

The Judicial Office

**Triennial Review of the Civil Justice Council and
Family Justice Council**



A response by the Association of Personal Injury Lawyers

November 2013

The Association of Personal Injury Lawyers (APIL) was formed by claimant lawyers with a view to representing the interests of personal injury victims. The association is dedicated to campaigning for improvements in the law to enable injured people to gain full access to justice, and promote their interests in all relevant political issues. Our members comprise principally practitioners who specialise in personal injury litigation and whose interests are predominantly on behalf of injured claimants. APIL currently has over 4,000 members in the UK and abroad who represent hundreds of thousands of injured people a year.

The aims of the Association of Personal Injury Lawyers (APIL) are:

- to promote full and just compensation for all types of personal injury;
- to promote and develop expertise in the practice of personal injury law;
- to promote wider redress for personal injury in the legal system;
- to campaign for improvements in personal injury law;
- to promote safety and alert the public to hazards wherever they arise; and
- to provide a communication network for members.

Any enquiries in respect of this response should be addressed, in the first instance, to:

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Introduction

APIL welcomes the opportunity to comment on the call for evidence as part of the Civil Justice Council (CJC) triennial review. We can only offer comment on those issues within our remit, therefore our answers relate to the workings of the CJC and not to the Family Justice Council. We believe that the role played by the CJC is vital for the good administration of justice, and that any change to its form or functions is unnecessary.

Should the CJC be abolished?

We do not believe that the CJC should be abolished. The CJC's functions remain necessary. These include: keeping the civil justice system under review to ensure modernisation; considering how to make the system more accessible, fair and efficient; making proposals for research and making subsequent recommendations and giving advice to the Lord Chancellor, Civil Procedure Rules Committee and the Judiciary. We fail to see which other body would carry out these necessary functions if the Civil Justice Council was abolished. Since Members provide their time free of charge, the CJC is highly cost effective.

The CJC is vital to good governance, and its current form is well-suited to the functions that it performs. The Council presently constitutes 24 members, including barrister and solicitor representatives, representatives from the business sector, the judiciary and also consumers and lay representatives. The broad membership is able to examine policies and proposals from a variety of different angles, and will often spot unforeseen problems of policy, highlighting issues which may not have been apparent to the government when it formulated its policies.

Further, the CJC attracts highly respected, authoritative and public spirited individuals who voluntarily take on work to promote the needs of civil justice. For example, High Court judge Mr Justice Foskett currently chairs the Costs Committee. The CJC is able to carry out important reviews on a shoe-string budget, with a minimum infrastructure. This allows for comprehensive reviews of policy by influential people, whilst keeping costs down. If the CJC were abolished, the work that it carries out would still remain necessary – there must be an avenue to keep the civil justice system under review of the law to ensure modernisation, accessibility and fairness. It is unlikely that this work would continue to be carried out to the same high standard, in such a cost effective manner. Lord Justice Jackson had previously suggested that a newly formed Costs Council could carry out the role. The CJC Costs Committee is a more cost effective solution, and we do not believe that this could be done any more cost-effectively elsewhere and to as high a standard as is possible through the CJC.

Should it be moved to Ministry of Justice?

The CJC works well as an organisation necessarily arm's length from the Government. As above, the composition of the body, separate from the Ministry of Justice and with a wide spectrum of members, allows for the detail of policy to be independently examined within parameters set by the Government and unintended consequences can be avoided. The CJC is able to highlight potential problems, so that they can be averted in accordance with good governance. The Costs Committee, for example, describes itself as an "independent, judicially chaired body with no pre-determined agenda or view". This independence would be

lost if the CJC were subsumed into the MoJ. Above all, the CJC works well in its current format. Any change is unnecessary.

Could it be delivered by the voluntary sector or by the private sector?

The CJC membership comprises a voluntary body with a small but essential, paid administration team. It is noteworthy that the administration costs of the CJC were reduced to what was considered the bare minimum at the last triennial review.

Could it be merged with another existing body?

The CJC has clear and essential terms of reference. There is no observable overlap with other bodies.

Should it be moved to a new Executive Agency?

If the CJC were transferred to an Executive Agency, we cannot see any benefits but assume that this move would incur additional costs. Currently, the CJC members volunteer their time, and at least some of the staff who administer the CJC do not do so as a full time occupation.

Should it remain as an Arm's length body?

We believe that the CJC should remain as an arms-length body as this is the most effective way for it to deliver its necessary terms of reference, as demonstrated in the comments above. The CJC satisfies the three tests for an arms-length body as set out in the consultation document.

The CJC is an essential element of good governance, and has members from the judiciary, solicitors and barristers, civil servants and lay representatives to ensure that policies are examined from a variety of angles.

The CJC's function of keeping the civil justice system under review to ensure accessibility, modernisation, fairness and efficiency must be delivered with political impartiality. The Civil Justice Council is not afraid to give a different view where appropriate.

The CJC's function also needs to be delivered independently of Ministers to establish facts and/or figures with integrity. The CJC is an advisory body, and the variety of members and distance from government allows the CJC to alert the government to problems that may not have been brought to their attention otherwise. There must be independence so that a full, unbiased examination of proposals can take place.

- Ends -

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