Approved

Minutes of the Civil Procedure Rule Committee

Friday 9 October 2026, 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 Lady Justice Cockerill DBE, Deputy Head of Civil Justice (Chair)
The Hon Mr Justice Trower
The Hon Mr Justice Pepperall
Master Sullivan
His Honour Judge James
Her Honour Judge Emma Kelly
District Judge Clarke
District Judge Johnson
Ben Roe
Campbell Forsyth
Greg Cox
James Willan KC
James Egan
Ian Curtis-Nye
Elisabetta Sciallis

Apologies

Kelly Stricklin-Coutinho

Item 1 Welcome, Minutes of the last meeting, Action Log and any Matters Arising

1. The Chair welcomed members to the first meeting of the new legal year and set out some of the emerging priorities for what was due to be another busy period.

2. The Committee **WELCOMED** James Egan and James Willan KC as new members, together with Mr Justice Michael Green as an observer, prior to succeeding Mr Justice Trower as one of the High Court Judge members on the Committee.

3. The Chair provided **VALEDICTORY** remarks and deep thanks to Mr Justice Trower, for his outstanding contribution since October 2020, including his skillful chairmanship of the Cost's Sub-Committee and overseeing the extension of fixed recoverable costs – one of the most significant projects in recent years. His trade-mark clarity, care, good sense and unfailing courtesy have attracted praise from colleagues and officials alike. His contributions will be long remembered and much missed.

4. The **minutes of the last meeting on 3rd July 2026** were **AGREED.**

5. Members were reminded to keep their **register of interests** up to date and to notify the Chair and Secretariat of changes or interests relevant to individual agenda items.

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

- **AL(26)43 Housing Conditions Claims (England) Pre-Action Protocol:** the amendments approved in principle in June 2026 had been refined, approved by the Chair out-of-committee and will now be referred to the Master of the Rolls for ratification. Implementation was expected on 30 November 2026. Government officials are dealing separately with an accompanying guide. Further work concerning the Wales PAP remained necessary and would be undertaken in due course.

- **AL(25)21 Electronic signatures:** the consultation on proposed amendments to Part 5 had been published, with responses due by 13 November 2026.

- **AL(26)68 Welsh language:** MoJ legal's preliminary view is that ***Driver*** appears to require a procedural mechanism, not a mandatory Welsh-speaking judge in every case. To this end, option 3 from the consultation provides such a mechanism, while preserving flexibility. It is seen as adequately addressing the concerns identified in ***Driver*** and does not raise any obvious constitutional issues. His Honour Judge James intends to provide drafting proposals to the December meeting. Further, James Egan volunteered and was duly **APPOINTED** to join a new standing Sub-Committee for Welsh matters.

- **AL(26)64 Respect Orders:** the final suite of forms had been approved out-of-committee. A late request to include dates of birth was not adopted due to uncertainty over its purpose, but could be reviewed after the procedure had operated for a few months. Concern was recorded that court staff had not received sufficient communications ahead of commencement on 26 October 2026. HMCTS confirmed that staff webinars and training were in motion and implementation will be monitored as the changes bed-in. If any revisions are required as a result, those issues will be fed back.

- **AL(26)28 Business and Property Division:** the final suite of forms were completed in readiness of 01 October 2026 implementation. A destination table setting out the legacy and new forms has also been published via the CPR rules online homepage: https://www.justice.gov.uk/courts/procedure-rules/civil

7. **ACTIONS:** (i) Secretariat to (a) programme the Welsh language matter for December 2026 agenda (b) update sub-committee list to inlcude James Egan as an additional member of the new standing sub-committee (c) in liaison with MoJ legal, produce and refer the Housing PAP Update to the MR for approval and publication in the usual way (ii) HHJ James will lead a review of the Welsh Housing PAP, once the current Welsh Language review has been conducted (iii) HMCTS to keep Respect Orders implementation under review and report back any issues requiring CPRC consideration.

Item 2 CPR Part 73: Community Infrastructure Levy Regulations 2010 CPR(26)35

8. His Honour Judge Ranson was welcomed to the meeting.

9. Charging order applications are being made to the HMCTS Civil National Business Centre (CNBC) to enforce Magistrates' Court liability orders for unpaid Community Infrastructure Levy (CIL) debts. While the Community Infrastructure Levy Regulations 2010 provide a self-contained enforcement regime, including a direct right to apply for charging orders, CIL falls outside the scope of the Charging Orders Act 1979. As a result, CPR Part 73 does not expressly cover CIL Charging Order applications, creating a procedural gap.

10. A practical issue has also arisen, whereby legal advisers and court officers have not been able to exercise delegated functions in those cases, meaning such applications were being referred to judges unnecessarily.

11. The Committee considered whether the provision should be future-proofed by applying to charging orders under any enactment. It preferred the specific amendment proposed, noting the risk of unintended consequences, the challenges of accounting for differences between statutory schemes and the associated training implications.

12. It was **RESOLVED** to **APPROVE** the proposed amendments as drafted. Given that (a) the relevant leadership Judge had discussed the matter with related court officers and (b) the narrow nature of the amendments, there was **no need for further consultation**. The amendments will be included in the next CPR update, for intended commencement in April 2027.

13. **ACTIONS:** Secretariat and drafting lawyers to include the approved amendments in the next mainstream CPR update, if not before.

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Item 3 Lacuna Sub-Committee CPR(26)36

14. District Judge Clarke presented the matter: **Enforcement of orders for specific performance LSC2026/09**

15. This issue arose in an article by Professor Andrew Tettenborn in *The Conveyancer and Property Lawyer* and highlighted to the Committee be Lord Justice Birss. It was referred to the Lacuna Sub-Committee at the 06 March 2026 meeting (paragraph 43 of the minutes of that meeting refer).

16. The article examines what happens to enforcement in a very specific situation where the seller refuses to part with possession. It goes on to focus on an interpretation of CPR 83.14(1) which raises a risk that it can only being enforced against the seller and not a third party. The Sub-Committee does not find that to be the correct interpretation, noting that the article does not cover CPR 83.14(6) which expressly deals with the situation and provides a remedy. However, considering this referral has raised another issue as to whether it is right that this process is only available in the High Court, because if it is a County Court judgment, then it would need to be referred to the High Court to engage this form of enforcement.

17. A discussion followed. This included Master Sullivan explaining some of the practical distinctions between County Court and High Court enforcement. This highlighted a wider operational issue, including the differing experience and expertise between High Court Enforcement Officers and County Court Bailiffs, which may benefit from further review by those considering system-wide enforcement reform.

18. It was **NOTED** that**:**

    - There is no evidence of a material issue in practice.

    - The Enforcement Sub-Committee recently completed a significant review of Part 83 in the light of the Civil Justice Council's (CJC) recommendations and neither the CJC nor the Sub-Committee identified this issue as an area for further consideration or review.

19. It was **RESOLVED** that:

- A procedural gap (lacuna) does not exist, and no rule amendment was required.

- CPRC should refer the issue concerning High Court versus County Court enforcement to the working group considering wider enforcement reform.

20. **ACTIONS:** Secretariat to relay to HMCTS/MoJ Enforcement Policy to review as part of the Enforcement Reform work strand.

Item 4 Costs-Capping Pilot in Patent Cases: PD51ZD CPR(26)37

21. Campbell Forsyth presented the matter. Following the discussion at the June 2026 meeting (paragraphs 49 to 52 of the minutes of that meeting refer), the matter had been discussed with the leadership judges, and their feedback was **NOTED WITH THANKS**.

22. The Committee considered the future of PD51ZD, the Costs-Capping Pilot for Patent cases under the Shorter Trials Scheme (STS). Mr Justice Mellor has confirmed that there is limited data on the uptake of the pilot. Two relevant STS trials were identified, but there may be more. However, the time lag due to the lead time for this type of litigation may mean it is too early to properly gauge the uptake of the pilot.

23. The relevant judges and the court user group were considering why the scheme had not operated as intended and how it might be improved.

24. The Committee reiterated the concern regarding repeated extensions to pilots without a final evaluation. Any decision should align with a normal April or October update cycle, and the further extension should be treated as a “hard stop” rather than maintained merely while any broader reforms for Patent cases were considered.

25. It was **RESOLVED** to:

    - **APPROVE** an extension of the pilot PD 51ZD in line with the April 2028 common-commencement date;

    - **DIRECT** that a concluded proposal, whether to mainstream, amend or discontinue the scheme, should be returned in sufficient time for a decision by December 2027.

26. **ACTIONS:** (i) Mr Forsyth to communicate to the relevant judges and user group that a concluded proposal is required in time for a Committee decision by December 2027 (ii) Secretariat and drafting lawyers to inlcude in an ad-hoc PD update (before the end of December 2026) to prevent any gap in the pilot’s operation.

Item 5 Mandatory Mediation in the County Court: PD51ZE and PD51R CPR(26)38

27. Mr Bhamra and Mr Helal (MoJ) were welcomed to the meeting.

28. The Committee considered the draft evaluation and proposals for the future of the County Court Automatic Referral to Mediation (CARM) pilot under PD51ZE and the road traffic accident (RTA) non-personal injury ("bent metal") mediation pilot within the Online Civil Money Claims (OCMC) service under PD51R.

29. The evaluation showed positive outcomes across most claim types, but significantly lower settlement rates in flight delay and RTA bent metal claims.

30. The MoJ proposed extending both pilots until October 2027, removing flight delay and RTA bent metal claims from automatic referral to mediation from April 2027, and developing a permanent model for the remaining eligible small claims. Alternative forms of mediation/alternative dispute resolution (ADR) or later-stage resolution options would be explored for the excluded claim types.

31. A discussion followed.

32. Members broadly supported the direction of travel and agreed that mediation should become a mainstream feature of the small claims process. However, concerns were raised about the evidence supporting the proposed exclusions, the reasons for the low settlement rates, and the risk that removing entire categories of claim could be perceived as inconsistent with the wider policy objective of expanding ADR. Further information was sought on:
    i. the causes of low settlement rates in flight delay and RTA claims;
    ii. parties' engagement with mediation and authority to settle;
    iii. outcomes following unsuccessful mediations;
    iv. the impact of timing and operational factors;
    v. the possible use of early neutral evaluation (ENE);
    vi. sanctions for non-participation; and
    vii. the relationship between this work and the developing small claims paper-determination model.

33. HMCTS confirmed that additional data was becoming available for the two claim types and that further analysis could be undertaken of post-mediation case outcomes. Members were also informed of technical changes that would enable judges to see attendance and engagement information, without revealing the substance of mediation discussions.

34. Members accepted that the current early mandatory mediation model appears less effective for flight delay and RTA bent metal claims, and that a single model may not be suitable for all categories of case. Nevertheless, views differed on whether sufficient evidence had been provided to justify excluding those claim types at this stage. Some members considered that continued referral into a process producing poor outcomes created unnecessary delay and operational burden. Others were concerned about the message that exclusion might send, including the risk that it could be interpreted as suggesting such claims are unsuitable for ADR or perceived as rewarding poor engagement with mediation.

35. It was **RESOLVED:**

- **AGREE IN PRINCIPLE** that the pilots should be extended. However, the substantive decision on the duration of extensions and the future treatment of flight delay and RTA bent metal claims was **DEFERRED** pending further evidence and consideration of alternative approaches.

- **MATTER TO RETURN**, preferably in November 2026, having considered further evidence, informed, if possible, by experiences at high-volume court centres, and in co-ordination of other cross cutting work, such as the Online Damages Claims pilot PD51ZB (which currently has an operational period aligned with PD51R) and consideration of the paper-determination work being undertaken by the Sub-Committee chaired by District Judge Johnson.

36. **ACTIONS:** (i) HMCTS to provide further category-specific data, including available information on outcomes after unsuccessful mediation, and options for tailored or alternative

processes to Chair (ii) The mediation and small-claims paper determination workstreams to be considered together, so far as practicable (iii) Secretariat to programme a return to the Committee, preferably in November 2026, if ready (iv) MoJ to note deadline for extension to pilot PDs currently due to end in April 2027 is the December 2026 meeting, in order to incorporate any revisions (or adoption into the mainstream rules/PD) into the winter update cycle as part of the April 2027 common-commencement date.

Item 6 Nautical Assessors: *Kiveli c/w Afina I [2026] EWCA Civ 251* CPR(26)39

37. Mr Justice Andrew Baker (Admiralty Judge) was welcomed to the meeting.

38. **THANKS** were expressed to the Admiralty Court User Group for their time and care in preparing the proposed amendments.

39. This matter arose from the case of *Kiveli* (per Foxton LJ at [64]-[66] and per Coulson LJ at [142]-[151]). In this case, the principal issue was whether the vessels were in a "head-on" or a "crossing" situation under the International Regulations for Preventing Collisions at Sea (COLREGs). In determining the appeal, the Court of Appeal also raised a procedural issue that prompted the review and amendment to PD 52C (Appeals to the Court of Appeal) regarding nautical assessors. The court indicated that the existing PD, which effectively assumes that Admiralty appeals will be heard with two nautical assessors, was too rigid and that the need for assessors should instead be considered on a case-by-case basis.

40. In *Kiveli*, the existing default requirement for nautical assessors on an appeal had caused an adjournment. The proposed amendments replace that default position with a permissive regime under which a party seeking assessors must apply and explain the grounds of appeal giving rise to the need.

41. The Committee supported a self-contained procedural code in PD 52C, given the specialist and infrequent nature of the applications. It also supported provision enabling the Admiralty Court, when granting permission to appeal, to express a view on whether nautical assessors may be required.

42. Mr Justice Pepperall made several suggested revisions, which were discussed. The Chair observed that, from a purist perspective there was force in those points. However, given the specialist nature of the Admiralty jurisdiction, there was sound reason to leave the tabled amendments largely as drafted. One change that was favoured was to further amend CPR 61.13 to refer to "Nautical [Assessors]" and this was **AGREED.** The tabled amendment also included correcting the signpost which incorrectly refers to paragraph 26A and should read 26B. Additionally, the online version of CPR 61.13 (*justice.gov.uk)* needs reformatting.

43. In discussing the tabled replacement to paragraph 26B in PD52C, it was **AGREED** that the respondent provision in paragraph 26(6)(b) should refer directly to the respondent's notice (removing superfluous text) and the timing expressions should use "after" consistently (in place of "of"); gender-neutral pronouns should also be used throughout.

44. The amendment to CPR 52.24(3) by inserting a new sub-rule (f) preventing a court officer from determining the application was also **AGREED**.

45. It was **RESOLVED** to:

- **APPROVE the amendments to CPR 52.24(3), CPR 61.13 and PD52C, subject to the above points and to final drafting**. The amendments will be included in the next CPR update, for intended commencement in April 2027.

46. **ACTIONS:** (i) Andrew Baker J to settle a clean revised draft reflecting the agreed changes and liaise with the Secretariat (ii) Secretariat and drafting lawyers to include the amendments in the next CPR update (iii) Secretariat to instruct web team to make the necessary changes to the rules online, in the usual way, and specifically highlight the housekeeping required to current online version of CPR 61.13.

Item 7 Open Justice CPR(26)40

47. Isabel Hitching KC was welcomed to the meeting.

48. The Sub-Committee has been carefully considering how the notion of open justice can be embedded into the CPR. This work followed the resolution at the 27 March 2026 meeting when Mr Justice Nicklin, Chair of the Lady Chief Justice's Transparency and Open Justice Board addressed the meeting (paragraphs 4 – 13 of those minutes refer).

49. A steer on the way forward was required. Three possible options were proposed and discussed, they included a specific amendment to the Overriding Objective in Part 1 to include an express reference to open justice; a wider but targeted drafting exercise to amend the Overriding Objective and make a limited number of targeted amendments to other specific provisions; and a fuller review of the CPR. Each option presented benefits and challenges.

50. Concern was raised that a general amendment to the Overriding Objective could either be merely symbolic or be used to generate satellite litigation without sufficient explanation of its practical effect. This presented a significant risk of unintended consequences and resource implications. It may also risk conflict with other important public interests, such as the closed material procedure.

51. The purpose of a comprehensive review is to consider these risks more deeply and provide amendments that give operational clarity. However, that would be a substantial multi-year programme.

52. Members also emphasised the need to co-ordinate rule changes with court systems, forms (and therefore a review of CPR Part 4), HMCTS guidance and the wider landscape with implications for digital reforms in the County Court. The timing and interaction with existing pilots, especially the Access to Public Domain Documents Pilot PD 51ZH, also require careful consideration, to avoid making amendments in isolation.

53. It was **AGREED** that:

- the principle of amending the Overriding Objective is not opposed, but there are concerns of potential consequences and the need for cross-jurisdictional consideration;

- the preferred option is to undertake a comprehensive review of the entire CPR, resolving any inconsistencies and uncertainties relating to open justice, but this project would take a long time, require additional resources and need to be balanced with other priorities;

- in the meantime, (i) open justice implications can be considered on an ongoing basis alongside other work, with new items of business routinely addressing open justice implications (ii) contribute to Mr Justice Nicklin's new cross-jurisdictional working group;

- Mr Justice Michael Green was **APPOINTED** as the CPRC representative on the cross-jurisdictional working group;

- Isabel Hitching KC will provide a further briefing to Mr Justice Michael Green out-of-committee and in readiness of attending the cross-jurisdictional working group;

- the Sub-Committee will report back in due course.

54. **ACTIONS:** (i) Green J/Sub-Committee to report back when ready (iii) Secretariat to update the CPRC cover sheet to include a section for open justice considerations.

Item 8 Any Other Business

The following matters were dealt with by the Chair and **NOTED**.

Matter for decision:

55. **Experts and Assessors: PD35 CPR(26)41**. A missed consequential amendment identified by MoJ Legal was tabled. It was **APPROVED** as drafted. **ACTION:** Secretariat and drafting lawyers to include the amendment in the next CPR update as part of the April 2027 in-force cycle, if not before.

Possible Future Business:

56. **Access to Public Domain Documents pilot: PD51ZH**. The pilot was introduced on 01 January 2026. It is due to expire (unless varied) on 31 December 2027. The Sub-Committee, in liaison with users, Judicial Office Press Office and HMCTS have conducted a review of the first six months of operation. Some technical issues have been highlighted concerning identification of parties' documents, which may mean a recategorization of documents on CE-File is needed. The redaction of personal data has also been identified. All issues are being addressed. Overall, feedback has been favourable, and the review is sufficiently positive that consideration is being given to extend the pilot into the Business List and Patents Court. Subject to imminent user-group engagement, proposals to extend the pilot will return in November or December 2026, with possible implementation in the new year.

57. **Court of Appeal judgment in *Blackhorse Ltd [2026] EWCA Civ 831.*** The Court of Appeal judgment raised issues concerning group actions and CPR 7.3. It was **AGREED** that a standalone Sub-Committee should be established. Her Honour Judge Emma Kelly was invited to participate and was duly **APPOINTED** and will also identify additional members. **ACTION:** HHJ Kelly to revert to the Chair and Secretariat out-of-committee with proposed Sub-Committee membership.
Post Meeting Note: Permission to appeal to the Supreme Court was lodged on 15 October 2026. Sub-Committee therefore paused, pending outcome.

58. **Other future legislative work**. The following topics may necessitate Committee time and prior judicial engagement. In particular, the terrorism-related items will require consultation with Mrs Justice Cheema-Grubb, judge in charge of the Terrorism List.
    - The Social Housing Bill;
    - Youth Diversion Orders under the Crime and Policing Act 2026;
    - Historical Terrorism Offences.

Digitalisation and Simplification

59. It was **AGREED** that the Simplification Sub-Committee should engage with the digitalisation team at an early stage, so that system design and prospective rule drafting could be developed coherently. **ACTION:** Judicial Office and Secretariat to co-ordinate with MoJ.

Artificial Intelligence

60. Ben Roe updated the Committee, advising that cross-jurisdictional work to develop consistent principles on AI was underway and will further progress following the anticipated Civil Justice Council report. The AI Sub-Committee will revert with recommendations in due course. The AI-assisted trial review of the CPR had identified some possible amendments but also demonstrated the continuing need for human research into their origin and the appropriate correction. **ACTION:** Secretariat to provisionally allocate time at the November meeting for a Sub-Committee report.

Other updates

61. **Business and Property Division's Disclosure Review** Working Group's review was published on 30 July 2026: https://www.judiciary.uk/update-disclosure-review-working-group-survey-of-legal-sector-stakeholders/. The review provides a summary of the results of the user survey and sets out the working group's intention to produce proposals for the simplification of the regime in PD57AD, with a view to reducing complexity, front-loading and cost. The review notes that the working group will not be recommending a simple return to the mainstream Part 31 rules on disclosure and that it hopes to be able to consult on a series of recommendations later this year or in early 2027.

62. **New cover sheet for Committee business.** This now includes sections on forms, Welsh language, transitional provisions, and open justice. **ACTION:** Secretariat to circulate the revised cover sheet for immediate use.

63. **Revised timetable for the fixed recoverable costs (FRC) vulnerability review**. This was last mentioned at the July meeting (paragraph 20 in the minutes of that meeting refers). MoJ have since decided to change their approach to the review of the vulnerability provisions within the extended FRC regime. This change follows engagement with stakeholders, including the Association of Personal Injury Lawyers (APIL) and the Law Society. Principally because there is currently limited evidence available on how the provisions are operating in practice, given the relatively small number of cases that have progressed to the stage where vulnerability issues are likely to be considered. MoJ intends to align the timing of the vulnerability review with the wider Post-Implementation Review (PIR) of FRC, while ensuring that the vulnerability review remains a distinct exercise in its own right. MoJ will continue to engage with stakeholders as the review develops. The plan remains to publish the vulnerability review on the Committee's website but postponed it to sometime in 2027.

64. **Membership of the Costs Sub-Committee.** It was **RESOLVED to CO-OPT** the Senior Costs Judge, Judge Rowley, to the Costs Sub-Committee.

65. **Contempt Working Group.** Mr Justice Pepperall provided a brief oral update on the Law Commission's contempt work, including the possibility of a specific statutory rule-making power.

66. **Scottish Civil Justice Council**. Campbell Forsyth confirmed he had provided contact details to the Secretariat and hoped an initial introductory bilateral meeting could be held between the respective lead officials to discuss matters of mutual interest and potential for ongoing engagement.

67. **Correspondence**. Various items of correspondence were **NOTED WITH THANKS.** Each will be reviewed out-of-committee due to time constraints and then programmed in more substantively as required. James Egan offered to consider the topic regarding contentious trust and probate disputes. **ACTION:** Secretariat to discuss with Chair out-of-committee.

C B POOLE
October 2026

Attendees
Mr Poole, Committee Secretary
Ms Aujla, Deputy Committee Secretary & Policy Advisor
Mr Caton, Judicial Office
Mr Patel, Judicial Office
Ms Dhaliwal, Ministry of Justice (MoJ)
Mr Currans, Government Legal Department (MoJ)
Ms Whates, HM Courts & Tribunals Service (HMCTS)
Master Dagnall (Item 1)
His Honour Judge Ranson (Item 2)
Mr Bhamra, MoJ (Item 5)
Mr Helal, MoJ (Item 5)
Mr Justice Andrew Baker (Item 6)
Ms Hitching KC (Item 7)
Mr John Cuss, Civil Justice Council link member (observer)