

ITEM 4.1: REVIEW OF ARRANGEMENTS FOR PARTY LITIGANTS

Initiatives underway in England and Wales

Purpose

1. To direct the Committee to pieces of work relating to Access to Justice that have been carried out by the Civil Justice Council in England and Wales, and to seek agreement to carry out a literature review on arrangements for party litigants and the information available to them, the arrangements for lay representation and support; and the use of ADR in Scotland and other similar jurisdictions.

Background

2. The Civil Justice Council (England and Wales), due to the expected increase of litigants in person (or “self-representing litigants”, the preferred term of the Working Group) within the courts following reduction to publicly funded legal aid and the cost of private legal services, established a Working Group to examine access to justice issues for self-representing litigants..
3. The Civil Justice Council has also produced information on ADR, to implement the recommendations of the report by [Lord Justice Jackson](#).

Discussion

4. The terms of reference for the Working Group were as follows:
 - a) To consider what steps could be taken to improve access to justice for litigants in person.

- b) To consider what steps could be taken to prepare for the possibility that the number of litigants in person will increase materially.
 - c) To focus on steps that would not require material additional financial services
 - d) To consider the possibilities for further development of pro bono advice for litigants in person.
5. The Working Group began its work in July 2011 and reported to the Civil Justice Council in October 2011. Their report is available [here](#), and its recommendations to the Civil Justice Council are summarised in chapter 2 of the report.
 6. On a recommendation by the Working Party, the Civil Justice Council published [A Guide to Bringing and Defending a Small Claim](#) in March 2013. The Guide is aimed at litigants in person and works through the process for bringing and defending a small claim. It is available online and in hard copy and we understand that it is intended to make the published guide available in Citizens Advice Bureaux, GP surgeries etc.
 7. The Civil Justice Council has also set up an [ADR Education](#) Working Group to carry out an empirical study of the present state of ADR education at University level and in vocational training courses in England and Wales and a Working Group to finalise the publication of an [ADR Mediation Handbook](#). Both Working Groups were established with a view to implementing the Jackson reforms.

These pieces of work provide a good platform from which this Committee can begin to gather information on activity in other jurisdictions.

8. The Committee's remit includes:
 - b) to review the arrangements for actions conducted by party litigants in the sheriff court and the Court of Session;

- c) to review the arrangements for lay representation and lay support in the sheriff court and the Court of Session;
 - d) to review the information and guidance that is available to party litigants, lay representatives and lay support in the sheriff court and the Court of Session; and
 - e) to review the arrangements for the use of Alternative Dispute Resolution methods in appropriate cases in the sheriff court and the Court of Session.
9. It is suggested that as a first step, a literature review be carried out on what research has been conducted and what initiatives are underway, in relation to arrangements for party litigants and the information available to them, the arrangements for lay representation and support; and the use of ADR in Scotland and other similar jurisdictions. Should members agree, the Secretariat would take this forward and would ask members to individually consider what relevant initiatives or research they might be aware of and forward these to the Secretariat.

Recommendations

- **That members:**
 - a) **Note the activity of the Civil Justice Council in relation to access to justice for litigants in person;**
 - b) **Agree that the Secretariat carry out a literature review as detailed in para. 10; and if so consider what relevant initiatives or research they might be aware of and forward these to the Secretariat by w/c 6 January.**

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