



Friday 14 July 2023

MEETING OPENING

The Chair welcomed regular observers, guest speakers, and first-time attendees, particularly the newly appointed District Judge Member.

The Council said goodbye and recorded its thanks to both the solicitor member of the committee, and to the Business Support to the Council.

The minutes from the previous meeting were **APPROVED**.

PRE-ACTION PROTOCOLS (PAPs)

An updated version of the Group's report was shared with the Council. The Chair of the Working Group explained that the changes made to the report from the previous Council meeting attempt to reconcile the Council's comments with the Working Group's approach to digitisation. Minor recent comments received from Members have not yet been incorporated.

The Chair of the Group explained that the next steps for the Group are dictated by the bifurcation process and flagged that a new chair for the Judicial Review is required.

Council **APPROVED** the publication of the report subject to formatting changes. Council agreed to publish the report over the summer.

UPDATES ON CURRENT WORK

Futures

The Chair asked the Futures Group to consider generative AI and its effect on the legal profession, dispute resolution, and access to justice. A paper was presented to the Council on generative AI, and the guest speakers, both members of the Futures Group, presented an outline about the use of generative AI in the legal realm, as well as giving a demonstration of using AI.

The Chair of the Working Group raised the challenge of what the development in these kinds of technologies means for lawyers, law firms, and judges. The Council must strike a balance between clients and users of these technologies, as well as the legal professionals who are concerned about their livelihoods.

Council discussed the use of generative AI, as well as the Council's short-, medium-, and long-term goals in tasking the Futures Group with this work. It was agreed that the Group's overwhelming concern is access to justice and its purpose is to improve access to civil justice for all, particularly those with limited means. The group should also be mindful of the Online Procedure Rules Committee (OPRC) and the digital justice system.

Procedure for determining Mental Capacity in Civil Proceedings

The Group informed the Council that they feel it would be useful to hold a consultation, using the Costs consultation as a model. It was proposed that a consultation document be sent to Council for approval out of committee over the summer before the consultation opening in the new legal year. As part of the consultation process, the Group suggested that a half-day conference also be organised.

National Forum

The lead Member for the National Forum shared the latest iteration of the event programme with the Council. It was agreed that the Forum's title should be 'Improving access to justice in a cost-of-living crisis.'

There was an extensive discussion around the objectives and structure of the Forum overall and the planned sessions, as well as which topics should be covered by speakers and sessions.

Data

The Chair of the Working Group explained the Group's process for developing its terms of reference (TOR) to Members and welcomed Council's suggestions on the TOR, particularly on how to reconcile the work of the Group with the work of other Council Groups.

A Member reflected that the discussion around the Group's TOR speaks to how to hold a Working Group to account when it is not a task-and-finish group. The Chair of the Council asked Members if they are content to commit the Working Group to an annual update on progress. Members agreed that an annual update is essential to maintain transparency and accountability. There was a discussion about the timing of publication for the annual update: a Member suggested that it could be useful to align the time of publication of the Group's annual update with that of the Council's Annual Report. The Secretariat advised that the Annual Report is not published at a fixed point; it was agreed that the Group should commit to publishing an annual update in December.

There was discussion between the Chair of the Group and the HMCTS Member around what data is required by the Group, and what the report is reporting on. It was agreed that the Chair of the Group would meet with HMCTS Analysis and Performance team, as well as speaking with the MOJ member about looping in colleagues from MOJ.

The Group's TOR were **APPROVED** by Council. Members interested in joining the group were asked to contact the Secretariat.

UPDATES FOR INFORMATION

MOJ

The MOJ member updated on key points from their report to Council, including the Call for Evidence on Open Justice, closing on 7 September 2023; Personal Injury Discount Rate, Fixed Recoverable Costs (FRCs); enforcement; AI and blockchain, and the Data Protection and Digital Information Bill.

MOJ referenced the CJC's work on Third-Party Litigation Funders in 2011 and *Paccar Inc and Ors v Road Haulage Association Limited and UK Claims Limited*, suggesting this could have quite a large impact and may be of interest to the Council.

A Member asked whether the Council should respond to the Open Justice consultation, highlighting access to justice points. The Member offered to look at the consultation questions to see where the CJC might add value.

HMCTS

HMCTS provided an update on challenges in the county courts; specifically judicial capacity, staffing pressures and continuing post-Covid difficulties. The update also covered possession claims; enforcement; Small Claims and mediation; Reform and digitisation; OCMC and Damages services, as well as performance improvements.

There was a discussion around better presentation of public-facing data by HMCTS and MoJ, to improve public understanding of the data published. HMCTS were asked by Council to present on how the future approach to Reform will be delivered for judges and users at the next meeting.

Welsh Interests

At the February Council meeting, the Member for Welsh Interests heard the Law Commission's 'Devoted Tribunals in Wales Report'. The Welsh Government is drawing upon this report and has produced a white paper for consultation on 'A New Tribunal System for Wales'. The paper is supported by an integrated impact assessment. The Member for Welsh Interests explained the main proposals contained within the white paper.

CPRC

An update was provided on the extension of FRCs in pre-litigation clinical negligence. It was also reflected that it is important that the Council is aware of the work of the Online Procedure Rules Committee (OPRC). Council agreed that OPRC should be included in future Council meeting papers.

A Member referencing the extension of the pilot schemes PD 51R (Online Civil Money Claims) and PD 51 ZB (Damages Claims Portal) until 1 October 2024, as well as highlighting several recent judgments for the Council's awareness. MOJ also provided a brief update on Strategic Lawsuits Against Public Participation (SLAPPS).

GOVERNANCE

Recruitment

The Secretariat gave a brief update regarding appointments and recruitment.

Executive Committee

The Secretariat updated the Council that the Executive Committee (Exco) have continued to meet regularly.

ANY OTHER BUSINESS

CJC Response to Ombudsman Consultation

The Chair gave their thanks to the two Council Members who responded to the Ombudsman Association consultation on changes to its terms and rules in June.

Civil Servant Appointments to CJC

The Chair shared that the appointment of three civil servants as full Council members has been approved.

The next meeting will take place on 13 October 2023.