Friday 31st January 2025

Meeting Opening: Welcome and apologies

The Chair formally opened the meeting, welcoming all attendees, including regular council members, guest speakers, and new participants. A moment of appreciation was extended to a departing member of the Secretariat for their contributions.

Apologies were received from several members, indicating their inability to attend the meeting. The minutes from the previous meeting were reviewed, with minor amendments incorporated before receiving approval.

Register of Interests

Members were reminded to update their interests, which will be published following the public announcement of new appointments. This ensures transparency and accountability within the Council. Members were encouraged to contact the Secretariat with any updates to the register of interests.

Guest Speaker: Judicial Press Office

A representative from the Judicial Office Press Office provided an overview of the team's role in supporting Judicial Office holders and shared best practice guidance for Council members when engaging with journalists. Key points included the importance of clarifying the nature and context of media inquiries, establishing the capacity in which members are responding, and signposting to publicly available information when appropriate. Members were advised to direct specific inquiries to the CJC Secretariat or the Judicial Office Press Team.

It was acknowledged that media engagement varies among members, and that some may be approached more frequently than others. One member shared their experience of media training received and noted the attendance of a legal journalist at the CJC National Forum. Another member proposed the development of written guidance for Council members. It was agreed that the Secretariat would collaborate with the Press Office to draft guidance for approval by Exco. Additionally, a request was made for members to be notified in advance if they are being put forward for media engagement.

Reports for Discussion

Enforcement

The Council reviewed a comprehensive report on enforcement, acknowledging its complexity and the breadth of evidence gathered through various channels including a Call for Evidence, webinars, and breakout sessions at the National Forum. The report outlines the current challenges in enforcement, proposes immediate improvements such as enhanced information sharing, and explores long-term reforms including the creation of a single unified digital enforcement court.

The concept of a digital court was discussed in detail, with members considering its potential to streamline enforcement processes and reduce reliance on physical court infrastructure. Concerns were raised about maintaining local support for judgment debtors and ensuring that enforcement remains accessible and humane. The proposal aims to centralise enforcement while retaining local operational teams within a national digital framework.

Several members supported the digital court idea, citing issues such as the transfer of County Court judgments to the High Court and inefficiencies in the current system. Historical recommendations, including those from Lord Briggs' 2016 Civil Courts Structure Review, were referenced to support the move toward a unified service. The importance of data-driven enforcement and modernising service methods was emphasised, with suggestions including linking service to digital identities rather than physical addresses.

The discussion also touched on broader policy implications, including the safety of enforcement officers and the effectiveness of current debt recovery methods. The fiscal environment and legislative requirements for reform were acknowledged, with a call for separating recommendations into those requiring significant investment and those achievable through smaller changes.

Additional points included aligning the enforcement report with recommendations from the debt Pre-Action Protocol (PAP) report, improving court forms, and addressing capacity issues that emerge during enforcement. The report was approved for publication out of committee, subject to agreed amendments. Follow-up actions were noted, including meetings to explore specific recommendations further.

Digital Disadvantage

The Council considered a report focused on digital disadvantage within the civil justice system, reframing the issue through the lens of digital inclusion. The report draws on a literature review and stakeholder engagement, recommending that access to justice be approached holistically, with inclusion integrated from the outset. A key observation was the lack of consistent data on how users interact with the system, highlighting the Council's potential role as a convening body for thought leadership in this space.

Recommendations emphasized the adoption of inclusive design principles, structured around the 'four As': availability, accessibility, acceptability, and adaptability. The report advocates for clearer standards and outcomes, and for enhancing public legal education to improve user understanding beyond the point of need.

Members discussed the relationship between digital inclusion and the complexity of legal language, suggesting that simplifying terminology could improve accessibility. International examples, such as the British Columbia Tribunal, were cited for their use of plain language and concise judgments in online systems.

The Council expressed strong interest in progressing this work, with suggestions to convene a stakeholder group to explore design and implementation strategies. The Online Procedure Rules Committee (OPRC) was identified as a potential partner for advancing recommendations. Members noted the relevance of ongoing digital service developments and stressed the importance of embedding inclusive principles in their design.

The report was praised for its clarity and alignment with existing efforts, including those by HMCTS. Examples such as Online Civil Money Claims (OCMC) were highlighted for their success in improving user engagement through simplified language and intuitive design. The broader transition of the civil justice system toward digitalisation was acknowledged, with emphasis placed on maintaining inclusion and access to justice as central priorities.

The report was approved for publication out of committee, subject to the comments and amendments raised during the meeting.

Updates on Council's Current Work

Data

The Council reviewed a report summarising the current landscape of legal research tools and their implications for access to justice. The discussion focused on the challenges faced by users navigating digital legal resources, particularly in relation to usability, accessibility, and the clarity of legal language.

It was noted that many legal databases and platforms are designed with professionals in mind, which can create barriers for non-expert users. The conversation highlighted the need for systems that support intuitive navigation and plain language, enabling broader public engagement with legal information.

Members reflected on the importance of inclusive design and the potential for digital tools to simplify legal processes. There was consensus that improving the clarity of legal terminology and the structure of digital platforms could significantly enhance user understanding and participation.

The Council acknowledged the value of ongoing work in this area and expressed support for further exploration of how digital legal resources can be made more accessible, particularly

for individuals without formal legal training. The importance of aligning future developments with principles of inclusion and public legal education was emphasized.

The report was approved for publication, subject to amendments discussed during the meeting.

Litigation Funding

The consultation period for the litigation funding working group has been extended until 3 March. This extension was welcomed and is not expected to delay the publication of the final report. A second meeting of the consultation group was proposed to discuss responses and recommendations. Communications regarding the upcoming Litigation Funding event on 26 February will be released shortly.

The Solicitor's Act

A paper update was received and noted with thanks.

Costs

A paper update was received and noted with thanks.

Updates on Other Work

HMCTS

An overview of the data pack and summary narrative was shared, focusing on small claims timeliness, mediation performance, and defendant engagement through online systems. It was noted that national averages can obscure regional disparities, particularly in London and the Southeast. Intermediate track case volumes are increasing and will be monitored.

The Small Claims Mediation Service continues to perform well, with strong timeliness metrics. Management information on mediation is expected to be published. Reform services have been extended from legal representatives to citizens, with initial testing underway in 16 courts. Online systems are enabling cases to progress significantly faster.

User satisfaction rates, which had dropped to 70%, have since increased to 86% following feedback-driven changes. The reform programme concludes in March, but a new civil project will continue efforts to expand digital services across the County Court.

Concerns were raised about the reliability of user satisfaction surveys, with criticisms regarding methodology remaining unaddressed. A follow-up paper was proposed to revisit this issue.

Ministry of Justice

Updates were provided on various MOJ initiatives. The Review of Civil Legal Aid (RoCLA) was launched in January 2023, with further publications and a forthcoming consultation on fee uplifts for immigration and housing. A review of the Whiplash tariff was published, with next steps involving consultation with the judiciary. Recommendations on medical reporting fees have been made, though implementation timelines are pending.

The Renters Rights Bill has progressed to the House of Lords, alongside reforms to digital possession services and associated rule changes. An initial stocktake of Fixed Recoverable Costs (FRCs) is expected to begin in June 2025, with a broader review to follow. A review of Litigants in Person rates is also proposed. The Department of Health and Social Care is still considering the expansion of FRCs in clinical negligence cases.

Implementation of Strategic Lawsuits Against Public Participation (SLAPPs) is anticipated in April, with monitoring arrangements under development. Updates were also provided on Law Commission projects and current litigation, including the Arbitration Bill, Digital Assets Bill, and Terminally Ill Adults End of Life Bill.

An anomaly was noted regarding cost recovery differences between intermediate and fast-track clinical negligence claims, which has implications for client communication and payment structures.

Legal Aid

An increase in legal aid fees for housing, debt, and immigration was announced. Other areas remain under review as part of RoCLA. It was agreed that responding to the MOJ's consultation on civil legal aid falls outside the Council's remit.

Civil Procedure Rule Committee (CPRC)

The CPRC's annual report was published in January, referencing the Council's work on costs, clinical negligence, online processes, and mediation. Ongoing projects include simplifying procedural rules.

There was discussion of the Council's reports on Pre-Action Protocols (PAP) and Mental Capacity in Civil Proceedings. It was clarified that recommendations from these reports are not yet under CPRC consideration. The PAP recommendations require review by the judiciary, while the Capacity report includes recommendations for MOJ. MOJ must first determine which recommendations to accept before CPRC can proceed.