



Synopsis of Civil Justice Council meeting

Friday 17 July 2020

COVID-19

Access to Justice Standing Committee

Since the last Civil Justice Council (CJC) quarterly meeting, the standing committee had met and engaged on a range of issues - including a consultation on court fees, possession, MOJ and LAA engagement and the National Forum. Thanks were given to the Civil Procedure Rules Committee for working at such pace on possession rules.

MR'S Working Group on Possession Proceedings

Since the Council last met in April, the Master of the Rolls commissioned a working group, chaired by Mr Justice Robin Knowles, to look at possession proceedings. It has members from across the sector, including several members of the CJC. It is a task-and-finish group which is currently considering listing and case management; guidance and information for judiciary, court staff and parties; advice and assistance for tenants; and, enforcement for when the present stay on possession proceedings is lifted.

It was echoed by everyone how valuable the working group has been.

PREVIOUS WORK

Rapid Review of Civil Court Users

Since the Council last met the CJC had commissioned an independent review led by Dr Natalie Byrom, Director of Research at The Legal Education Foundation with the support of a wider virtual working group to gather feedback on the impact of COVID measures on the civil justice system. More than 1,000 responses received were analysed by Dr Natalie Byrom of the Legal Education Foundation, supported by a steering group. The review was welcomed and was widely covered on Twitter and received some coverage in the legal press. Thanks, was given to Dr Byrom for this work.

Vulnerable Witnesses and Parties

The Council was told that the MR's Office have recently received written confirmation that MOJ officials are bringing amendments to the Domestic Abuse Bill that will enable the court to prohibit a party to cross-examine a witness in civil proceedings, where it appears to the court that: (a) the quality of evidence condition or the significant distress condition is met, and (b) it would not be contrary to the interests of justice to give the direction. This follows the recommendation of the CJC's Report on vulnerability of parties and witnesses in the civil courts.

The Civil Procedure Rules Committee (CPRC) has also begun consideration of the recommendations directed to it.

CURRENT WORK

Anti-Social Behaviour

The Chair of the working group, HHJ Barry Cotter QC, shared the proposed final draft of the report with a note setting out the changes that had been made since the Council had seen the previous draft in April.

The working group spent considerable time looking at four elements – before hearing, the hearing, penalties and breach of injunctions. It found significant problems in all four areas and agreed that the 2014 Act is failing to meet its stated aims to protect victims and respondents.

The Chair of the working group said he would amend the report on how best to give weight to the sentencing guideline included in the report. He suggested it could be done as either a court note or as a Practice Direction to Part 65 or Part 81.

Low Value Personal Injury Claims

Thanks were given to Nicola Critchley chair of the working party for sharing the latest draft of the working group's report earlier in the day.

It was agreed that views from the Council would be shared with Nicola Critchley before the end of July.

Judicial/ADR Liaison Committee

The Committee is keen to encourage greater use of ADR as a mechanism to reduce pressure on the system as a result of COVID. There is an urgency to provide solutions to the challenges that COVID presents; will share ideas with its MOJ representative on potential 'quick wins'.

There has been a significant increase to the capacity of the Small Claims Mediation Service due to a rise in the number of mediators and a change in their administration processes.

It was agreed that the committee would notify Designated Civil Judges of the increased capacity in the mediation scheme in order to cascade to judiciary in each area. The backlog in the County Court can be aided by encouraging referrals to the SCMS.

Update from the Ministry of Justice (MOJ)

The representative from the MOJ gave an update on; practice directions, housing, enforcement, wills, electronic documents, LASPO Part 2 Post Implementation Review, boundary disputes and whiplash reform.

Pre-Action Protocols

Andrew Higgins had sent a paper to the Council on the proposed first steps of this work and gave details of a survey that he had put together. The survey will be approved out of committee.

Guideline Hourly Rates

The pandemic had halted any progress over the last few months, but the working group has met once earlier in the month and will now begin to progress its intended work.

ANY OTHER BUSINESS

CJC report template

As reported at a previous meeting, the Secretariat are working through the CJC website to better reflect the work that the Council is doing and has done previously. To help strengthen the CJC's identity and to conform to new Accessibility Guidance which are requirement of public bodies, a template for future reports has been developed and shared with members.

Date of next meeting - 30 October at 10:30am