



Friday 14 October 2022

MEETING OPENING

The Chair extended a particular welcome to the 6 new members of Council.

The minutes of the last meeting were **APPROVED**.

GUEST SPEAKER

The Council welcomed a guest speaker from the Welsh Government to discuss Civil Justice in Wales. The speaker explained their role and gave an overview of key developments in Wales that were likely to be of interest to the Council. There was discussion regarding how Council would best engage with Welsh interests and the Welsh Government justice policy work going forward. It was agreed that a standing invite to observe Council meetings would be extended to the Welsh Government.

UPDATES ON CURRENT WORK

Pre-Action Protocols

The Chair of the working group updated Council on this work. There was a discussion that particularly focussed on data, digitalisation, small claims, summary costs, and the nature and purpose of the pre-action space. A Member raised the query about differences in PAPs in Wales. It was agreed that the Welsh Interests member of Council would try to locate an information source who can feed into this work.

Procedure for determining Mental Capacity in Civil Proceedings

The Chair of the working group provided an overview. The group was set up to examine the issue of civil procedure for litigants who may not have the capacity to litigate, as well as detailing the planned schedule of the group's monthly meetings.

The working group will initially focus on how to identify issues of capacity, how to investigate issues of capacity and how to determine capacity. The group propose to consult with individuals and agencies with on the ground experience (such as front-line advice agencies and DJs).

The importance of detail and using specific, practical examples was raised. Council agreed to look at this topic because of how many cases it impacts; it is therefore important to get people to engage and find the real issue. Before undertaking this work, the Council reviewed the proposal against its work prioritisation criteria. This included confirming that the issue is not being looked at elsewhere.

Costs

The Chair of the working group gave a summary of engagement and suggested that, from preliminary discussions, there will be recommended changes in costs budgeting, but not abolition.

Futures

A paper written by the Chair of the working group was shared with Council. The paper outlines a repositioning of the group's scope and purpose, inviting formal approval on the timetable of work and revised terms of reference of the group.

There was an ensuing discussion about the focus and purpose of the group as indicated by the proposed amended terms of reference. Several concerns were raised by members in response to the paper.

MR clarified that the group's purpose should be to create a proposal, or a series of ideas, that considers and recommends beneficial technological developments, as well as highlights areas of potential future development that the Council should be aware of.

It was suggested that the proposed terms of reference be reviewed with consideration of the concerns raised in discussion.

Civil Procedure Rules Committee (CPRC)

An update was provided on the work of the CPRC covering fixed recoverable costs extension, the rolling consultation on simplifying the Civil Procedure Rules (CPR) and the damages claim pilot. Lastly, there was reference made to 'QC' being changed to 'KC.'

MOJ

MOJ provided a paper to Council updating on: Whiplash, Fixed Recoverable Costs, updates to the CPR and CPRC business and the Online Procedure Rules Committee (OPRC).

HMCTS

HMCTS provided a paper outlining performance statistics, new initiatives, and reform in the County Court. It was highlighted that this data does not show where dispute resolution hearing has taken place.

The Chair stressed the importance of reported figures and statistics reflecting the reality faced by courts. They referred to the April 2022 minutes, where it was agreed that data progress should be reported at the Council. There was a discussion about the use of data in the courts and what specific data should be reported back to the Council.

An update on Reform was also provided by HMCTS. At present, two digital systems are live – OCMC and Damages – and whilst they are not fully operational, the aim is that they stay online until a final order is uploaded. There continues to be an increase in usage of both systems.

HMCTS updated that online damages claims became mandatory from 15 September 2022.

Data

It was suggested by HMCTS that it would be helpful if the Council were more specific about both the type of data that it wants and the purpose of its data request. It was noted that whilst there will be specific data requests made by the Council, it is also interested in compiling general data to enable members to fulfil their statutory duty to review the civil justice system.

It was decided that the Chair of the Data working group would meet with HMCTS to discuss the Council's use of data.

National Forum

The Secretariat thanked the Executive Committee for their feedback on the first iteration of the draft programme for the 11th Annual National Forum, which will take place in November. The day has some familiar aspects from previous events but includes specific aims. The day starts with a panel session. The morning breakout sessions will focus on current work of the Council, whilst afternoon sessions will be more focused on networking. The final part of the day reflects on Council work and the impact that the Council is having. It was noted that, this year, the Secretariat will be more involved with organising the event.

It was acknowledged that whilst the Council's network is diverse in gender, regrettably, it is not diverse in other categories. Members were invited to share names, ideas, and contacts from their networks.

The programme was **APPROVED** by the Council.

ADMINISTRATION

Appointments

The Secretariat thanked members for their patience and updated on recruitment: there are now 6 new Council members, and it is hoped that recruitment for new members will begin shortly.

Executive Committee

The shadow Executive Committee has been established.

Report Template

The Secretariat shared a template to be used for any future Council reports. This will reduce the administrative burden on the Secretariat and ensure Council outputs are in a standard, more accessible format. The template will be distributed to members via email.

The next meeting will take place on 27 January 2023.