

**SUMMARY MINUTES OF A MEETING OF THE COUNTY COURT
RULES COMMITTEE ON THURSDAY 16 FEBRUARY 2006 IN THE
JUDGES LOUNGE, LAGANSIDE COURT COMPLEX, BELFAST**

Present: His Honour Judge Burgess (Chairman)
His Honour Judge Babington
District Judge Keegan
Brian Stewart Esq
Mr B Valentine BL
Mr Agnew Esq
Mr B Walker Esq

In Attendance: Ms Geraldine Fee (Secretary)
Mrs Siobhan Broderick
Miss Jane McConnell
Mrs Rosie Keenan

Apologies: Her Honour Judge Philpott QC
Adrian Colton BL
Mrs Paula McCourt

1. The minutes of the previous meeting of 27th October 2005 were agreed by the Committee.

Matters Arising

2. The Chairman informed the Committee that he had received an acknowledgement of receipt for the information provided to the BSA under the Freedom of Information request.

County Court Scale Costs

3. The next issue arising was the proposed inflationary increase in County Court scale costs. The Chairman noted that the Committee had previously confirmed their agreement to the nature of the review being undertaken, however, the measure of inflation to be used was still subject to discussion. The Chairman referred to the further addendum paper that had been circulated and highlighted that the differences between the calculations using the GDP deflator and RPI respectively were not significant.

4. The Committee noted that Treasury advice had been that the GDP deflator was the appropriate measure to use and it was confirmed that the GDP deflator had been used in the previous review.
5. The Chairman noted that the Constitutional Reform Act 2005 amended the rule-making procedure in Article 47 of the County Courts (Northern Ireland) Order 1980, which provision would be commenced on 3rd April 2006.
6. It was proposed that the Committee should review the scale costs annually so as to keep them in line with inflation and the Committee agreed to diary this forward for further consideration.
7. The Committee reached a provisional decision that it appeared appropriate to increase the County Court scale costs by the cumulative rate of inflation, using the GDP deflator, from beginning April 2002 to end of December 2005, which equated to an 8.52% increase.

Response to BSA and Law Society

8. The Committee agreed the Chairman would respond to the letters from BSA and the Law Society.

Regulatory Impact Assessment

9. The Chairman then referred to the draft paper setting out the Committee's position and analysis of the issues in relation to an RIA. He noted that the paper could be completed to reflect the Committee's decision regarding the rate of inflation and confirmed that the Committee were now content for the paper to be issued. This would act as a trigger for the RIA. The Committee considered there were two options "to do nothing" and an increase of 8.52%.

Travel Costs

10. The Chairman then referred the Committee to the next agenda item, the issue of travel costs. It was agreed that the Committee should not consider this issue at this stage but rather should consider it in due course, when the new rules were being brought forward. The Committee agreed to diary this matter forward.

Order 33, Rule 3

11. The Committee then discussed the issue of VAT on equity proceedings and Mr Valentine's paper in relation to this. The Committee noted that because of the nature of equity matters, they did not appear to attract VAT but this then raised the issue of why the Rules expressly excluded VAT being recoverable on equity proceedings and whether this could simply be deleted. In view of the caveat in the letter from HM Customs & Excise, the Committee agreed to seek Counsel's advice on this matter before proceeding to make any amendment to the Rules in case this should have any unforeseen effects. The Secretariat undertook to take this forward.

1/3 Uplift in Complex Cases

12. The Committee considered the next agenda item of one-third uplift in complex cases. This issue had been raised further to a concern that the requirement for an endorsement on the civil bill was causing some difficulty for practitioners, as the complexity of the case would not necessarily be apparent at the outset of the proceedings. It was noted that the Committee had already discussed this issue at some length and that the requirement was not dissimilar to the position in respect of claiming interest and accorded with the principle that all aspects of a claim should be set out on the face of the civil bill.

13. Further discussion ensued and it was considered that this matter might be best dealt with by way of education rather than any revision of the provision in the rules. It was suggested that it might be helpful to remind the professions of the requirement to endorse the civil bill in appropriate cases, for example, through a notice in The Writ. It was further suggested that the matter could also, or alternatively, be dealt with through the County Court Liaison Committee. The Committee also considered that it would be helpful to know the prevalence of cases where the one-third uplift was being claimed and the Secretariat undertook to check whether any statistics were available.

21 Day Costs Rule

14. The Committee moved on to consider the 21 day costs Rule. It was noted that the number of bands in Table 2 of Appendix 2 had not been reduced in the last review of costs. The Committee noted a concern that some insurers were waiting until proceedings were issued and then settling within 21 days. It was noted that all civil bills were subject to

the 21 day costs rule whereas in the High Court it was only applicable in debt cases, although in practice it would be rare for 21 day costs to be paid in complex cases.

15. Following further discussion, the Committee considered that the appropriate starting point appeared to be to bring the number of bands in Table 2 in line with the 7 band structure, following the same approach as was adopted in the 2002 review. A sub-committee was to be established to take this forward. It was noted that it would be necessary to establish the number of cases in each of the bands and agreed that the Secretariat would try to obtain these figures.
16. The Committee noted that the Master's ruling on bankruptcy cases was relevant to this matter because cases where the debt is for more than £750.00 were going straight to bankruptcy rather than to the county court. The Secretariat advised that figures may now be available as part of ICOS and that the Secretariat could look into this.
17. It was agreed that the sub-committee would prepare proposals for consideration by the full Committee in due course.

Any other business

18. The Committee noted that the RIA would probably dictate the date of the next meeting. There being no other business the meeting concluded.