

# SENIOR COURTS COSTS OFFICE COSTS PRACTITIONERS GROUP

## MINUTES OF MEETING HELD ON THURSDAY 9 MAY 2024

Present		
	<b>Costs Judge Rowley (in the chair) (JR)</b>	<b>SCCO</b>
	<b>Senior Costs Judge Gordon-Saker (AGS)</b>	<b>SCCO</b>
	<b>Costs Judge James (JJ)</b>	<b>SCCO</b>
	<b>District Judge Harper (KH)</b>	<b>ADJ</b>
	<b>Mr J Ridgway (JRi)</b>	<b>ACL</b>
	<b>Mr S Green (SG)</b>	<b>APIL</b>
	<b>Ms N Greaney KC (NG)</b>	<b>Bar Council</b>
	<b>Mr M Hoe (MH)</b>	<b>FOIL</b>
	<b>Mr A Jiwaji (AJ)</b>	<b>LSLA</b>
	<b>Ms S Kaye SK)</b>	<b>PDF</b>
	<b>Mr P Allen (PA)</b>	

### 1. Apologies for absence

Apologies received from Mr D Marshall (DM) for the Law Society.

### 2. Approval of the minutes and any matters arising

There being no amendments, the minutes of the meeting on 9 November 2023 were approved.

The only matter arising and not otherwise covered on the agenda, related to the production of the next SCCO Guide. JR indicated that the next edition would be in 2025.

### 3. CE File

JR had informed the last meeting that the choice of filing options was due to be improved, particularly in respect of applications. Those amendments had been requested and tested, but there were still some technical issues to be resolved. As such, there remained a shortage of suitable choices when filing certain documents.

In respect of a specific query from SG regarding applications under CPR 46.4 (see item 8) having their own filing options, the view of JR and AGS was that they should

continue to be filed as BTP or APP proceedings depending upon the elements to be assessed.

#### **4. Court of Protection**

The meeting welcomed Stephanie Kaye as the representative of the Professional Deputies Forum and there was a lengthy discussion of matters such as the use of e-bills following the pilot scheme, the continued increase in bill numbers and the new costs officers being trained.

#### **5. CJC Working Parties**

The Civil Justice Council Report from May 2023 proposed a number of working parties to deal with matters arising from the report. In respect of Guideline Hourly Rates, they had been uprated as from January 2024. The wider review of figures was a longer term project, including the adoption of GHR for counsel.

There had, as yet been no sign of any report or recommendations regarding budgeting matters, such as a “budget light”. The best information available to the meeting was that a report was expected to be with the CPRC for consideration in the second half of 2024.

Separately from the CJC Report, JR informed the meeting that a first meeting of a working party under the chairmanship of Adam Johnson J to look at the Solicitors Act 1974 had met and that a further meeting was due to take place before the end of the month.

#### **6. Fixed Costs**

The reforms brought in from 1 October 2023 were still too new to provide any feedback to the meeting.

JR then produced a note from DM regarding clinical negligence claims and other FRC claims. The CPRC were due to discuss FRC matters on the day after the meeting with a further meeting in June to finalise matters for implementation in October 2024.

The FRC regarding clinical negligence claims would affect those which were valued at less than £25,000 and settled pre-proceedings. Whilst that might sound restrictive, it would still capture a significant percentage of clinical negligence claims and there were no plans to widen the scope, e.g. to involve issued claims.

The consultation paper issued by the Department of Health and Social Care on the morning of the meeting was brought to the meeting’s attention. It concerned various

matters relating to disbursements in lower value claims where fixed costs would apply.

In respect of other FRC issues, the CPRC were to look at a number of tidying up amendments. DM also expected there to be a finalisation of provisions for “determination” of disputes regarding disputes on the level of FRC.

## **7. Updating the costs precedents**

Following the discussion at the last meeting about the possibility of producing precedent Points of Dispute for E-Bills, SG indicated that he had produced a draft version which, with the encouragement of the meeting, he would circulate after the meeting.

SG indicated that he had also drafted a possible “Budget Light” document in an attempt to move things forward. It was generally felt that the best time to look at such a document would be once the CJC working party had made its views known publicly so as to be clear as to the direction of travel.

## **8. Assessments under CPR 46.4**

(For CE File options, see item 3.)

Having commented that court fees are a matter for HMCTS, AGS confirmed the judicial understanding was that the court fee payable for these assessments ought to be based on the sum claimed from the client rather than the sum originally claimed between the parties.

There was a discussion about whether such assessments might be dealt with on paper to minimise the costs involved in the process. There were practical difficulties with this, not least regarding any attendance by the litigation friend or Deputy.

## **9. Outstanding appeals from the SCCO**

- **St James v Wilkin Chapman (To be heard on 21 June 2024)** – was CFA a CFA Lite / limitation on recovery of costs from client limited to those in budget and / or recovered from opponent
- **Brealey v Shepherd & Co (PTA)** – appeal out of time against decision that *Tim Martin v Akin Gump* applies to s71(3) applications.
- **Trotman v RB Kingston upon Thames (PTA)** – Litigant in Person’s appeal.
- **Enemou (executor of the Estate of Josiah S O Nnoruka) v Riverbrooke Solicitors Ltd (PTA)** – Litigant in Person’s appeal.

- **Turner v Coupland Cavendish Ltd (PTA granted)** – Part 18 Requests and information regarding Gibraltar company.
- **Dowding v The Character Group (PTA)** – Litigant in Person’s appeal.
- **Archstone Solicitors v Torabally (PTA)** – appeal against decision to assess solicitors’ bill at nil.
- **Savage & Ors v Laytons LLP (PTA)** – appeal against orders dismissing (i) use of expert evidence and (ii) specific disclosure.

#### **10. Decisions on appeals from the SCCO (for noting)**

- **Menzies v Oakwood Solicitors (Supreme Court)** – what amounts to a settlement of account to enable a deduction from damages to payment of a solicitor’s bill
- **Boodia v Richard Slade & Co (x2) (Heard July 2023)** – informed consent and consumer rights issues and whether res judicata
- **Thomson Snell & Passmore v Kenig (Heard 18 10 23)** – extent of entitlement of beneficiaries to a s71 SA assessment
- **Singh & Ors v Ingram (Heard 20 11 23)** – challenge to retrospectivity in CFA and also costs of DA proceedings. Extempore decision given. Appeal dismissed.
- **Blacklion Law LLP v Lyons (PTA)** - Reductions on non-statutory detailed assessment including costs of the proceedings. Struck out for failure to comply with directions.

The meeting’s attention was drawn to the case of Menzies. The Court of Appeal’s decision was minuted in the November 2023 minutes. Since then, the Supreme Court had given limited permission to appeal and that appeal was listed to be heard in July 2024.

#### **11. Date of next meeting – 14 November 2024.**