

## SHADOW CIVIL JUSTICE COUNCIL

**DRAFT Minutes of the Second Meeting of the shadow Civil Justice Council held on 06 March 2018 at 4.00 pm in Judges' Common Room, Royal Courts of Justice, Belfast**

Attendees: Lord Justice Deeny (Chairman)  
District Judge Brownlie  
Master McCorry  
Liam McCollum QC (Bar Council)  
Paul Dougan (Law Society (LS))  
Laurene McAlpine (Department of Justice (DOJ))  
Michael Foster (Department of Finance (DOF))  
Peter Luney (Northern Ireland Courts and Tribunals Service (NICTS))  
Mandy Kilpatrick (Principal Private Secretary (PPS) to the Lord Chief Justice (LCJ))

Apologies: Julie McGrath (Office of the LCJ (OLCJ))

In attendance: Patricia Radcliffe (OLCJ)

### **Welcome and apologies**

The Chairman welcomed everyone to the meeting and apologies from Ms Julie McGrath were noted.

### **Minutes of the last meeting**

Minutes of the meeting of 9 October 2017 were agreed.

### **Review of Action Points and Agreed Priorities**

#### **IT Literacy [CJ 10]**

Mandy Kilpatrick reported that correspondence issued to NIJAC as to how this recommendation could be best addressed. A course of action agreed by the shadow Council was that judicial job descriptions should also reference that a minimum level of IT literacy should be a prerequisite for judicial preferment.

**ACTION: Mrs Kilpatrick**

### **Digitisation and paperless courts**

Mr Luney provided a copy of a Draft NICTS Digital Strategy to members of the shadow Council, noting that once finalised it may be blended into NICTS overall transformation programme. He will meet with criminal justice partners regarding taking forward the areas best positioned to digitise and requested a view from the shadow Council on priorities.

There was consensus that the Commercial courts would be suitable for a move to electronic bundles and that there was demand also in the Crown and County Courts. Affordability and value for money with an emphasis on reducing the administrative burden were considered to be key factors. Mr Luney agreed to keep the shadow Council updated on progress.

**ACTION: Mr Luney**

### **Online dispute resolution**

Mrs McAlpine and Mr Luney updated the Council with regards to the money damages claims online pilot in England and Wales which the Ministry of Justice (MOJ) aim to deliver by November 2018. It was noted that the costs of the Pilot are encompassed within their overall digital transformation programme.

There was discussion surrounding the application of online dispute resolution and the use of mediation to provide early evaluation of claims in order to reduce the numbers of claims going to court.

It was agreed it was pragmatic to build on links with MOJ transformation staff in order to learn from their experience and avoid potentially costly pitfalls and that Mr Luney should keep the shadow Council updated.

**ACTION: Mr Luney**

### **Personal Litigants**

Guidance for Personal litigants - Mrs McAlpine advised that reviewing the High Court guidance for Personal Litigants and drafting a similar document for the County Court should be achievable [CJ84]. The Council considered the use of an online visual aid, as adopted in other jurisdictions, would be of particular assistance. However Mrs McAlpine indicated that in the current climate it was unlikely DOJ could fund the development of a visual aid given other pressures.

**ACTION: Mrs McAlpine to develop a Guide for Personal Litigants in the County Court**

Role of Bar Council and the Law Society – Mr Dougan advised that the Law Society consider the provision of information to Personal Litigants should come from the Court office, this was agreed by Mr McCollum. The shadow Council agreed that a formal process of court staff providing the guidance when corresponding with personal litigants should be investigated by Mr Luney.

**ACTION: Mr Luney**

**Waiver of fees**

A discussion on the subject of waiver of fees took place. In light of the current situation whereby rules amendments cannot be progressed without a minister in place, Mrs McAlpine posited that she would give further consideration as to whether subordinate legislation to limit waiver of fees was required and whether there was scope for a policy approach.

**ACTION: Mrs McAlpine**

**Disability**

Mr Dougan reported that the Law Society have appointed a disability contact and the role will also be overseen by the HR Committee within the Law Society.

Mr McCollum advised that the Bar Council are in the process of allocating this role and he will inform the shadow Council when the process is complete.

**ACTION: Mr McCollum**

Mr Luney advised that NICTS is to establish a sub-committee to develop a draft implementation plan on these recommendations. NICTS are currently pulling together recommendations and a plan to establish a steering group in the first quarter of the next business year.

**ACTION: Mr Luney**

**Matters arising**

**Clinical negligence**

Recommendations CJ 205 – 214 were considered by the shadow Council. The unique nature of these types of cases was noted and consequently the importance of appropriate professional development. The shadow Council agreed that a small sub-

committee should be set up to consider the relevant recommendations, involving representatives from the legal profession and Mrs McAlpine on behalf of the Department. The sub- committee will also refer to Maguire J and the Queen's Bench Clinical Negligence sub-committee.

**ACTION: Secretary of shadow Council to arrange meeting.**

### **Discount rates**

Mr McCollum advised that discount rates in Northern Ireland are behind those applied in England and Wales and Scotland and he considered there are compelling reasons why Northern Ireland should fall in line with other jurisdictions. The shadow Council acknowledged the challenge of progressing this issue in the absence of a Minister and noted that they are sympathetic to early movement on this.

**ACTION:** Mrs McAlpine will consider options in the absence of a Minister

**Next meeting: Date to be Agreed**