to statements of case served by claimants, defendants and additional parties. The requirements at paragraph (6) were cited and it was explained that CPR r.3.3(9) is written in similar terms, but also refers to applications. It deals solely with orders made of the court own initiative. CPR r.3.3(9) and r.3.4(6) do not require the court to consider whether to make a "totally without merit" finding where it strikes out a statement of case served by a defendant or additional party. This creates a slightly unusual situation, in that the court, need not record a finding that a defence was totally without merit when striking it out, but must do so if the defendant's application to reinstate.

61. The LSC has carefully considered the purpose of rules 3.3(9) and 3.4(6). They require the court to consider whether to make a finding that a claim or application is totally without

merit solely to assist in building evidence to support the making of a CRO. It is difficult to envisage a situation in which a person may involve themselves in litigation in which they have no legitimate interest. A vexatious defence is likely to be made only in the face of a specific claim made against that defendant. In striking out such a defence, the court brings the proceedings to an end, so the defendant has little opportunity to make applications. Moreover, any amendments would necessitate a review of PD3C (civil restraint orders) and has potentially much wider implications.

62. A discussion ensued, which supported the LSC's assessment and endorsed the view that CROs are an important part of the judicial armoury, but was not without its complexities.

63. Trower J raised the work he and His Honour Judge Marc Dight had been undertaking following the Chancellor of the High Court's commission to consider some points of detail regarding the practice and procedure for CROs. The work had become far more extensive than first anticipated.

64. It was **RESOLVED:**

- **NO AMENDMENT IS REQUIRED.** The cases in which such an amendment may assist are likely to be rare and wider work is ongoing in any event.

- **APPOINT** Kelly Stricklin-Coutinho to the Lacuna Sub-Committee.

- **ALLOCATE TIME** at the next meeting to note a report on the CRO related work by Trower J and HHJ Dight and to consider next steps.

65. **Actions:** Secretariat to provisionally programme in a short item at the July meeting as above.

Item 9 Closed Material Procedure CPR(25)32

66. Chloe Wood (Ministry of Justice) was welcomed to the meeting. The Chair provided some introductory remarks.

67. It was reiterated that the committee had received an introductory presentation in November 2024 on the recommendations from the Independent Report on the Operation of Closed Material Procedure under the Justice and Security Act 2013 by Sir Robin Ouseley.

68. In April 2025, the committee agreed drafting to give effect to one aspect (rec 4) from the Ousley Report to make provision as to the circumstances in which the court may direct the relevant person to provide a closed defence or closed summary when determining an application for a declaration under section 6(2) of the Justice and Security Act 2013. Progress and ongoing work on the remaining recommendations was explained. It was **NOTED that:**

- MoJ have been consulting with practitioners, including the Government Legal Department Litigation teams, HMG Advocates and Special Advocates, throughout, as well as working with District Clarke and Lord Justice Singh on the proposed amendments.

- Further proposals will be forthcoming in due course as regards draft amendments as regards the ability for Special Advocates to make closed submissions or pleadings in draft (rec 5) and updating the CPR 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 (recs 9 and 13).

69. A discussion ensued, in which it was clarified that MoJ intend to include the amendments in a standalone SI to bring them into force ahead of the mainstream summer update as part of the October common-commencement date. However, if that is not possible, the amendments can be included in the committee's usual summer SI, albeit that these specific amendments may have an earlier in-force date as requested by government.

70. It was **RESOLVED to approve, subject to final drafting,** the amendments as proposed, to give effect to rec. 8 from the Ousley Report to provide the ability for communication requests to be agreed between parties, thereby codifying a practice which had been in place informally, for some years.

71. **Action:** Drafting Lawyers and Secretariat to retain the drafting in readiness for inclusion in a suitable legislative vehicle/updating cycle, expected to be a standalone SI in the early summer or in then alternative, for inclusion in the forthcoming mainstream CPR amending SI.

Item 10 Judicial Review Changes for Nationally Significant Infrastructure Projects (NSIP) CPR(25)33

72. Mr Justice Mould (Planning Liaison Judge and co-opted Chair of the sub-committee) was welcomed to the meeting, along with Lam Tran (Ministry of Justice) & Jennifer Tugman (MoJ Legal).

73. **THANKS,** were also relayed to Mr Justice Pepperall and Mr Justice Chamberlain (Judge in Charge of the Administrative Court) who also serve on the sub-committee member. Where relevant, Court of Appeal managers have also been consulted and are content with the proposals.

74. The Chair **NOTED** Isabel Hitching KC's **DECLARED PERSONAL INTEREST** in that a close family member is employed by East West Railway Co Limited and has a leadership role in the Development Consent Order ('DCO') process for the Oxford to Cambridge rail project. Consistent with the approach on the last occasion (in April 2025) Ms Hitching KC did not participate in the discussion or determination of this matter and confirmed that she will not participate in any discussions or decisions at any future meetings either.

75. The Chair provided some introductory remarks, highlighting the important government policy context and was pleased to acknowledge how productively work had been undertaken, and at pace, between the sub-committee and officials.

76. The amendments are intended to give effect to the government's proposed changes to the judicial review process for nationally significant infrastructure projects. In summary, they comprise amendments to give effect to Clause 11 of the Planning and Infrastructure Bill to: provide definitions of NSIP challenges and appeals, to require the removal of the paper permission stage for NSIP JRs and introduces a new provision in section 18(1) to remove the right of appeal for cases which are deemed to be totally without merit at the oral permission hearing in the High Court and thus, allow for parties to an NSIP judicial review to request a case management conference; provide that NSIP challenges are deemed Significant Planning Court Claims; and to introduce target timescales for NSIP appeals in the Court of Appeal (as recommended in the independent review by Lord Banner KC).

77. Mould J provided an overview of the proposed amendments, explaining that the changes are relatively limited. They comprise amendments to CPR 52 (Appeals), PD 52C (Appeals

to the Court of Appeal) and PD 54D (Planning Court Claims and Appeals to the Planning Court).

78. A discussion ensued. Pepperell J explained that, on reflection, he considered the proposed amendments to CPR r.52.12(5) to be in the wrong location and a better approach would be to relocate it in a new r.52.11A within Section III of Part 52 under a specific heading (and the necessary consequential changes) or move it into PD52D. If the PD solution was preferred, no amendment would be needed to r.52.12 and the PD provisions could be constructed so as to: (i) relocate the currently drafted new r.52.5(5) which provides for the four-week target for considering permission to appeal (ii) the definition of NSIP appeals currently proposed for r.52.3 and (iii) possibly also the drafted target in PD52C could be relocated into PD52D so that a single paragraph contains all of these modifications and targets for NSIP appeals. This was discussed, questions answered and overall, gained support. It was **AGREED** to relocate all the amendments into PD52C and PD54D, save for one modest rule amendment.

79. Other points of detail were raised and answered and the following **NOTED:**

    - the previously approved amendment to r.52.12(3) (appellant's notice) will need to be reflected in the final suite of amendments. This was a resolution at the March 2025 meeting following a consultation and report from the Lacuna Sub-Committee. It intends to provide that a copy of the appellant's notice served on the respondent shall be a sealed copy and, where served by the appellant, must be served no later than 14 days (rather than the current 7 days) after it is sealed (rather than, currently, when it is filed).

80. It was **RESOLVED** to:

    - **approve in principle, subject to the above points and to final drafting**, the amendments in give effect to the government's proposed change to the appeals of NSIP judicial reviews.

81. **Actions:** (i) MoJ/Judicial Office to confirm that Lord Justice Underhill (Vice-President of the Court of Appeal (Civil Division)) is content (ii) Drafting Lawyers and Secretariat to incorporate into the upcoming CPR Update as part of the 1st October common-commencement date cycle.

Item 11 Official Injury Claim (OIC) Portal: Whiplash reforms

82. Scott Tubbritt and Rezina Rai (Ministry of Justice) were welcomed to the meeting. Mr Tubbritt set out the purpose and context of the proposed changes, which comprised two main elements:

Amendments to the Pre-Action Protocol (PAP) for Personal Injury Claims below the Small Claims Limit in Road Traffic Accidents CPR(25)34

83. The proposed amendments to paragraphs 11.7 and 11.8 of the PAP intend to provide that the current forms set out in Annex C and D of the PAP will be directly generated by the OIC portal and thus make the system and the process more efficient, in particular when claiming for non-protocol vehicle costs (NVCs). The proposals follow feedback from users and industry consultation.

84. The Chair raised a governance point, given that the current forms are provided for by way of annexes to the PAP itself. He sought reassurance that the reforms did not raise issues of sub-delegation; this will need to be checked before final approval is given.

85. A discussion ensued.

86. His Honour Judge Bird (Whiplash Sub-Committee Chair) explained that the proposed changes have been checked by those who regularly deal with cases from the OIC portal, such as District Judge Hennessy, who supports the changes and this was duly **NOTED.**

87. To improve clarity, align language (currently both "create" and "generate" are used) and generally simplify, the drafting should be reviewed, and paragraph 11.7(2) should be recast to insert "the NVC" [document] after "this".

88. In response to a question from Ian Curtis-Nye regarding signposting for litigants in person, the initial view was that as these cases concern credit hire, all parties will be represented. However, the principle was **NOTED,** and it was **AGREED** that Mr Curtis-Nye can join the next sub-committee meeting to discuss the matter further.

89. It was **RESOLVED** to **agree, subject to the above points, final drafting and approval by the Master of the Rolls,** the amendments to paragraphs 11.7 and 11.8 of the Pre-Action Protocol for Personal Injury Claims below the Small Claims Limit in Road Traffic Accidents.

90. **Actions:** (i) In consultation with the Sub-Committee, MoJ legal and policy officials to address the above points and produce perfected drafting for approval out of committee (ii) MoJ legal to produce the requisite PAP amending instrument for onward referral, via the Secretariat and Chair, to the MR, for consideration as to final approval in due course.

Miscellaneous Form Amendments CPR(25)35

91. It was explained that, following industry consultation, there are a suite of amendments to various OIC related forms to (i) bring them in line with other civil forms by updating the vulnerability information (ii) reflect the last suite of amendments for limitation affected claims and (iii) to generally improve usability.

92. A discussion ensued which raised some detailed drafting points, such as whether some of the proposed changes to Form RTASC O (road traffic accident small claims – other) should be included under Section E (starting a claim due to limitation) instead of where they are currently included.

93. His Honour Judge James also raised a wider point as regards the Welsh language, which may be applicable to other/all civil forms and this was **NOTED.**

94. It was **RESOLVED** to delegate the matter to the Forms Sub-Committee, in consultation with the Whiplash Sub-Committee.

95. **Action:** MoJ policy, in liaison with the Secretariat, to refer the form amendments to the Sub-Committee/s when ready.

Item 12 Digital services – extension of pilot PDs CPR(25)36

96. The Chair explained the background and the need to consider a further extension to the two PDs governing the Online Civil Money Claims (OCMC) and Damages Claims Portal (DCP) pilot digital services. In the medium term, HMCTS are working through the final phase of enhanced functionalities that need adding to the services during their pilot phase and this will require several more PD Updates. The future state vision is that the digital

services will ultimately come under the auspices of the Online Procedure Rule Committee (OPRC), but to do so further legislation is required.

97. It was **RESOLVED** to

- **APPROVE** 12 month extensions to the operative periods of PD51R (OCMC) and PD51ZB (DCP) to 1st October 2026.

- **NOTE** that MoJ will report back in due course on the future state plans for transitioning governance of the OCMC and DCP services to Online Procedure Rule Committee (OPRC).

98. The Chair also drew attention to the most recent PD Update as prepared by the Damages and Money Claims Committee under chairmanship of Mr Justice Johnson and approved by the MR and Minister. The 184th PD update amends PD51R (Online Civil Money Claims (OCMC) and PD51ZB Damages Claims Portal (DCP). The Chair explained the new mandation element in that it introduces a new requirement that requires all claimants to use the OCMC website or DCP to notify the court that the claim has been settled in full. It also requires claimant legal representatives to use the OCMC website or DCP when discontinuing a claim in full. This was duly **NOTED.**

99. **Actions:** (i) Drafting Lawyers and Secretariat to incorporate the PD extensions in the next available updating instrument (ii) Secretariat to provisionally allocate time at the July 2025 meeting (iii) MoJ/Secretariat to report back in good time before the end of the extended period, namely no later than June 2026 if required.

Item 13 Any other business and possible future business

- **Online Procedure Rule Committee: public engagement papers CPR(25)37:** The Chair explained that the OPRC will soon be consulting on their "Inclusion Framework" and "Pre-action Model" and this was duly **NOTED.** The consultation documents represent two of the committee's three main workstreams (the other being property possession) and aim to set the future direction of travel for the OPRC. The Inclusion Framework sets out principles and standards to embed inclusion within the online court and tribunal proceedings across civil, family tribunals. It outlines how the OPRC will seek to embed legal, technological, and ethical best practices to promote a digital justice service that is accessible, equitable, and user centred. The Pre-action Model provides a framework of principles and standards for the provision of digital services to assist parties to resolve disputes without recourse to litigation. The OPRC is keen to prompt engagement and debate from a broad range of stakeholders. The provisional timetable is to publish the consultations in mid-July for around eight weeks.

- **Costs Sub-Committee work programme:** A brief oral update was given on current topics of potential business which government are considering preparing for CPRC consideration. In the first instance, an initial approach to the Costs Sub-Committee is underway. **Action:** MoJ and MoD to keep the Secretariat appraised for programming purposes.

- **Crime and Policing Bill: Respect Orders:** It was **NOTED** that future work may be required in consequence of the Crime and Policing Bill, which is currently in parliament. The government committed in their pre-election manifesto to introduce the "Respect Order", a new civil behavioural order, to enable courts to ban adult offenders from engaging in specified activities relating to their anti-social behaviour (ASB). The Respect Order partially replaces the existing Civil Injunction, however the Civil Injunction as it applies to under 18 year olds, and housing related nuisance ASB, will be retained without change,

and renamed the “youth injunction” and “housing injunction” (see Part 1, Chapter 1 of the Crime and Policing Bill.) As with the current civil injunction, Respect Orders can be applied for by police, local authorities and other agencies, and enable courts to place prohibitive and positive requirements on ASB offenders. Unlike the Civil Injunction, breach of a Respect Order will be a criminal offence, meaning suspected breaches can be enforced immediately rather than having to be proved in court. This change also means breaches will be heard in the magistrates’ court, which enables a wider range of sentencing options (community sentences, as well as the fines and custodial sentences) that are currently unavailable for the Civil Injunction. Once in force, the legislation will introduce the “Respect Order” which will be piloted before it is rolled out. Details of the pilot are yet to be confirmed and contingent on discussion across government and officials are expected to be discussing the matter with the Senior Presiding Judge for England and Wales in the first instance. Commencement is anticipated to be in Spring 2026. **Action:** Officials to keep the Secretariat appraised for programming purposes.

- **Summer SI and PD Update:** The Chair provided an overview of the anticipated content and timetable for the next mainstream CPR amending instruments. Subject to Ministerial approval, the instruments due to be published on/soon after 18th July 2025, being the anticipated parliamentary laying date for the SI to enter into force on 1st October 2025 (save for any earlier in-force dates, by exception, such as the closed material procedure amendments (from item 9 above) which were due to come into force on an earlier date to be confirmed. This was duly **NOTED. Action:** In liaison with members (to secure the requisite signatures), Drafting Lawyers and Secretariat to facilitate promulgation.

- **Law Society Event for CPRC and OPRC on 16th July 2025:** The Chair was pleased to confirm, with **THANKS**, that the Law Society will be hosting an event in July 2025 to mark the CPRC’s 25th anniversary and to discuss some key projects, current and future work of the CPRC and the OPRC, as well as hearing from the Law Society about their 21st Century Justice Project. The provisional timetable and content were discussed in outline and will be finalised out-of-committee. Invitations will be issued by the Law Society imminently.

Next meeting: 4th July 2025

C B POOLE
June 2025

Attendees:
Carl Poole, Committee Secretary
Kate Aujla, Deputy Committee Secretary & Policy Adviser
Kelly Stricklin-Coutinho (new member elect - observing)
Nichola Critchley, Civil Justice Council (observer)
Andy Caton, Judicial Office
Crystal Hung, Judicial Office
Marcia Williams, Ministry of Justice (MoJ)
Andrew Currans, Government Legal Department (MoJ)
Katie Fowkes, Government Legal Depart (MoJ)
Jennifer Tugman, Government Legal Depart (MoJ)
Faye Whates, HM Courts & Tribunals Service (HMCTS)
Mr Justice Jacobs (Item 1)
Mrs Justice Cockerill (Item 2)
His Honour Judge Ranson (Item 4)
Sam Toyn, MoJ (Item 4)
Kimberley Thompson, HMCTS (Item 4)
Master Dagnall (Item 5)
Saqib Helal, MoJ (Item 6)

Chloe Wood, MoJ (Item 9)
Mr Justice Mould (Item 10)
Lam Tran, MoJ (Item 10)
Scott Tubbritt, MoJ (Item11)
Rezina Rai, MoJ (Item 11)