



SYNOPSIS

Thursday 23 July 2015

- The Council thanked Mr Justice Foskett, at his final CJC meeting, for his major contribution to the work of the Council.
- The final report of the Council's **Triennial review** had been published and the various action points arising from the review - on improving governance and diversity - put in hand.
- The **Litigants in person (LIP) working group** had met, principally to plan the fourth national forum on 4 December 2015. New regional CJC workshops were also planned, with Hull and Bristol the most likely venues. Other developments reported included progress with a new judicial training module and publication of joint guidance by the professions on LiPs.
- It was noted that the Civil Procedure Rule Committee had agreed a new rule designed to assist judges in case managing proceedings with LiPs. The Council also felt that permitting e-signatures, particularly on statements of truth, would make things much easier for LiPs.
- The **'Impact of Jackson' working group's** report was not ready for this meeting and was due to be circulated shortly. One area which that report would not need to cover was costs in environmental cases, as the MoJ was actively considering next steps on this. The Council discussed the desirability of an amendment to the Courts and Legal Services Act to deal with problems arising out of changes of party or representative in a case straddling pre-and post-LASPO¹ costs regimes. The Council also discussed the possible timing of a further conference on the impact of the Jackson reforms.
- The **DBAs (Damages-Based Agreements) working group report** had been circulated to the Council in its final draft and the Council welcomed the Phase II report of the Working Group on policy issues relating to DBA regulations, and thanked Rachael Mulheron for a masterly paper. The report would now be sent to the Government, who would consider its recommendations.
- The **ODR (Online Dispute Resolution)** advisory group was awaiting further news on the shape of ODR within the framework of the HM Courts & Tribunal Service (HMCTS) modernisation programme.
- The new **Property disputes working group** had met for the first time, and started to examine the allocation of property disputes between courts and tribunals with a view to proposals to ensure that court users received the most efficient, quick and cheap resolution of their dispute. It was noted that a small conference in the new year may be needed.
- It was agreed that the Council should respond to new **consultation papers** on the **court and tribunal estate** – which would tie in with the CJC 's work on ODR and

¹ Legal Aid, Sentencing & Punishment of Offenders Act 2012

increased digitisation of court processes and **court and tribunal fees**, where concerns related to a number of quick succession fee increases and their deterring potential court users. There was also dissatisfaction that a number of important consultations were being conducted over the summer months. The CJC would not however respond to the review of the **MedCo** initiative, as it would be unlikely to add anything to the responses of the various members of the Council closely involved with the project. The secretariat would, however, also draft a response to the consultation on **judicial review** for members to comment on. The CJC's responses to consultations on *Female Genital Mutilation Protection Order fees* and on an *Insurance Fraud Taskforce* were noted.

- It was noted that the Department of Health was due to consult in November 2015 on proposals for fixed recoverable costs in **clinical negligence cases** and the Civil Procedure Rule Committee had been asked to assist in drawing up some draft rules for the purposes of the consultation, although leaving out figures for the fixed costs themselves. The MoJ would be consulting in parallel on whether the **recoverability of After-the-event (ATE) insurance premiums** for medical reports in clinical negligence cases should be limited or removed in line with most other areas of civil litigation. The CJC was broadly supportive of the principle of extending fixed recoverable costs, although the setting of fair rates for those fixed costs would be essential.
- The CJC had been conducting some **outreach work** – including a useful meeting with the Federation of Small Businesses which had given an insight into the operation of the civil justice system from a small business perspective. Further engagement was being sought with other business organisations, and there would also be follow up with **the CJC survey**, which was being conducted by a doctoral research student who was working for three months for the CJC as a research assistant part funded by the ESRC. That draft survey would be circulated to members for comments.
- The CJC discussed a report on **Alternate Dispute Resolution (ADR)** in consumer disputes which reviewed the small claims mediation service and various consumer conciliation services.
- The meeting was updated on appointments to the Council; a fresh competition for vacancies was to be run later in 2015. The CJC was planning meetings with organisations that could assist in a more diverse range of applications.
- It was noted that Lord Faulks had written to the CJC to request its assistance with **noise induced hearing loss claims** following concerns about the rise in the numbers and costs of this type of claim. It was agreed that the Council should set up a working group to consider this topic.
- It was further noted that the recent Budget had mentioned a forthcoming review of the activities of claims management companies. The meeting also noted the outcome of the Supreme Court judgment in *Coventry & Lawrence* which upheld the pre-LASPO regime relating to CFAs.
- The next meeting would take place on 29 October 2015.
- Under **Any other business**, the CJC agreed to contact the new *Welsh Government – Justice stakeholder group* and offer any help that would assist with their work.

Peter Farr
August 2015