



**ANNUAL REPORT
2019-2020**

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FOREWORD

The Civil Justice Council continues to play a vital role identifying issues, investigating, and advising on improvements to the civil justice system in England and Wales. It is clear from this annual report that the Council contributes to real and tangible change.

The reports and activities of the Council demonstrate the individual and collective commitment of its members. I want to take this opportunity to thank the members of the Council and those who support its ambitions for their continuing commitment.



The period of 2019-20 was a time of unprecedented change and challenge. The foundations of an online civil justice system were being laid. Good and accurate data is and was the key to understanding the successes and failures of the system. The Council continues to focus on improving available data.

It is an exciting time for civil justice, and I look forward to the challenges and opportunities that the next year will bring.

A handwritten signature in black ink, appearing to read 'Geoffrey Vos', with a horizontal line extending from the end of the signature.

Sir Geoffrey Vos
Master of the Rolls and Head of Civil Justice
Chairman of the Civil Justice Council

OVERVIEW OF 2019-2020

This report encompasses the period from September 2019 to December 2020.

To provide context, the work of the Civil Justice Council (CJC) has to be viewed alongside the events shaping the wider civil justice system. Prior to March 2020 the focus was on reducing the backlog in the civil courts. The period from March 2020 has been largely dominated by the Covid-19 pandemic. The measures put in place to limit the spread of Covid-19 required rapid and significant changes in the operation of the civil justice system, most visibly an increase in the use of remote hearings. Modernisation of the courts continues to be a central theme as the development and delivery of the Reform Programme has continued. Lessons learned from the pandemic and greater use of technology in the longer term will likely shape much of the CJC's future work.

The Council's own meetings, and those of its working groups, have taken place entirely remotely since March 2020. As improvements in the functionality and familiarity with remote technologies has advanced, the Council has adapted its ways of working. Meetings have on average seen greater attendance when held virtually compared to those held in-person.

The position of the Civil Justice Council as an advisory body necessarily means that the Council's primary role is to use its power of convening to make informed recommendations for others to take forward. As the Council does not implement the proposals it makes, it can be difficult to measure the success of its work.

The Council has taken important steps to better evaluate its work¹ from start to finish. At Appendix A is the Council's *Work Prioritisation Criteria*. This seeks to provide a consistent framework against which to assess the relevance and suitability of the Council to progress proposed or ongoing work. In an effort to understand the effect of completed work in the future, the Council will endeavour to form closer relationships with those to whom it is making recommendations, including inviting representatives to attend Council meetings on a regular basis.

During this period the central theme linking all of the Council's work and its ability to evaluate its achievements has been data. The Council has repeatedly called for a combined focus on capturing better data to provide a benchmark on which to measure the impact of completed work and to inform where future work is needed.

Membership² of the Council has remained stable in recent times, with four lay members being reappointed for an additional term.

The Council's most recent meeting, in October 2020, marked the last meeting with Sir Terence Etherton MR as the Chair before his retirement. It was also the final meeting with Lord Justice Coulson as Deputy Chair, as his tenure as Deputy Head of Civil Justice came to an end. Both members and secretariat alike extend their sincere gratitude to both individuals for their tireless work to improve the civil justice system.

¹ For more detail on the work of the Council, please see the business plan included at Appendix D.

² For more detail on the membership of the Council, please see the membership list included at Appendix B.

COMMITTEES, WORKING GROUPS AND EVENTS

Boundary Disputes

In 2016 the Civil Justice Council was tasked by the Ministry of Justice (MoJ) to put forward recommendations to improve the resolution of disputes between individuals concerning the boundaries to their land. A working group, chaired by District Judge William Jackson, was formed to look at this matter. The working group comprised of representatives of interested parties including mediators, the Property Litigation Association, the Property Tribunal and the Royal Institute of Chartered Surveyors.

In October 2019 the working group concluded its activity with the publication of a report³ and guidance note⁴ on boundary disputes.

Recommendations included:

- that the Council should publicise a guide for potential litigants in Boundary Disputes,
- that the parties should still be able to use the adjudication process enabled by the Land Registry Division of the First Tier Tribunal (Property Chamber), and
- the documentation available to both professionals, the voluntary advice sector and potential litigants must stress the need to produce a cost-effective solution and regard legal proceedings as a last resort.

Impact:

As of November 2020, the Royal Institute of Chartered Surveyors and the Property Litigation Association have launched a fixed fee boundary dispute mediation service. The Civil Procedure Rule Committee (CPRC) has considered this work and is likely to form a subcommittee to consider the issue in detail when its capacity allows.

Fixed Recoverable Costs in Low Value Clinical Negligence Claims

Lord Justice Jackson recommended in his 2017 report on fixed recoverable costs that the Civil Justice Council and the Department of Health and Social Care set up a working party of claimant and defendant representatives to develop a bespoke process for handling clinical negligence claims up to £25,000.

In April 2018, the Civil Justice Council put together a working group with both an inner core and a wider group of interested parties, consisting of representatives from all sides of the clinical negligence sector. Alongside costs, the group considered changing the pre-issue process; proposals for neutral evaluation; experts; and learning and patient safety.

In October 2019 the working group completed its work and published a report⁵ on fixed recoverable costs in lower value clinical negligence claims.

³ <https://www.judiciary.uk/wp-content/uploads/2019/10/CJC-REPORT-IN-RELATION-TO-BOUNDARY-DISPUTES-.pdf>

⁴ <https://www.judiciary.uk/wp-content/uploads/2019/10/CJC-Boundary-Disputes-Guidance-Note-Aug-2018.pdf>

⁵ <https://www.judiciary.uk/related-offices-and-bodies/advisory-bodies/cjc/archive/fixed-recoverable-costs-in-lower-value-clinical-negligence-claims/>

Recommendations included:

- a two-stage approach to pre-litigation fixed recoverable costs, with costs partly linked to damages,
- introduction of standard and light tracks for appropriate cases only,
- early sequential exchange of experts' reports and witness statements,
- a mandatory offer to settle by the claimant followed by a mandatory response to that offer, and
- a mandatory stock-take followed, if unsuccessful, by mandatory neutral evaluation

Impact:

The Ministry of Justice has paused consideration of any extension to fixed recoverable costs to dedicate resources to the immediate challenge of the pandemic. It is understood that that work has now resumed and that the MoJ continues to work with the Department of Health and Social Care on taking forward fixed recoverable costs for clinical negligence claims under £25k damages, following the CJC report on this issue.

Vulnerable Witnesses and Parties

In May 2018, at the request of the Ministry of Justice, a working group led by HHJ Cotter QC was set up to consider vulnerability of civil court users.

The Civil Justice Council published its final report on *Vulnerable Witnesses and Parties in Civil Proceedings*⁶ in February 2020. The report was the culmination of two years of research and stakeholder engagement to better understand the extent of the problems that vulnerable witnesses and other parties face in civil courts and to suggest possible solutions to these issues.

As part of its work, the group held a public consultation on the draft report⁷ between September and October 2019. The final report took into account the feedback received during that consultation.

Recommendations included:

- that HMCTS should consider the capture of data in relation to vulnerability of court users,
- rule changes to further ensure that all civil judges, parties and advocates consider vulnerability of people involved in civil proceedings,
- enhanced training of civil judges and all staff who handle civil cases to detect and assist vulnerable witnesses, and
- if a prohibition in relation to cross-examination of a witness by a self-represented party who has been charged, cautioned or convicted of a specified offence against that witness (and vice versa) is to be enacted then a like provision should be extended to the civil jurisdiction, but with the difference that a discretion to order otherwise should be added (given the breadth of the civil jurisdiction and range of potential circumstances).

Impact:

⁶ <https://www.judiciary.uk/announcements/civil-justice-council-proposes-better-assistance-for-vulnerable-witnesses/>

⁷ <https://www.judiciary.uk/wp-content/uploads/2020/08/Vulnerable-witnesses-and-parties-consultation-September-2019.pdf>

As a result of this work, the government's Domestic Abuse Bill was amended to enable the court to prohibit a party from cross-examining a witness in civil proceedings, in certain circumstances. The Judicial College plans to liaise with the CJC on amending the training it offers to the judiciary. A suggested amendment to the overriding objective of the CPRC has been implemented and reminds the judiciary and legal practitioners to ensure *“that the parties are on an equal footing and can participate fully in proceedings, and that parties and witnesses can give their best evidence.”*

COVID-19 Rapid Review

Following the outbreak of the global pandemic and the subsequent government restrictions imposed during March 2020, the Master of the Rolls tasked the Civil Justice Council with carrying out a rapid review on the effect of the pandemic on civil court users.

The review, conducted with the support of the Legal Education Foundation, launched on 1 May 2020 and concluded on 15 May 2020.⁸ Dr Natalie Byrom of the Legal Education Foundation led on the work and brought together members of the judiciary, academia, the advice sector, and other stakeholders.

With more than 1000 responses received, the report⁹ provides a valuable snapshot of the consequences of the pandemic on civil court users relatively soon after the pandemic began.

Recommendations included:

- better data collection on the users of the civil justice system,
- improvements to the management information collected by HMCTS about the cases being heard,
- the urgent creation of an expert working group for managing the resumption of possession hearings across England and Wales,
- improvements to the equipment and support provided to judges, and
- investment in better infrastructure to support the preparation and submission of e-bundles, and the sharing of documents during hearings.

Impact:

Soon after the publication of the review in June 2020, the Master of the Rolls assembled a working group on housing possession, with broad membership from across the sector. The working group continues to provide cross-sector advice to the judiciary and government on the administration of housing possession claims. Calls for better data are beginning to be heeded with significant work across the civil justice sector now focusing more seriously on this issue.

Anti-Social Behaviour in the Civil Courts

In January 2018, Council member HHJ Cotter QC, presented a paper to the CJC on the issues faced since the Anti-Social Behaviour Crime and Policing Act 2014 transferred much work relating to anti-social behaviour from the criminal courts to the civil courts. Under the 2014 Act, Anti-Social

⁸ <https://www.judiciary.uk/announcements/rapid-consultation-the-impact-of-covid-19-measures-on-the-civil-justice-system/>

⁹ <https://www.judiciary.uk/announcements/civil-justice-council-report-on-the-impact-of-covid-19-on-civil-court-users-published/>

Behaviour Orders (ASBOs) were replaced by Anti-Social Behaviour Injunctions (ASBIs), which were intended to better tackle the root causes of anti-social behaviour.

The CJC working party, chaired by HHJ Cotter QC, brought together expertise from the judiciary, police, National Probation Service, charitable sector, academia, legal advice and practice, housing provision, and a local authority. Together, over nearly two years, the working party examined; the steps taken before an issue is brought to the court, the conduct of court proceedings, the use and content of orders, and the penalties for their breach.

The final report¹⁰ published in October 2020 highlighted an absence of data, how cases are often not tackled collaboratively by the public services concerned and that underlying and often causative issues such as mental health and substance abuse are therefore not addressed.

Recommendations included:

- an urgent request for the Home Office and HMCTS to collect data on these cases to allow for full analysis of their use and efficacy,
- widening the scope and provision of the NHS Liaison & Diversion service, to ensure a joined-up approach by local agencies to tackle the underlying causes of anti-social behaviour,
- widening the scope and provision of legal aid to ensure that no individual faces the prospect of being sent to jail without access to legal advice, and
- adopting a new sentencing guideline to be used by the judiciary when hearing cases of anti-social behaviour.

Impact:

Several government departments including the Department of Health and Social Care, the Home Office and the Ministry of Justice are considering a collective way forward for the recommendations in their gift. The CPRC has resolved to form a sub-committee to deliberate the recommendations within its remit.

Low Value Personal Injury Claims

The CJC working group on low value personal injury claims concluded its work in December 2020 with the publication of a report.¹¹ The group was chaired by CJC member Nicola Critchley and brought together both claimant and defendant representative groups, the judiciary, the Ministry of Justice and NHS Resolution.

In October 2017, the then Lord Chancellor and Secretary of State for Justice issued a '*Call for Evidence on personal injury claims arising from package holidays and related matters*'. Working groups were set up within the Civil Procedure Rules Committee and CJC and the Pre-Action Protocol for Resolution of Package Travel Claims was introduced for claims made on or after 7th May 2018 with a value of less than £25,000.

¹⁰ <https://www.judiciary.uk/announcements/anti-social-behaviour-and-the-civil-courts/>

¹¹ <https://www.judiciary.uk/announcements/cjc-publishes-final-report-on-low-value-personal-injury-claims/>

The work of this group began in May 2018 to look at further reforms that could be introduced to lower value (below £25,000) PI claims. The group considered how to prevent unmeritorious claims and resolve meritorious claims more quickly and with reduced costs.

Recommendations included:

- extension of existing systems supported by an IT system which is user friendly and sufficiently robust to function where the claims will be high volume,
- greater powers for the Claims Portal Behaviour Committee in order to tackle poor behaviour and wider interaction between the Behaviour Committee and the existing regulators,
- that the Government establishes a single, consistent and reliable database to facilitate the identification of the types of insurance fraud, their frequency and their sources,
- a blanket ban on cold-calling in relation to making a personal injury claim, and
- the Solicitors Regulation Authority and Financial Conduct Authority should operate a coordinated approach to ensure that there is no abuse of the ban on referral fees and to monitor abuses by claims management companies.

Impact:

As the report was published so recently its impact has not yet been realised.

Alternative Dispute Resolution

The final report¹² on alternative dispute resolution was published by the working group of the Council in late 2018. As a direct result of the first of twenty-four recommendations made in that report, the Master of the Rolls established the Judicial/ADR Liaison Committee.¹³

Mrs Justice Elisabeth Laing was appointed as chair of the Committee and convened its first meeting in October 2019. The Judicial/ADR Liaison Committee ensures that there is regular dialogue between the judiciary, the profession, civil servants, and the wider ADR community. It reports and advises the Judges' Council.

Impact:

The committee provides a forum for the collective sharing of best practice to enhance the role that ADR can play in supporting the swift and fair resolution of cases that would otherwise end up in the court system. Government too is now focusing more seriously on the benefits that ADR provides and has created a new Dispute Resolution Directorate within the Ministry of Justice.

Access to Justice

In January 2020, the Access to Justice working group received approval from the wider Council to become a 'Standing Committee' on access to justice for those without means with formalised terms of reference.¹⁴ The Standing Committee, unlike other working groups of the Council, is not a 'task and finish' body, it has an ongoing role in improving access to justice.

¹² <https://www.judiciary.uk/announcements/new-report-on-alternative-dispute-resolution/>

¹³ <https://www.judiciary.uk/related-offices-and-bodies/advisory-bodies/cjc/working-parties/alternative-dispute-resolution/>

¹⁴ <https://www.judiciary.uk/related-offices-and-bodies/advisory-bodies/cjc/working-parties/access-to-justice-for-litigants-in-person/>

The purpose of the Committee is to keep under review and provide recommendations to improve access to justice for those without means in the context of the civil justice system. Those without means include litigants in person but also those reliant on publicly funded, voluntary sector or pro bono legal assistance.

The working group had originally been formed in 2011 to undertake a piece of work related to litigants in person. With the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act in 2012, the group continued its work due to the increasing number of litigants in persons appearing before the courts.

Chaired by Mr Justice Robin Knowles, the Standing Committee is made up solely of CJC members. It engages with the Ministry of Justice, Her Majesty's Courts and Tribunals Service and the Legal Aid Agency (among others) as appropriate in relation to its work. The Committee is responsible for convening and hosting the annual *National Forum on Access to Justice for Those Without Means*.

Impact:

The group continues its focus on improving access to justice for all. It engages regularly with outside agencies to make sure that access to justice remains a key consideration across the sector.

National Forum

The Civil Justice Council's 8th *National Forum on Access to Justice for Those Without Means* was held on Friday 6 December 2019. For the first time, the event was filmed and recordings of the event have been published online.¹⁵

The event, held in central London, was attended by more than 250 delegates, including members of the CJC, judiciary, legal professionals, civil servants, academics, charities, other organisations and – in another first – members of the public. Just six days before a general election, purdah affected both the contribution from and attendance of government ministers and senior civil servants.

The aims of the meeting were to:

1. look at areas where a step change is achievable,
2. engage and make connections, and
3. update on new learning whilst enabling challenge and sharing.

The 9th *National Forum in 2020 on Access to Justice for Those Without Means* took place on Friday 11 December 2020 on-line with almost 300 delegates attending remotely. Recordings of the main sessions are available on the CJC website.¹⁶

The aims of the meeting were to:

1. identify access to justice needs and solutions in light of the pandemic,

¹⁵ <https://www.judiciary.uk/announcements/civil-justice-council-8th-national-forum-on-access-to-justice-for-those-without-means/>

¹⁶ <https://www.judiciary.uk/announcements/civil-justice-councils-9th-national-forum-on-access-to-justice-for-those-without-means/>

2. look collectively, critically and purposefully at the implications of technology for access to justice for those without means,
3. inform and help take forward work of the Civil Justice Council relevant to access to justice for those without means,
4. engage and make connections with others addressing access to justice for those without means, in order to use these channels better, and
5. update each other on new learning and ideas; to enable challenge and sharing.

Impact:

The National Forum provides a unique opportunity to come together as a sector for a discussion and exchange of information combining the expertise and experience of the voluntary agencies, the pro bono agencies, court users, the judiciary, business, the Government, the professions, court staff, the funding community, academic institutions, other charities, and the general public.

Guideline Hourly Rates

In February 2020 the Master of the Rolls asked Mr Justice Stewart to chair a working group¹⁷ to look at guideline hourly rates (GHR). The current rates were set in 2010 and have remained static since that time.

GHRs are used as a starting point for judges carrying out summary assessment of costs. Summary assessment is the procedure by which the court, when making an order about costs, orders payment of a sum of money instead of fixed costs or 'detailed assessment'. The rates are a guideline figure for a reasonable charge per hour for work on a case. The GHRs may also be used as a reference point for the purposes of costs budgeting and management. They are not of relevance to cases being heard in the small claims court unless the court finds, exceptionally, that a party has behaved unreasonably.

The general rule is that the loser in a case pays the winner's costs. In practice, the court has flexibility as to when one party may be responsible in whole or in part for the other party's costs. Therefore, anyone involved in legal action, whether as a claimant or defendant, could be affected by changes to the GHRs. The applicable rates vary according to geographic location.

The working group resolved to obtain evidence as to what is allowed by (i) Regional Costs Judges and (ii) SCCO Costs Judges and authorised court officers (iii) Judges in the Business and Property Courts on detailed assessments (including provisional assessments) which they undertake.

Evidence was also sought from legal professionals where agreement was reached between parties as to hourly rates, whether or not there has been an assessment by a judge.

The work of the group was due to start in March 2020 but did not commence until July 2020 as a result of the coronavirus pandemic.

¹⁷ <https://www.judiciary.uk/related-offices-and-bodies/advisory-bodies/cjc/working-parties/guideline-hourly-rates/>

Evidence was gathered between September and December 2020. The working group has prepared a draft report which is open for public consultation between until 31 March 2021. The draft report includes recommendations to:

- increase rates in all locations and for all types of fee-earners,
- update some of the current geographic areas, adding in some locations previously omitted,
- reclassify the highest rate of work, suggesting it should be applied only to very heavy commercial work rather than being based on geography.

The working group is expected to conclude its work and publish its final report in the summer of 2021.

Pre-Action Protocols

The Civil Justice Council, in October 2020, launched an online survey to begin its work reviewing Pre-action Protocols (PAPs).¹⁸ The objective of this work will be to look at all aspects of PAPs including their purpose, whether they are working effectively in practice and what reforms, if any, are required.

The immediate catalyst for the review was the Court of Appeal's decision in *Jet 2 Holidays Limited v Hughes* [2019] EWCA Civ 1858. In that case the Court held that false pre-action witness statements, verified by a statement of truth, and provided to a proposed defendant in purported compliance with a PAP can give rise to contempt proceedings, even if there was no requirement to provide a witness statement and even if no civil claim was subsequently issued.

Although not in issue in the *Jet 2* case, some concern has been expressed that litigants in person may be taken by surprise by legal sanctions that can attach to (false and misleading) statements made by them even when no proceedings are on foot. Accordingly, consideration needs to be given whether it is necessary to amend the PAPs to make clear the legal consequences that can follow from the use of them, and in a way that can be readily understood by litigants in person.

Most PAPs are strictly voluntary in the sense that no sanction attaches to non-compliance with them beyond the possibility that a court can take it into account in exercising case management decisions and when making costs orders. The interaction between the 'soft' obligations to follow a PAP, and the hard obligations that attach to parties who do engage with them, will also be one of the subjects of the review.

It is anticipated that a full working group will be formed early in 2021.

¹⁸ <https://www.judiciary.uk/announcements/civil-justice-council-launches-review-of-pre-action-protocols/>

RESPONSES TO CONSULTATIONS AND CALLS FOR EVIDENCE

Housing Possession Court Duty Scheme: Towards a more sustainable service

In December 2019 the Council submitted a response to the Ministry of Justice's consultation¹⁹ on the housing possession court duty scheme.

The consultation sought views on:

- contracting for individual courts rather than larger geographical areas,
- allowing providers to claim for the scheme fee in addition to the follow up Legal Help fee,
- the introduction of a set attendance fee for all schemes in place of the existing nil session payment, and
- the introduction of reasonable costs for travel as part of the competition element of the bid.

The Council was broadly supportive of the proposals contained in the consultation and welcomed proposed changes that aim to tackle shortfalls in the current system. The Council's full response is available online.²⁰

Alignment of the Fees for Online and Paper Civil Money and Possession Claims

In December 2020 the Council responded to the Ministry of Justice's consultation²¹ on the alignment of fees for online and paper civil money and possession claims.

The consultation proposed changes to:

- ensure that there is an efficient and effective courts system,
- ensure access to justice, making sure those who need to access the courts can do so,
- ensure that our courts and tribunals have the necessary resources to deliver their much-needed services,
- ensure that those who can afford to pay a fee, pay the same fee regardless of whether they lodge a claim online or via the paper route, and
- simplify the existing fees structure.

The Council did not support the aligning of court fees for using online and paper processes and thought that the proposed changes were likely to have an adverse impact on access to justice. The Council's full response is available online.²²

¹⁹ <https://consult.justice.gov.uk/digital-communications/housing-possession-court-duty-scheme-service/>

²⁰ <https://www.judiciary.uk/wp-content/uploads/2021/02/CJC-response-to-HPCDS-consultation-by-MoJ-FINAL.pdf>

²¹ <https://consult.justice.gov.uk/digital-communications/civil-money-possession-claims-fees/>

²² <https://www.judiciary.uk/wp-content/uploads/2021/02/20210204-CJC-Court-Fees-Consultation-Response-Final.pdf>

APPENDIX A - Civil Justice Council - Work Prioritisation Criteria - December 2019

The Civil Justice Council receives propositions of projects through several channels, including:

- requests from the Ministry of Justice
- direct requests from the Judiciary
- applications from external organisations
- internally from individual members
- matters arising from an existing working group
- in response to external work
- using its power of convening.

The Civil Justice Council is not resourced to tackle the entire civil justice policy agenda nor all the projects that are proposed to us. We propose using prioritisation criteria to help respond appropriately to our broad workload. We will assess against the following questions:

- Is there a statutory obligation to do the work?
- What specific added value can CJC bring to this work?
- Is the CJC the most appropriate body to carry out this work?
- If we don't continue with this work, will others and who?
- How does this piece of work fit with our existing priorities and existing work?
- What importance is placed on this work by external stakeholders?
- How many people will likely benefit from the work being done?
- Is there a realistic prospect that our work will have an impact?
- What are the chances of success?
- Are resources available to deliver the work effectively?

For work that we are currently doing, we will review at regular intervals. We will assess against the following questions:

- Is the CJC still bringing value to this work?
- How does this piece of work fit with our other priorities?
- Is there still a realistic prospect that our work will have an impact? What are the chances of success?
- Is the work progressing as intended?

APPENDIX B - Civil Justice Council – Membership 2019/2020

Category	Member	Appointment start date	End of current term	Current term number
(1) Judiciary				
(a) Court of Appeal	The Master of the Rolls (Chairman)		Ex officio	N/A
	The Deputy Head of Civil Justice		Ex officio	N/A
(b) High Court	The Hon Mr Justice Robin Knowles CBE	4 January 2016	3 January 2022	2
(c) Circuit Judge	HHJ Barry Cotter QC	13 June 2016	12 June 2022	2
(d) District Judge	DJ Judy Gibson	1 March 2019	28 February 2022	1
(2) Legal Profession				
(a) Insurer	Andrew Parker	31 July 2014	10 September 2020	2
(b) Solicitor	Jo Hickman	30 September 2017	29 September 2020	1
(c) Barrister	Vacant			
(d) Legal Executive	Nick Hanning	1 January 2019	31 December 2021	1
(3) Civil servant concerned with administration of justice				
(a) Ministry of Justice	Robert Wright		Ex officio	N/A
(4) Consumer Affairs				
	Elisabeth Davies	1 January 2019	31 December 2021	1
(5) Lay Advice Sector				
	Martin Barnes	1 January 2019	31 December 2021	1
(6) Specific Interests				
(a) Insurance	Nicola Critchley	25 July 2016	24 July 2022	2
(b) Employees	Vacant			
(c) Business	Vacant			
(d) Wales	Rhodri Williams QC	1 st January 2019	31 st December 2021	1
(7) Other				
(a) Housing	Diane Astin	15 October 2016	14 October 2022	2
(b) EU Exit	Ian Karet	15 October 2016	14 October 2020 ²³	2
(c) ADR Provider	William Wood QC	1 July 2014	10 September 2020	2
(d) Legal Academic	Andrew Higgins	1 January 2019	31 December 2021	1
(e) Lay Member	Matthew Smerdon	1 October 2013	30 September 2022	3

²³ Was re-appointed in 2019 for a second term of just one year. The usual term length is three years.

APPENDIX C - Civil Justice Council – Budget and Expenditure 2019/2020

Description	Original budget (£)	Actual expenditure (£)
Catering - goods + services	500	521
National Forum	22,000	20,261
Staff Travel Rail	500	240
Non-Staff Travel Other	6,000	2,700
Professional fees (research)	7,000	6,500
Filming	3,000	2,940
Judicial Travel	1,000	0
TOTAL	40,000	33,162

APPENDIX D - Civil Justice Council – Business Plan 2019/2020

The Civil Justice Council is an Advisory Public Body, established under the Civil Procedure Act 1997 with responsibility for reviewing the operation of the civil justice system, highlighting problems, identifying opportunities and making recommendations for improvements in order to modernise the court system and improve access to justice.

This is achieved through drawing on the expertise and experience of members and other professionals, working collaboratively on research projects with partner Universities in the field of civil justice and hosting events to inform the public and professionals.

The Council also seeks to respond to relevant MoJ and other departments' consultation papers relating to the civil justice system by seeking advice from members to co-ordinate suitable and representative responses as necessary.

The CJC's work programme necessarily reflects a combination of (i) being reactive to emerging themes and issues, (ii) responding to government consultations and requests to examine particular areas of the operation of the civil justice system, and (iii) proactively using the insights derived from its membership and their wider networks to identify challenges and opportunities that will affect the CJC's mission.

In the next period of this business plan, key features of the environment shaping the CJC's work include:

- access to justice concerns for those without means, or legal capability,
- funding of litigation,
- court reform, in particular, the digitisation of the courts, and
- the UK's withdrawal from the EU.

Meetings are held four times a year and members have the opportunity to present new items for the Council's consideration which may form part of its work going forward. The Council is supported by its secretariat to ensure that it works in line with the guidelines for public bodies. The secretariat acts to support all working groups, to ensure compliance with the guidelines of the Office for the Commissioner of Public Appointments and that accurate records of meetings are kept.

Within 'desired outcome and evidence' in the final column of the pages that follow, the CJC will strive to monitor and measure impact, including to inform next steps.

Core Objectives

Objective	Body Responsible	Proposed Action	Desired Outcome & Evidence
1. To review the operation of the civil justice system, highlight problems and make recommendations for improvements.	CJC.	Draw on the expertise and experience of members and other professionals to ensure the CJC is fulfilling its statutory role.	Areas for review identified and steps taken to assess and report on possible reforms to improve the system in these areas; reports published with Council's suggestions.
2. To work collaboratively on research projects with academics in the field of civil justice.	CJC with support from the Secretariat.	Explore issues of concern relevant to the CJC's statutory role and highlight relevant issues.	The CJC is academically respected. The Council remain aware of academic developments in the area of civil justice. Areas for review are identified and reviewed regularly by the Council to improve the civil justice system.
3. To provide a collective voice for positive change in all areas of the civil justice system.	CJC with support from the Secretariat.	To seek advice from members to co-ordinate suitable and representative responses to Government and other consultations.	CJC contributes to civil justice policy and decision making by adding expert views on proposals and their impact on civil justice.
4. To monitor and advise on implications of the UK's withdrawal from the European Union.	CJC.	To provide support and advice on the challenges of converting and then reviewing EU civil law.	An effective transition of the civil legal system.
5. To promote the work of the Council and to engage more effectively with other bodies in the civil justice system by improving	Council Members and Secretariat.	To publish summaries of Council meetings and working group reports. To publish Annual Report. To organise an annual public meeting.	Increased Council efficacy through greater visibility of the work which it is doing.

communications and outreach work.			
6. To provide secretariat support for the work of the Council.	Secretariat.	To follow guidelines for recruitment and appraisal. To support and service all meetings.	Full compliance with the guidelines of the Office for the Commissioner of Public Appointments. Members feel fully supported Accurate records of meetings are kept.

CJC Working Groups

Table 1: Access to Justice Working Group

- Working group chaired by: Robin Knowles J
- Working group objective: To continue to implement the CJC report on access to justice for those without means and work with the judiciary, the Ministry of Justice and advice sector to put in place activities that will assist those unable to afford advice and representation
- Relates to core objectives: 1, 3 and 5.

Supporting Objectives	Body Responsible	Action	Desired Outcome & Evidence
To continue to monitor how Assisted Digital updates impact access to justice.	Access to Justice WG with support from the secretariat.	To provide a more detailed and focused consideration of the challenges and risks of digitisation of court processes, and how to best respond to these.	Improved design and planning of public services, and a better user-experience.
To contribute to collective work to improve Public Legal Education (PLE).	Access to Justice WG and CJC.	To work collaboratively with other bodies to improve PLE.	Increased public awareness and understanding both of resolving disputes and the legal system.
To continue to work with the Government, judiciary, LIP support strategy, professions and advice sector to develop services and resources for those unable to afford advice and representation.	Access to Justice WG.	To assist work of LIP support strategy and other initiatives e.g. LIP Engagement Group on HMCTS reform.	Improved links and networks between advice and service providers. Improved accessibility and reliability of reference material. Litigants can resolve their disputes at the earliest opportunity.
To monitor progress of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) part one action plan.	CJC, Access to Justice WG and Ministry of Justice.	To attend joint meetings to remain in touch with the action plan and advise MoJ as necessary.	CJC advise on future implementation.

Table 2: Anti-social behaviour injunction (ASBI) Working Group

- Working group chaired by: HHJ Barry Cotter QC
- Working group objective: to produce a report in response to widespread concern about: the way that ASBIs are being applied for and/ or used in the courts; the limited powers afforded to the court; and the lack of involvement of third parties in the process.
- Relates to core objective: 1.

Supporting Objectives	Body Responsible	Action	Desired Outcome & Evidence
To address the current gap in guidance for civil judges on the ASBI scheme.	ASBI Working Group, Home Office, Probation Service, Police, Local Councils with support from the Secretariat.	To produce a report and make any necessary recommendations to the CJC.	The group seek to report by April 2020 to provide clarity on sentencing guidelines and make recommendations for future improvements. The wider CJC will seek to review whether recommendations are taken up by the relevant body/bodies and if their implementation has the desired effect.

Table 3: Vulnerable Parties/Witnesses Working Group

- Working group chaired by: HHJ Barry Cotter QC
- Working group objective: To produce a report which details the problems that vulnerable parties/ witnesses face in the civil courts and explores possible solutions.
- Relates to core objective: 1.

Supporting Objectives	Body Responsible	Action	Desired Outcome & Evidence
To better understand the extent of the problems that vulnerable parties/ witnesses face in the civil courts and possible solutions.	Working Group, with support from the Secretariat.	To produce an initial draft paper for circulation to a range of relevant individuals/ bodies and a subsequent report for the CJC.	Initial report produced about vulnerable parties/witnesses involved in civil claims and opened to responses during public consultation. Working group to consider consultation responses and seek to prepare a final report and recommendations by January 2020.

Table 4: Fixed Recoverable Costs in Lower Value Clinical Negligence Claims (FRC) Working Group

- Working group chaired by: Andrew Parker
- Working group objective: To further progress the work of the working group on FRC for clinical negligence cases with a value up to £25,000.
- Relates to core objective: 1.

Supporting Objectives	Body Responsible	Action	Desired Outcome & Evidence
<p>To consider and recommend an improved process for clinical negligence claims where the claim has a value of £25,000 or less.</p>	<p>FRC WG.</p>	<p>(a) To draw up (i) a structure for FRC for such cases to attach to the new process, (ii) figures for FRC in the proposed structure, and (iii) figures for the cost of expert reports. (b) To consider how any improved process or scheme of FRC might affect issues of patient safety, including the way in which case outcomes are reported back to healthcare providers for learning purposes. (c) To consider how expert reports should be commissioned and funded, including the feasibility of single joint experts for at least some claims, as part of the improved process.</p>	<p>Report published in October 2019 detailing recommendations for a FRC scheme for these cases. The wider CJC will seek to review implementation as appropriate.</p>

Table 5: Boundary Disputes Working Group

- Working Group chaired by: HHJ Barry Cotter QC
- Working group objective: To continue supporting the work of the working group on Boundary disputes
- Relates to core objectives: 1.

Supporting Objectives	Body Responsible	Action	Desired Outcome & Evidence
To consider the scope for improving the decision-making process in relation to boundary disputes.	CJC and joint Royal Institution of Chartered Surveyors (RICS) working group.	a) To improve court and tribunal procedure. b) To encourage mediation. c) To improve information available online, including the RICS website. d) To produce information leaflets signposting online information. e) To work collaboratively with RICS, mediators and ombudsmen in finalising a pre-action protocol for these types of disputes.	Improved processes for boundary dispute resolutions was published in October 2019. MOJ will now seek to consult with the CPRC about whether the proposed protocol and recommendations would need to be incorporated in any rule changes.

Table 6: Personal Injury (PI) Working Group

- Working group chaired by: Nicola Critchley
- Working group objective: To look at further reforms that could be introduced to lower value (below £25,000) PI claims.
- Relates to core objectives: 1.

Supporting Objectives	Body Responsible	Action	Desired Outcome & Evidence
To look at further reforms that could be introduced to lower value (below £25,000) PI claims.	PI WG.	To prevent unmeritorious claims and resolve meritorious claims more quickly and with reduced costs; this is in line with the policy objective.	Areas for review identified and steps taken to assess and report on possible reforms to improve the system in these areas.

Table 7: CJC National Forum on Access to Justice for those without means

- Work chaired by: Robin Knowles J
- Work Objective: To provide an arena for the dissemination of information and collaboration between major stakeholders in the improving Access to Justice space.
- Relates to core objectives: 1 and 5.

Supporting Objectives	Body Responsible	Action	Desired Outcome & Evidence
To continue work to implement the recommendations of the working group and the conclusions of the CJC National Forum.	Access to Justice WG with support from the Secretariat.	To arrange an eighth CJC National Forum on Access to Justice for those without means in December 2019 To engage and make connections with others addressing access to justice for those without means, in order to use these channels better To update and share new learning; to enable challenge	Those unable to afford advice and representation and professionals feel better equipped to obtain effective access to the civil justice system including access to hearing and remedy.

		and to identify opportunities To look together at what next, and to share vision for the longer term.	
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Table 8: Other Work

Objective	Body Responsible		Action	Desired Outcome & Evidence
To monitor developments in collective redress and actions.	CJC.		To ensure CJC remains aware of developments and evaluates and inputs where appropriate.	CJC advises on future reforms.
To monitor development of changes in Welsh Civil Law.	CJC.		To ensure CJC fulfils its statutory functions in relation to developments in Welsh Civil Law.	For discussion.

Table 9: Related Bodies

- Judicial Alternative Dispute Resolution (ADR) Liaison Committee
- Committee chaired by: Elisabeth Laing J
- Core Objective: To promote greater use of ADR in all areas of the civil justice system

Supporting Objectives	Body Responsible	Action	Desired Outcome & Evidence
To provide the judiciary, the ADR community and the professions with a dedicated forum for the discussion and the exchange of information	Judicial ADR Liaison Committee with support from the Secretariat.	To agree to final list of members. To hold first meeting of the Committee and discuss priorities.	As a committee of The Judges' Council, the group will report to relevant parties on their work. To assist and provide expert advice as required to the wider community.

about ADR in the civil justice system.			Support the implementation of the CJC ADR report recommendations as appropriate.
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