



Synopsis of Civil Justice Council Meeting

Friday 30 October 2020

Guideline Hourly Rates

The Chairman of the working group gave details of previous work that had been done by a committee led by Foskett J. That committee had focused on what it cost lawyers to run their practice and expense of time. Recommendations made by Foskett J's committee were not adopted due to the lack of evidence to support the methodology used.

The chairman explained that his working group had resolved to use a different methodology which mirrors the way that GHR were originally set, by finding out what is allowed by judiciary with relevant experience as an acceptable rate in their area (either geographically or type of work). The working group has received a number of letters already, but none has set out an alternative methodology.

The working group wrote to selected members of the judiciary with expertise in costs and to the legal profession seeking evidence. The group have also asked for information where rates were agreed between the parties. The Council heard that judiciary in the Business and Property Courts are now also being asked to provide evidence. Academics will be analysing data as it is received.

PREVIOUS WORK

Anti-Social Behaviour

Thanks were given to the chair and working group for the report that has been published.

The CPRC have set up a sub-committee to consider the recommendations in the report.

Vulnerable witnesses and parties

The final report on this subject was published in February 2020. The CPRC has set up a subcommittee to consider it. A number of recommendations were aimed at MOJ and HMCTS, a review of the work will take place early next year to see where recommendations have been adopted.

Boundary Disputes

The Council heard that a recommendation made in the final report by the working group about a proposed Royal Institute of Chartered Surveyors/Property Litigation Association Boundary Disputes Mediation Service had been taken up and the service is set to be launched soon.

The working group on this subject had decided that a PAP was not the way forward.

Low Value Personal Injury Claims

The report was approved by the Council. Any further changes to the report before publication will be notified to members by email for approval out of committee.

CURRENT WORK

Pre-action protocols (PAPs)

A preliminary survey is available online and remains open until 18 December. The results of the survey will inform the planned work on this subject.

MOJ

The MOJ representative gave updates on the following; Housing, Statutory instrument amending the taking control of goods regulations 2013, Whiplash, Fixed recoverable costs, JR review, Contempt of court – reformed CPR part 81, Wills, Electronic execution of documents and Boundary disputes.

Judicial/ADR Liaison Committee

It was noted that the group is gaining traction and that the committee was mentioned by the All Party Parliamentary Group on ADR.

Access to Justice for those without means standing committee

Praise was given to the working group on possession. Those involved include: CPRC, MOJ, MHCLG, LAA, HMCTS, judiciary, professional bodies, pro bono organisations, advice sector, social housing umbrella bodies, Shelter, Shelter Cymru, the Welsh Government, the small claims mediation service, academics, Judicial College, bailiffs, High Court Enforcement Officers and more.

National Forum 2020

The decision had been taken to hold the National Forum online this year, owing to the pandemic. A draft programme for the event was circulated. The Standing Committee and secretariat are keen to encourage greater LIP involvement which was backed by the Council.

Membership, Vacancies and Recruitment

The Secretariat are considering proposing an update to the categories of membership but reassured the Council that this item was not for an immediate decision. It was hoped that future recruitment would lead to a more diverse membership on the Council.

ANY OTHER BUSINESS

HMCTS

Council members raised concerns about remote hearings and the digital assistance. The reform programme has fast-forwarded its work. There are still significant issues regarding staff support, staff training, infrastructure. The Civil Engagement Group has offered to invite a senior HMCTS operational representative to present an update to the Council, as it was suggested that the CJC is the right body to take forward these types of concerns.

Farewell to the Master of the Rolls

The Master of the Rolls (MR) said how important the CJC is and how it highlights critical issues on civil justice and that being the chair over the years had been a privilege. He commended each member for their commitment to improving the civil justice system.

A member spoke on behalf of the Council and listed some of the notable civil justice events which had occurred during the MR's time as Head of Civil Justice which included rolling out the largest ever court reform programme and COVID-19. He noted that the CJC has limited resources but with the collective effort of members and secretariat that the CJC "punches well above its weight". The MR's commitment to access to justice and rule of law has strengthened the position of both topics. Council members and the Secretariat wished the MR well for his retirement.

The next CJC meeting is scheduled for 29th January 2021.