

**SUMMARY MINUTES OF A MEETING OF THE COUNTY COURT
RULES COMMITTEE ON WEDNESDAY 15TH NOVEMBER 2006 IN THE
JUDGES LOUNGE, LAGANSIDE COURT COMPLEX BELFAST**

Present: His Honour Judge Burgess (Chairman)
District Judge Keegan
His Honour Judge Babington
Brian Walker Esq
Brian Stewart Esq
Mr A Colton QC
Mr B Valentine BL
Mrs Paula McCourt
Ms Dorcas Crawford

In Attendance: Mrs Laurene McAlpine (Acting Secretary)
Mrs Siobhan Broderick
Mrs Jane Maguire
Mrs Rosie Keenan

Apologies: Her Honour Judge Philpott Q.C.

1. The Chairman welcomed Ms Dorcas Crawford to her first County Court Rules Committee meeting and advised the Committee that Ms Crawford had been nominated by the Law Society to replace Mr Agnew.

Minutes of the previous meeting

2. The minutes of the previous meeting of 7th July 2006 were agreed by the Committee and signed by the Chairman.

Matters Arising

3. The Chairman advised the Committee that the issue of VAT in equity proceedings was not on the agenda as there were a couple of points arising in respect of which Counsel's further opinion had been sought, however, this would be on the agenda for the next meeting.

Regulatory Impact Assessment

4. The Chairman stated that the main business before the Committee was the matter of scale costs and other miscellaneous costs in respect of

which a Regulatory Impact Assessment had been undertaken and consulted upon by the Northern Ireland Court Service. The Committee now had to decide whether to proceed with the proposed inflationary increase to costs.

Travel Costs

5. The Chairman noted that the scale costs include travel costs and proposed that the Committee consider travel costs first. The Chairman outlined the basis of the current travel costs noting there are two flat rates based on a court situate 20 to 50 miles away and over 50 miles away respectively.
6. Discussion on the issue of travel costs ensued. The Committee noted that the Regulatory Impact Assessment had already been carried out and consulted upon and this had been on the basis of an inflationary increase. The effect of introducing a different change to travel costs at this stage may give rise to a need for further assessment and consultation and the proposed January date for bringing in the new costs would be missed.
7. The Committee were in agreement that they did not want to miss the January 2007 date for the proposed increase in costs coming into operation but concluded that there appeared to be an argument for revisiting the issue of travel costs.
8. The Committee agreed to put the question of travel costs on the agenda for the next meeting.

Draft County Court (Amendment) Rules (Northern Ireland) 2006: Inflationary Increase

9. The Chairman proceeded to refer the Committee to Flag B in their papers, which was the draft County Court (Amendment) Rules (Northern Ireland) 2006 to increase the scale costs and other miscellaneous costs by 10.47% in line with inflation and the accompanying explanatory memorandum.
10. The Committee agreed to make the Rules, noting that they would in due course be asked to sign a consolidated version of the Rules incorporating all the amendments to the principle Rules.

Draft County Court (Amendment) Rules (Northern Ireland) 2006: Provision in respect of Costs in Discrimination Cases

11. The Chairman then referred the Committee to Flag D of the papers, relating to costs in discrimination cases where the amount decreed is in excess of £15,000. The Committee considered the draft Rules and accompanying Explanatory Memorandum prepared by the Secretariat. The draft Rules were to address the concern that there was inadequate provision in the principle Rules in respect of costs in discrimination cases where the amount decreed is in excess of £15,000. The Committee noted that the draft Rules therefore provided for a new paragraph to be inserted in relation to Table 1, in Part 1 of Appendix 2, to give the judge in discrimination cases brought under the specified statutory provisions, where the amount decreed exceeds £15,000, a discretion to increase the costs by such amounts as he thinks proper, having regard to the amount involved or the importance or difficulty of the case.
12. The Committee proceeded to discuss whether provision should also be made for the situation where an action was dismissed and agreed that a further paragraph to make provision in respect of costs in which the action was brought under the relevant statutory provisions and the claim was for more than £15,000, however dismissed should be added in order to deal with a dismissal.
13. It was agreed that the Secretariat would circulate the revised amendment to the Committee members for their agreement prior to the making of the Rules.

Draft County Court (Amendment) Rules (Northern Ireland) 2006: Designating Securities into which the Accountant General may invest Funds

14. The Chairman referred to the draft Rules and Explanatory Memorandum at Flag E of the papers, noting that the draft Rules had been prepared for the purpose of designating securities in which the Accountant General of the Supreme Court of Judicature may invest. The Committee noted that the draft Rules followed amendments to the Rules of the Supreme Court (Northern Ireland) 1980 by the Rules of the Supreme Court (Northern Ireland) (Amendment No.3) 2006, which had been made on 8th November. Some general discussion on this matter ensued and the Committee noted the need for this provision in the current stock market climate.

15. The Committee agreed the draft Rules.

Draft County Court (Amendment) Rules (Northern Ireland) 2006: Use of a Generic Electronic Seal in the County Court

16. The Chairman referred the Committee to the draft Rules and accompanying Explanatory Memorandum at Flag F of the papers, noting that the amendments were to facilitate the use of a generic electronic seal in the county court in light of the ICOS programme. The Committee considered and agreed the draft Rules.

Draft County Court (Amendment) Rules (Northern Ireland) 2006: European Directive on Intellectual Property

17. The Chairman referred the Committee to the next item on the agenda, the draft Rules and accompanying Explanatory Memorandum at Flag G, noting that these amendments were to take account of the United Kingdom's obligations under the European Directive on Intellectual Property.

18. There followed some discussion about the wording of proposed new rule 10(B) and after some deliberation the Committee decided it was appropriate to leave the new rule as drafted and agreed the draft Rules generally.

Freedom of Information Publication Scheme

19. The Chairman then referred the Committee to Flag H of the papers, the Freedom of Information Publication Scheme as updated to take account of the new rule-making procedure introduced by the Constitutional Reform Act 2005.

20. The Committee was advised that the amended Scheme would be forwarded together with the publication schemes of all the other Rules Committees to the Information Commissioner and that this would happen in advance of the full review which had been postponed until 2008 at the request of the Information Commissioner.

Law Commission for Northern Ireland

21. The Chairman referred the Committee to the last item on the agenda, a letter in relation to the establishment of a new independent Law Commission in Northern Ireland. The Chairman noted that the letter

invited consideration of subjects within the Committee's current remit that could benefit from consideration by an independent law reform body. The Chairman asked the Committee if there were any areas they could think of that might be referred to an Independent Law Commission for Northern Ireland. The Committee considered that there were no areas arising at present but this could be kept under review.

21 Day Costs

22. Finally the Chairman referred the Committee to the matter of 21 day costs. The Chairman advised that following consideration by the sub-committee there seemed to be two issues arising. The first issue was that the last review of costs in 2002 dealt only with unliquidated damages. He noted that the main concern arose in excess cases where some insurance companies appeared to wait until the issue of proceedings and then pay within 21 days. The Chairman also advised that the bands in the table had not been restructured in the 2002 review rather they were simply increased by the rate of inflation.
23. The Chairman indicated that the second point arising for consideration was the 50% reduction if the sum claimed was paid within 21. After some discussion about this rule, the Committee agreed to table the item of 21 day costs for the next meeting with a view to considering this rule further and revisiting the structure of the table.

Any other business

24. The Chairman then asked the Committee if there was any other business.
25. There being no other business, Mrs McAlpine confirmed that the minor revised amendment mentioned at paragraph 12 above would be circulated to the Committee members by e-mail for their agreement and then incorporated into the consolidated version of the Rules. The Rules would then be forwarded to the Lord Chancellor.
26. The Rules Committee signed the consolidated Rules subject to the further amendment mentioned above, which was still to be agreed.

Next Meeting of the Committee

27. There being no further business the meeting concluded and it was agreed that the next meeting would take place on a date to be fixed.