



Friday 13 October 2023

### **MEETING OPENING**

The Chair welcomed regular observers and first-time attendees and thanked members who had sent updates to the register of interests ahead of the meeting.

The Council said goodbye and recorded its thanks to the EU Exit member, who had served on the Council for two terms.

The minutes from the previous meeting were **APPROVED**. Subject to a small amendment on the attendee list, the minutes of the strategy meeting were also **APPROVED**.

### **GUEST SPEAKER – Greener Litigation**

The Chair welcomed a steering committee member of Greener Litigation, an organisation founded with the primary objective of reducing the environmental impact of dispute resolution. The organisation had previously engaged with the Pre-Action Protocols (PAPs) Working Group, suggesting draft wording on pre-action conduct. They thanked the Council for the opportunity to open the conversation on how the CJC and Greener Litigation could work together to reduce the environmental impact of litigation and to broaden the reach of the organisation.

The Chair recorded the Council's thanks to the guest speaker. It was agreed that Council should consider including a representative from Greener Litigation at Council meetings and in working group discussions.

### **UPDATES ON CURRENT WORK**

#### **National Forum**

This year's Forum Chair presented Council with an updated agenda for the Forum, which laid out the structure and aims of the day.

Several members highlighted the importance of diversity amongst the speakers at the Forum. A member urged the Council to consider compensating speakers with a free for their time as, from their experience, offering a flat reimbursement to cover speakers' time improved the quality of discussion. The difference between reimbursement and fees was clarified by the Chair and the Secretariat: The Council offers reimbursement of expenses but cannot currently factor speakers' fees into its modest budget.

Members were encouraged to get in contact with any suggested changes or additions to the agenda, or elements to be addressed on the day.

## **Futures**

The Chair of the Working Group shared an update paper on the Group's work. One question asked in the paper was what the Council would like the Group to do in their allotted session at the National Forum. The Council's Chair suggested that the focus should be on generative AI: it is extremely important that the Futures Group explains and shares information with the wider access to justice community and smaller law firms on how new technology will be used to benefit those of lesser means. The Futures Group thanked the Chair for their worthwhile steer.

## **Procedure for determining Mental Capacity in Civil Proceedings**

One of the co-chairs of the Working Group updated that the Group have concluded their initial series of meetings and that the co-chairs have started drafting the consultation document.

The Group proposed to hold a half-day afternoon seminar in early 2024, modelled on the Council's Costs conference in 2022, as part of the consultation process. The Secretariat confirmed that there is budget set aside in the Council's budget for 2023/24 for a second event (in addition to the National Forum).

Council **APPROVED** the Capacity Seminar proposal.

## **Data**

The Chair of the Group presented a paper which outlined the proposed scope of the Group's first report. The Group proposed to move beyond the court system in later iterations of the report. The paper also contained suggestions on how the Group might use its session at the National Forum as an engaging way to present how the Group might define data and the scope of the Group.

It was highlighted that the Group have suggested pushing back the publication for the first report from January 2024 to later in the spring. The Chair of the Group clarified that one reason to delay the report is to enable the Group to draw from work ongoing in the Family Division.

Council **APPROVED** the new timeline for the initial report.

## **UPDATES FOR INFORMATION**

### **Future Work**

The Secretariat explained that this item followed the dedicated Strategy meeting in July 2023. It was aimed as an update for information only but gave Council the opportunity to discuss suggestions of future work for it to assume once the Secretariat is up to full capacity. Some current suggestions for future work for the Council would be to review litigation funding, the role of enforcement and the Solicitor's Act 1974.

There was a discussion with MOJ around the parameters of the Council picking up this work, particularly on litigation funding, and it was agreed that MOJ would raise with the Secretariat if Government wished to ask the CJC to take forward work in this space.

The Secretariat also discussed a request from the Department for Levelling Up, Housing and Communities (DLUHC), who have requested a short follow up report to the CJC report on [Anti-](#)

[Social Behaviour and the Civil Courts](#). It was agreed that reviewing the progress of Council's reports and recommendations was important: it is not only useful to review when recommendations have been addressed, but also when they have not been addressed. A member volunteered to look at the Anti-Social Behaviour recommendations and determine which have been taken forward.

## **MOJ**

MOJ updated on the key points from their report to Council: Official Injury Claims; the publication of the Call for Evidence on dual/multi-rates; Small Claims Mediation; Civil litigation funding and costs, particularly Fixed Recoverable Costs (FRCs) and the *PACCAR* judgment; the Environmental Cost Protection Regime; Enforcement; Register of Judgments, Orders and Fines; Wills and Probate.

## **HMCTS**

HMCTS reflected that they have adapted their paper to provide a more rounded update on performance, following suggestions from the previous Council meeting.

HMCTS provided an update which covered County Court business centre processes and current performance in the county courts; mediation; possession; the court user satisfaction survey; Online Civil Money Claims and Damages.

## **Civil Procedure Rule Committee (CPRC)**

A paper was presented to Council, which updated on Mr Justice Cotter's case (*Major v Kirishana*) on capacity and litigation friends; the extension of FRCs; Automatic referral to Mediation; Official Injury Claims; Strategic Lawsuits Against Public Participation (SLAPPS).

## **Access to Justice Report**

HMCTS summarised the main points of the access to justice report that was presented to Council. It is intended that the report will be published as a summary report around mid-November. Council members had some queries around the scope of the work and the presentation of the findings of the summary assessment.

HMCTS thanked Council for their helpful drafting points to be taken away ahead of publication of the report.

## **Welsh Interests**

A guest speaker was due to attend the meeting to give an update on accessibility in Welsh Law; unfortunately, they were unwell, and this item was postponed until the January meeting.

## **GOVERNANCE**

### **Recruitment**

The Secretariat gave a brief update regarding appointments and recruitment.

### **Executive Committee**

The Secretariat updated the Council on the nominations process for the Executive Committee. Council had previously agreed to appoint members to Committee on an annual basis, but Committee members felt that a one-year term was too short and proposed moving to two years for greater consistency. It was also suggested that the nominations process be amended to self-nomination with a seconder. Council **APPROVED** the proposal to appoint new members to Executive Committee every two years and the amended nominations process.

### **ANY OTHER BUSINESS**

#### **Online Procedure Rules Committee (OPRC) Minutes**

As discussed at the Council's strategy meeting in July, the minutes of OPRC meetings have been circulated to Council for information.

#### **Law Society Green Paper**

The Law Society Green Paper on proposals for a 21<sup>st</sup> century justice system was shared with Council for information.

The next meeting will take place on 26 January 2024.