



Civil Procedure  
Rule Committee

Civil Procedure Rule  
Committee Secretariat  
Postal Point 5.25  
102 Petty France  
London  
SW1H 9AJ

Daniel Cloake  
[REDACTED]

CPRC@justice.gov.uk

06/02/2024

Dear Mr Cloake

### **Freedom of Information Act (FOIA) Request - ICO-200725-C9Y6**

Thank you for your request dated 7<sup>th</sup> September 2022, which was received via the Information Commissioner's Office on 23<sup>rd</sup> January 2024. Please accept my sincere apologies for the delay in responding. This appears to have been due to a fault in the email system at the time of your request and for some time thereafter, which appears to have had the effect that neither your original request nor subsequent correspondence, including that from the Information Commissioner's Office, was received. However, I am pleased to confirm that the [CPRC@justice.gov.uk](mailto:CPRC@justice.gov.uk) email is now working.

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You asked for the following information from the Civil Procedure Rule Committee (CPRC):

*The Minutes of the Civil Procedure Rule Committee ("CPRC") dated 4th March 2022 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1066980/cprc-mins-4-march-2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1066980/cprc-mins-4-march-2022.pdf) at Paragraph 36 states: It was RESOLVED to amend PD 51Y to extend the expiry date for the first sentence of paragraph 3 (decoupling it from the expiration of the Coronavirus Act 2020) by 12 months, until 25th March 2023. Action: Sub-Committee, Drafting Lawyers and Secretariat to incorporate into urgent PD Update.*

Q1 – Please confirm when the consultation period for this amendment opened?

Q2 – Please confirm when the consultation period for this amendment closed?

Q3 – Please confirm how many responses were received during the consultation?

*The Minutes of the CPRC dated 10th June 2022 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1089189/cprc-mins-10-june-2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089189/cprc-mins-10-june-2022.pdf) at Paragraph 24 states: The Chair introduced the matter by explaining that this issue had been raised by the Designated Civil Judge for Birmingham following issues in practice, as to when transcripts are required, on contempt matters.*

Q4 – if the matter had been raised in writing, please provide a copy of that document.

Q5 – if not answered as part of question 4, please provide the date that this was raised with the committee.

*The Minutes of the CPRC dated 10th June 2022*

*[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1089189/cprc-mins-10-june-2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089189/cprc-mins-10-june-2022.pdf) at Paragraph 26 states: It was RESOLVED to amend CPR 81.8(8) thus: “The court shall be responsible for ensuring that where a sentence of imprisonment (immediate or suspended) is passed judgments in contempt proceedings under this Part, that judgment is are transcribed and published on the website of the judiciary of England and Wales.”*

Q6 – Please confirm when the consultation period for this amendment opened?

Q7 – Please confirm when the consultation period for this amendment closed?

Q8 – Please confirm how many responses were received during the consultation?

Your request has been handled under the FOIA.

The CPRC partially holds information in the scope of your request.

Q1 to Q3: Minutes of the Civil Procedure Rule Committee (“CPRC”) dated 4th March 2022. In respect of the request concerning the CPRC minutes of 4<sup>th</sup> March 2022 and PD51Y, the CPRC can confirm that no formal consultation exercise took place. There is no statutory requirement to consult prior to making practice directions. The statutory provision regarding consultation is at section 2(6) of the Civil Procedure Act 1997 which reads:

*The Civil Procedure Rule Committee must, before making or amending Civil Procedure Rules, consult such persons as they consider appropriate, and meet (unless it is inexpedient to do so).*

The Committee accordingly consults as it considers appropriate to the rules or amendments to rules in question; but while it also consults on practice directions where it considers this appropriate, there is no statutory requirement to that effect.

The wider context concerning PD51Y was that it was introduced in response to the Covid-19 Pandemic and the decision to extend its operation was taken in the context of the expiry of the Coronavirus Act, acknowledging the benefits of the provision and allowing time for the passage of the remote observation provisions of the Police, Crime, Sentencing and Courts Bill - now the Police, Crime, Sentencing and Courts Act 2022 - and further policy consideration necessary for the making of regulations under the new section 85A of the Courts Act 2003 introduced by section 198 of the 2022 Act (see now the Remote Observation and Recording (Courts and Tribunals) Regulations 2022 (S.I. 2022/705, which came into force on 28<sup>th</sup> June 2022 and can

be found online at <https://www.legislation.gov.uk/uksi/2022/705/made>). Paragraph 48 of the (publicly available) minutes of 10<sup>th</sup> June 2022 refer and can be read via this link:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1089189/cprc-mins-10-june-2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089189/cprc-mins-10-june-2022.pdf)

Q4 to Q8: Minutes of the CPRC dated 10th June 2022. In respect of the request concerning the CPRC minutes of 10<sup>th</sup> June 2022 as to when transcripts of judgments in contempt matters are required to be published, no formal public consultation was undertaken on the question referred to in the minutes, which raised a technical drafting issue (as explained in the Explanatory Memorandum to the statutory instrument which amended CPR rule 81.8 following the meeting of 10<sup>th</sup> June 2022. The CPRC does not hold the information requested by Q4 and Q5 about the form of the feedback and the date on which it was provided. The 2022 amending statutory instrument and related material can be seen online via this link:

<https://www.legislation.gov.uk/uksi/2022/783/contents/made>; and a copy of the paper which the CPRC considered on 10<sup>th</sup> June 2022 is provided with this response). However, a public consultation exercise had previously taken place from 9<sup>th</sup> March 2020 to 1<sup>st</sup> May 2020 to inform the rationalisation of the previous Part 81 and Practice Direction 81 into the version of Part 81 which came into force on 1<sup>st</sup> October 2020). That consultation received 16 responses.

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The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty is to only provide the recorded information held.

## **Appeal Rights**

If you are not satisfied with this response, you have the right to request an internal review by responding in writing to one of the addresses below within 40 working days of the date of this response.

[data.access@justice.gov.uk](mailto:data.access@justice.gov.uk)

Disclosure & Library Team, Ministry of Justice, Postal Point 5.22, 102 Petty France, London, SW1H 9AJ

You do have the right to ask the Information Commissioner's Office (ICO) to investigate any aspect of your complaint. However, please note that the ICO is likely to expect internal complaints procedures to have been exhausted before beginning their investigation.

Yours sincerely,  
Civil Procedure Rule Committee Secretariat