



**Minutes of the Civil Justice Council Meeting
24 June 2011 10.30 am
E200, Royal Courts of Justice**

Master of the Rolls Lord Neuberger	Chairman	Peter Smith	Member
Lord Justice Moore- Bick	Deputy Chairman	Tim Wallis	Member
District Judge Robert Jordan	Member	Robert Wright	MOJ
Mark Harvey	Member	Alex Clark	Secretary to CJC
Nicola Mackintosh	Member	Chris Morris-Perry	Assistant Secretary
Janet Tilley	Member	Peter Farr	Private Secretary to the Master of the Rolls
John Pickering	Member	John Sorabji	Legal Secretary to the Master of the Rolls
Colin Stutt	Member	Jo Gordon	Judicial Office
John Usher	Member	Carol-Ann Montgomery	Judicial Office
Deborah Prince	Member		
Dr Jane Phipps	Member		
Amanda Finlay	Member		

1. Introduction and apologies

Apologies were received from Mr. Justice Alistair MacDuff, Dr Jane Phipps, HH Judge Graham Jones, and Professor Rachael Mulheron

2. Minutes of the last meeting

The minutes of the last meeting of 8th April were approved.

3. Minutes of the Executive Committee

The minutes of the last meeting were noted.

4. Working Party Updates

(i) Predictable Damages – Chair Peter Smith

Peter Smith reported that little progress had been made since the last Council meeting on 8th April; the purpose of the Working Party was to establish a uniform calibration of software systems used to assess personal injury damages up to £10,000. WP membership was complete; a list of members has been placed on the CJC web-site.

(ii) Defamation Bill Consultation – Chair Robin Knowles

Robin Knowles informed the Council that a wide range of views has been represented on the group but consensus had been achieved. It concluded that the key tool for controlling cost of libel cases was more judicial case management; more limited criteria for use of jury trials would also be beneficial. The Working Party was concerned that the Bill in its present form would have little effect on the present system as much of the current law was common law and not enshrined in legislation. It might be possible to codify the law but that might limit the future flexibility of the law in this area. The report was submitted to the Ministry of Justice on 30 June; a copy has been placed on the web-site.

(iii) Access to Justice – Litigants in Person – Chair Robin Knowles

The Chair informed the Council that the terms of reference and membership of the Working Party had been settled; details have been placed on the web-site. The purpose of the group was to submit a report to the Lord Chancellor which set out concrete steps to improve access to justice for litigants in person, by 31 October.

Nicola Mackintosh said that there was a pressing need for this work as, with the withdrawal of legal aid, a large area of the law would be taken out of scope for claimants, in particular, family law. She recommended that the Chair liaise with the Family Justice Council; he agreed to consider how family justice interests could be represented on the Working Party.

The Master of the Rolls said that the growth in the number of litigants in person would result in increase court costs and delay and risked impairing the quality of justice that the courts dispensed. It was agreed that the court rules and procedures were complex and difficult to understand; they needed to be made simpler and more intelligible although that would not be an easy task.

(iv) ADR Handbook and Education – Chair – Tim Wallis

The Chair informed the Council that the Handbook was to be published on the Oxford University Press web-site.

(v) Pre-Action Protocols – Chair – His Honour Judge Graham Jones

The Chair informed the Council that the revised draft of the Dilapidations Protocol (DP) had been submitted to the Civil Procedure Rules Committee for consideration at its next meeting on 8 July, together the original draft produced by the PLA. It was agreed that the remaining protocols would be reviewed later following the CPRC decision on the DP.

(vi) Third Party Funding – Chair – Michael Napier

The first meeting of the Working Party was scheduled to meet on 13 July. The WP was to consider revisions to the draft code for Third Party Funders in the light of the summary responses to the CJC consultation issued last year.

(vii) Performance Assessment of Council Membership

The Secretary submitted a paper setting out options for completing annual performance assessments of Council members. He reminded Members that appraisals were mandatory under OCPA recruitment guidelines. The Council approved the option whereby the Secretary would complete appraisals for non-judicial members, with the support of Working Party Chairs as required. Appraisals would only be referred to the Master of the Rolls where the member was adjudged to be a poor performer. Appraisals would be disclosed to individual members. Assessments of judicial members would still be conducted by the Master of the Rolls.

Communications Strategy

The Communications Officer submitted a communications paper for discussion. Council members were asked for their views on how the CJC should communicate what messages it wanted to put across and with whom it wanted to communicate. It was agreed that a communications plan should form part of the work setting up a Working Party. The Communications Officer offered to help the Council identify media outlets and publications. She also suggested that Council members might like to give interviews which could be placed in relevant journals.

Robin Knowles commended the paper. He said that there was a need to communicate advice to the Ministry of Justice and the judiciary, and more generally raise awareness and influence decision-makers. Lord Moore-Bick pointed out that Working Party members were delegates of the Council and as such communication plans should be cleared with the Executive Committee. The Chairman stressed the need for a co-ordinate approach to communications.

The Council commended the revised, updated CJC web-site.
(www.judiciary.gov.uk/about-the-judiciary/advisory-bodies/cjc)

Amendment to the Public Bodies Bill – Public Bodies Bill

The Chairman informed the Council that an amendment tabled by Lord Newton, passed in the Lords, which moved the CJC from its original schedule (safeguarding its position) to schedules which would allow Ministers to amend its responsibilities and ultimately abolish it. There followed a discussion on what this potential change might mean in practice and the merits of making representations to the MoJ. It was decided that the CJC should seek clarification of the Government's position on the Bill.

CJC Budget

The Secretary submitted a finance paper for discussion. He informed Council members that there had been no bids for funding from the 2011/12 events and research budget (£68,000). He reminded Council members that there had been a move away from the culture of the unplanned spending of money at the end of the financial year. The Judicial Office required the CJC to submit timely detailed spending proposals backed by robust business cases. In view of the lengthy procurement process, bids for finance needed to be drawn up at an early stage to ensure that funds were available when required.

Robin Knowles was concerned that there was no linkage between the budget which was allocated to the Council and what it needs. The Chairman stressed the importance of sound financial forecasting so that the Council would have resources secured for following years.

9. Jackson Implementation – CJC Support

The Ministry of Justice submitted papers setting out Government policy on the Jackson Report on civil litigation and the CJC's role in implementing specific recommendations on qualified one-way cost shifting, Part 36 offers to settle and proportionality. The Council agreed that early planning was required to identify the key issues, stakeholders and ways of working in order to meet Government deadlines for advice of 30 October. During discussion, it was agreed that those involved needed the right skill sets and that the issues cut across civil justice not just personal injury. As changes to civil rules may result, it was agreed that members of the Civil Procedure Rules Committee should be also be involved at an early stage.

10. Solving Disputes in the County Courts; Draft Response to the Green Paper

The Council thanked those involved in putting together a draft response to the consultation. During discussion, Council members raised a number of areas of disagreement such as mandatory pre-action directions and mediation, standardised judicial case management and proposed changes to debt enforcement procedures. There were concerns about how such changes would be enforced and the removal of freedom of choice for claimants.

Dates of Next Meetings

Event	Date	Time	Location
Council Meeting	27 October 2011	10:30-12:30	Royal Courts of Justice (E200)
Council Meeting	27 January 2012	10:30-12:30	Royal Courts of Justice (E200)

Council Meeting	26 April 2012	10:30-12:30	Royal Courts of Justice (E200)
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Chris Morris-Perry
Assistant Secretary