



Friday 25 February 2022

UPDATES ON CURRENT WORK

MOJ

The MOJ provided a written update to the council on whiplash, fixed recoverable costs, electronic execution of documents, updates to Civil Procedure Rules (CPR) and the housing mediation pilot. They shared data from the whiplash portal and notified the council of ongoing research into litigant in person experience of the portal.

There was discussion of the whiplash portal data. A member highlighted the need for analysis as to how claims are changing the market. The Chair queried if there was any overlap between the RTA portal and the Whiplash portal. A member outlined strategic litigation against public participation (SLAPPs) as an area of interest regarding data. A member brought the Council's attention to the upcoming Health and Social Care Committee's look into NHS litigation reform.

The MOJ is still considering evidence gathered in the recent consultation on dispute resolution.

HMCTS

HMCTS agreed future updates will be written. HMCTS reassured the Council of dispute resolution delivery being met. HMCTS updated the council on various reform matters including OCMC claims, multi-party damages claims, software functionality, the Damages Portal and working with the judiciary.

A member queried data collection and evaluation in the new systems. HMCTS reassured data was a priority and agreed to give further updates regarding data.

There was a query regarding data on vulnerability being included in the new programmes. HMCTS noted this data was difficult to collect from third party online systems but that this should improve as systems are moved to being created by HMCTS.

CPRC

A member notified the Council of updates to the CPR as a result of CJC work. The CPRC have almost finalised a pre-action protocol (PAP) and changes to Part 65, coming into force in April 2022, regarding non means tested legal aid. The small claims personal injury limit EL/PL is being increased.

There is a pilot in four court centres on determining claims less than £1500 without a hearing. CPRC are considering the CJC's small claims report and working with MOJ regarding extension of fixed recoverable costs due to be implemented in October 2022.

PRE-ACTION PROTOCOLS

A member flagged some updates which arise as a direct result of CJC work. The updates included that on anti-social behaviour injunctions and small claims personal injury claims. The Council was notified about a pilot taking place regarding determining claims without a hearing.

CPRC are considering the CJC's small claims report. CPRC will be working with MOJ about extension of FRC.

FUTURES WORKING GROUP

The Chair of the Futures working group shared a paper outlining problems identified by the group. Overarching themes were identified, dispute resolution, the integrity of the legal system through change, inaccessibility for court users, inequality of access, access to justice, methodology and evaluation of changes.

It was agreed the Chair be invited to the next meeting to update the Council on the group's work.

ACCESS TO JUSTICE AND NATIONAL FORUM

Members were thanked for their contributions to, and participation in, December's National Forum. The Standing Committee is currently considering the 11th National Forum including its purpose and remit. The Standing Committee will conduct a self-reflective review, looking at its ways of working and how best to support the CJC's wider work.

Options for a change of venue were outlined and the new venue was approved.

NEW BUSINESS

CONSULTATIONS

A member asked members if the Council should respond to a Government Consultation on fixed recoverable costs in lower value clinical negligence claims, the member also outlined differences between the Council's report on this from 2019 and Government proposals. The Council agreed not to respond.

The Secretariat raised a consultation on ratifying the Singapore Mediation Convention. The Secretariat noted that the Alternative Dispute Resolution Liaison Committee did not want to respond collectively due to diverging opinions. It was agreed that a member of the Committee would provide a short response on behalf of the Council.

FUTURE WORK REQUESTS

The Secretariat raised a request for consideration of Sharia Law in Islamic divorce. It was agreed this work was not for the CJC. Secretariat agreed to pass this matter on to the Family Justice Council.

The Secretariat received a request to consider how mental capacity is decided by the Court and the difficulties that arise from this. It was queried if other bodies were currently working in this area and the merits of taking on this work discussed. It was agreed that the

individual who raised this with the Secretariat would speak on this at the next Council meeting.

COSTS AND FEES

There was a short discussion of the need for further work on costs and fees following the final report on Guideline Hourly Rates in 2021 in previous meetings.

The Chair noted this work as being urgent due to various requests to carry this out.

Costs budgeting was raised by the Queen's Bench Masters. It would be better for the CJC to complete this work rather than the CPRC as it is a policy concern rather than a rule concern. The Chair noted that costs budgeting in civil reform is an important area for the council.

Guideline Hourly Rates was raised as most relevant to smaller cases, which will be covered by the extension of fixed recoverable costs. A member disagreed with this view.

The influence of fixed recoverable costs and online work and portals was raised.

The Council agreed this work was crucial. MR agreed to set up a group and asked for volunteers.

ADMINISTRATION

RECRUITMENT TO THE COUNCIL

Secretariat updated the Council that the recruitment process for this round was with ministers and should be completed shortly. EOIs for further positions would be launched shortly.

ANNUAL REPORT

The first draft of the Annual report was shared with members and will be approved outwith the meeting.

ANY OTHER BUSINESS

DEVOLVED TRIBUNALS IN WALES

For information, the Council's attention was brought to a report regarding reform of devolved tribunals in Wales following a consultation period.

ANTI-SOCIAL BEHAVIOUR INJUNCTIONS

An update regarding liaison with the Legal Aid Agency and issues arising in recent ASBI and GANGBO cases. Some of these issues being highlighted in the Council's report on anti-social behaviour and the effect of that report is still being felt.

OTHER

The next meeting - 29 April 2022.

