MINUTES OF A MEETING OF THE SOCIETY’S LAW TECH GROUP HELD ON 28 JULY 2022 IN LAW SOCIETY HOUSE AND VIA VIDEOCONFERENCE AT 12:30PM

PRESENT: Kerry McCloy (Chair), Ruaidhrí Austin, Angela Brady, Tracy Ann Collins, Amira Graham, Anna Gray, Aine Hughes, Amy Jackson, Jane Halloway, Ian McFarland and Catherine McQuade.

APOLOGIES: Ciarán O’Kelly and Brian Carson.

IN ATTENDANCE: Jamie Warnock (Head of Policy and Engagement), Peter O’Brien (Deputy Chief Executive), Nuala McMahon (Policy and Research Officer, and Pamela Reid (NICTS - for item 3).

1. WELCOME AND APOLOGIES

Members were welcomed to the meeting and apologies were noted.

2. MINUTES OF MEETING HELD ON 22 JUNE 2022 AND ACTIONS ARISING

An amendment will be made to the minutes to reflect that Amira was in attendance. Subject to this, the minutes were approved.

In relation to the two sub-groups on CPD and web-resources, volunteers had come forward for both, and meetings will be arranged in due course.

3. NICTS DIGITAL MODERNISATION

Pamela Reid (NICTS) provided a presentation on Vision 2030.

The need for modernisation within NICTS has been identified as a priority within several reviews. The Vision Statement was agreed last year and will be delivered on an incremental basis so that change can be delivered whilst business as usual is retained.

The Vision aims to provide new technical infrastructure and to re-design services to ensure they are modern and flexible. It will also look at how the court estate is used and how it can be modernised. It also relates to wider aims of speeding up justice and improving access to justice.

The Vision will be delivered in consultation with stakeholders. In delivering improved and modern services, it is necessary to be mindful of digital inclusion.
To deliver a new operating model, there are several strategic outcomes based on 4 inter-dependent programmes: estate, people, digital and service design.

In respect of digital modernisation, work has already begun to modernise court rooms to deliver remote and hybrid hearings, and in relation to digital evidence and e-bundles etc. An e-bundles pilot has commenced in the High Court following the new practice direction issued on 1 June 2022. This pilot will be monitored and reviewed, and learnings will be implemented so that it can be expanded to other court tiers.

In relation to the current business systems, it was noted that the ICOS system needs to be renewed as it relies heavily on paper and manual systems. A digital strategy was published this year which will be delivered across the next five years. The future core solution will be based on the delivery of Vision 2030 and the digital strategy. Procurement for a delivery partner for business transformation and replacement of systems has been completed and there have been several expressions of interest. They are currently awaiting approval of the business case before the contract can be awarded. It is expected that a phased roll out will commence in February 2024 and it will take five years for full delivery. The first service will go live in February 2025. Stakeholder engagement will be important to consider evolving requirements.

Service design is based on traditional channels and there will be a move to modern services. There is an opportunity to learn from prior experiences and to design new services around needs. Changes have been ongoing since 2018. For example, the Probate Online Portal has been introduced, and 50% of applications are now lodged electronically. They are in the process of looking at case management systems and hope to go live with new services soon, such as the Planning Appeals Commission and Water Appeals Commission Portal. They also have plans to look at other issues including powers of attorney and jury management.

Following the presentation, members had an opportunity to ask questions.

It was questioned whether there would be input from practitioners as projects are rolled out so that feedback can be provided, and tweaks made if necessary. It was noted that in respect of the e-bundle project in the High Court, there will be monitoring and feedback so that learning can be implemented, and the process refined before being rolled out further. It was emphasised that the group would welcome engagement.

There was a discussion around the financial position. It was noted that there has been underinvestment in the system to date, but they hope they have made the case that this is strategically important and would have effects on the wider justice system. There have been positive indications from the Department of Finance to date, but any further support in respect of pushing for funding from the Society would be appreciated. It was also expressed that it should link in with the Programme for Government and its aims of speeding up justice and access to justice.
It was questioned whether there is engagement with other jurisdictions. It was outlined that they meet regularly with HMCTS in England and the courts services in the Republic of Ireland and Scotland to build on learning and look at lessons learned from their different journeys.

It was questioned how the group could provide assistance in respect of service design and how learning from users would be implemented in practice. It was outlined that they hoped to replicate the process which was adopted for developing the Online Probate Portal where there was engagement with the Society and applicants etc. There may also be a need for some legislative changes. It was expressed that it would be useful for the group to identify priority areas so this can be fed into their prioritisation exercise.

It was questioned whether traditional processes will still run alongside modern processes indefinitely as different firms are at different stages, or if there will be a full move to new processes which would require communication and education. It was outlined that their approach is digital first not digital only, and this aims to cater for digital inclusion. Their aspiration is to become paperless, but it might be more of a paper-light approach due to difficulties e.g. from a personal litigant perspective. There is no intention to close court counters. They are also looking at how services can be paid for in a more modern way.

Pamela was thanked for providing the presentation. It was agreed that engagement will continue and that a further check in on progress will take place in due course. The group will go back to Pamela with priority areas.

4. E DISCOVERY CONSULTATION

Members noted the draft practice direction on the Electronic Discovery Checklist. The deadline for the consultation response is 12 August.

Issues were raised in respect of costs, specifically around the criteria apart from the normal criteria for a plaintiff to seek costs, which needs clarified. The consideration of the cost issue at the end is also based on subjective criteria and it is not clear how this will operate in practice.

It was noted that the importance of e-discovery could be made more explicit. There are several advantages to using e-discovery, for example, it is cheaper, it provides greater choice, it is faster, and it helps to get to the issues quicker at the outset which can assist in earlier negotiated settlements. These could be linked into the overriding objectives.

Another key issue is that the use of e-discovery relies on cooperation between parties, which may lead to difficulties, e.g. how this is managed by a Judge in practice. There may be a need for judicial intervention if parties cannot agree.
It will be hugely beneficial, particularly in commercial cases, where there are large volumes of data and quantities of documents, where it would be disproportionate to print these. However, it should be used in appropriate cases only and would not be suitable for all cases.

It was emphasised that it would be important for Judges to find out how it is operating once it is in place through engaging with practitioners and representative bodies to look at issues arising and unforeseen problems. It will be important for the process to be iterative so that it can be reviewed and tweaked where necessary.

It was also emphasised that it will be important to balance practitioner capabilities. It was accepted that some practitioners may be resistant to this and may feel it is a burden. Collaboration will therefore require different approaches to also engage with those who may be resistant to it so they can appreciate the benefits. It was highlighted that there may be a need for a corresponding education piece through CPD to promote understanding and to raise awareness that there are vendors who can help practitioners deal with tech processes.

It was questioned how many cases it will apply to in practice, and whether it will be limited to commercial cases or will apply more broadly. This will help determine the level of impact on the whole system. Another question was raised in respect of whether there is a threshold of when it applies and what the scope is. There may be a need for guidance on this to set expectations of when it would apply.

It was agreed that members should send through any further comments to Jamie by close of business on 4 August to enable a draft response to be developed by 9 August. The draft will be circulated to members for additional comments and approval before being sent.

Jane Halloway suggested that the group may benefit from a presentation from Niall McCarroll who has conducted a lot of research on e-discovery and related platforms.

5. CYBER SECURITY WEEK

Cyber security week is expected to take place in the Autumn to raise awareness of cyber security issues. Further details will be circulated to the group via email when available.

6. QUB RESEARCH

This item was passed to the next meeting.

7. ANY OTHER BUSINESS
Peter O’Brien informed the group of two upcoming meetings in respect of the replacement of ICOS and the upgrade of the Royal Courts of Justice, which members may be interested in attending or contributing to.

8. DATE OF NEXT MEETING

The next meeting will take place on 1 September 2022.

E-signatures will be added to the agenda of the next meeting. It was noted that the Law Commission in England recently published a draft report on e-signatures, and the full report is expected later in the year. The recently established Commercial Practice Group is exercised by this issue, but it would also be useful for this group to consider this matter.

APPROVED  .........................