



NORTHERN IRELAND USER GROUP MEETING

At: 17:00 on Monday 15 April 2024

At: The UK Supreme Court,

In person and remotely via Teams

Chaired by Lord Stephens

MINUTES

1. Introductions (Lord Stephens)

Lord Stephens welcomed attendees and introduced those in attendance on behalf of the UK Supreme Court: Laura Angus, Sam Clark, Emma Ainsley, Emma Kate Cooney and Daniel Waller.

2. UKSC online portal overview (Sam Clark and Daniel Waller)

Sam Clark and Daniel Waller gave an overview of the court's Change Programme. Sam Clark explained that the programme commenced eighteen months ago and one of the key changes being launched by the programme is an online portal to modernise the court's case management system.

Daniel Waller presented a video of the new portal in action and explained how to maximise the 'case update' filter functionality.

Sam Clark explained that there would be opportunities for user testing before the portal launched and that the court would welcome feedback both at the testing stage and after launch. Lord Stephens reiterated the need to gather feedback and flag any issues through user testing as well as after launch.

3. UKSC fee update (Laura Angus)

Laura Angus explained the effect of the Supreme Court Fees Order 2024, which replaced the Supreme Court Fees Order 2009.

The Supreme Court's fees had remained in large part unchanged since they were first set in 2009. Because of inflation, this meant that the value of the fees had fallen in real terms. The Supreme Court Fees Order 2024 uplifted the Supreme Court's fees in line with inflation, to the value at which they were originally set.

The changes in fees do not affect all fees for all cases:

- a. Where the application for permission to appeal was filed before 1 April 2024, the fee for filing the statement of facts and issues and appendix of essential documents will remain the old fee.
- b. Where a claim for costs was filed before 1 April 2024, the fee when the parties receive an order or confirmation of certification by the Registrar of the amount of assessed costs will remain the old fee.

The Supreme Court Fees Order 2024 maintains the Help with Fees regime for litigants on low income, those in receipt of certain benefits, and those who have little to no savings.

Laura Angus directed people to the court's website which sets out the details of the fee increases.

4. Legal aid (Lord Stephens)

Lord Stephens explained that there would be a change in the court's Rules relating to extension of time pending receipt of legal aid.

At present the deadline for filing permission to appeal applications with the UKSC is extended until the determination of the legal aid application. The rationale for this is to ensure access to justice but it risks causing delay. There is also confusion about what 'final determination' of a legal aid application means: for example, whether it means the point at which the grant or refusal is made or the determination of a final appeal of that decision.

Lord Stephens encouraged court users to write to the court if they have difficulties in relation to legal aid. The court has a liaison system with the legal services commissions in all jurisdictions and it is particularly effective in Northern Ireland. The court writes to the relevant legal aid authority to ask them to get on with the relevant application and to notify

the court of the outcome once determined. It is a function of being a small jurisdiction that it works so well in Northern Ireland.

Lord Stephens explained that the proposal to change the Rules involves replacing the current automatic extension of time with the conferral of a discretion on the Registrar to extend time.

Factors that would be taken into account when deciding whether to grant an extension would include considering how actively the person is cooperating with the authorities who are determining whether to grant legal aid. The change is intended to facilitate access to justice but to also avoid delays.

5. Amendments to practice directions (Laura Angus and Lord Stephens)

Laura Angus said that the Registry is aware that the UKSC's Practice Directions ("PDs") and Rules don't reflect current practice. For example, despite what the PDs and Rules say, there is no need to file anything in hard copy at permission to appeal stage and at substantive appeal stage only the key documents bundle is required in hard copy.

Accordingly, the court is undergoing a process to update the PDs and Rules. Laura Angus explained that the consultation about changes to the PDs and Rules is now live and it can be accessed online. Laura Angus asked attendees to read the consultation and provide any feedback that occurs to them or to raise any queries they have about the proposals.

Lord Stephens explained that a key proposal relates to the current 28-day deadline for lodging a permission to appeal application, which runs from the date of the judgment being appealed rather than the date on which refusal from the lower court is received. There is a proposal to amend it to the latter and views are invited in relation to this. In particular, the process for seeking permission to appeal is more convoluted, particularly, in Northern Ireland, compared with historical practice of simply orally requesting it at the time of hand-down. Now written submissions are required and the Court of Appeal takes time to consider those submissions.

6. Practice Note issued by Lord Reed regarding junior counsel speaking in hearings (Lord Stephens)

Lord Stephens explained that Lord Reed had published a new practice note about junior counsel speaking in hearings before the UKSC. To a certain extent this is less relevant to Northern Ireland where you have a general law library, in contrast to the system of specialist

chambers in England and Wales which appears to have led to less opportunities for juniors to argue.

Nevertheless, the UKSC is the pinnacle court and there is an opportunity for juniors to argue. Lord Stephens said that the court acknowledged that it won't always be possible but in all suitable cases the court expects consideration to be given to a speaking part for the junior on the case. When counsel speaking times are submitted to the court ahead of a hearing, the court will expect to receive confirmation that, where there is no junior time indicated, each party has nevertheless considered whether there could have been.

7. Registry items (Laura Angus)

Laura listed updates and requests from the Registry team:

- c. **Changes in solicitors or counsel.** The Registry should be informed by email of any changes in solicitors or counsel.
- d. **Cross appeals.** The process in the new portal will be clearly set out for cross appeals and will require a permission to appeal fee to be paid. If permission to cross appeal is granted a notice of intention to proceed fee will be required to be paid by the Respondent/Cross-Appellant.
- e. **Extensions of time.** To date this practice has been informal. In the new online portal, formal applications will be required when any extension of time is required (except when filing a notice of appeal or application for permission to appeal). This will require a fee each time. This is a departure from previous practice but in line with the Registry's recent moves to tighten up procedure around court deadlines.
- f. **Human Rights Act 1998 cases.** Parties should work with the Registry to ensure that the correct parties are properly served and joined to the case.
- g. **Page limits for written cases.** Laura highlighted that the Registry intends to tighten up its practice in relation to written cases which exceed the 50-page limit set out in PD 6.3.1. They will not be accepted unless permission to file a longer case has been sought and obtained. Any such application should be made not less than 14 days before the case is due to be filed. Further, parties should not aim for 50 pages. Many appeals are suitable for shorter written cases. Lord Stephens added his support to his point: 50 pages is a maximum rather than a guide.

8. UKSC and JCPC user group (Laura Angus and Lord Stephens)

Both Laura Angus and Lord Stephens encouraged attendees to also join and participate in the UKSC and JCPC User Group sessions which are held in June and January each year in hybrid format.

9. Q&A

PTA application deadlines

One attendee commented on the proposed move back to the old system of seeking PTA immediately upon hand-down. They observed that there is often a need to refine the proposed question of general public importance after reviewing the judgment and the 28-day limit from the date of refusal gives an opportunity to formulate the point particularly in criminal cases.

Another attendee echoed and extended the point made by the attendee as outlined above. They observed that it is not just for criminal cases where refining the question for the PTA application is advantageous. There is also a need to ensure instructions are sought and obtained before seeking permission.

Lord Stephens observed that the occasions on which the Court of Appeal will grant permission to appeal are vanishingly small, and the case will have been litigated already. He would not like to see the change being used in a way which causes delay.

Laura Angus observed that there is confusion about the date from which time runs and there is a need to avoid gaming the system where there is ambiguity or confusion.

An attendee agreed that there is currently no time limit for applying to the Court of Appeal for permission to appeal to the UKSC. The way that attendee navigates it is to say that time runs from the date of the Court of Appeal's judgment. The attendee agrees that there is a disconnect in the Rules. Lord Stephens said the proposed changes intend to capture these nuances.

Other Q&A

An attendee said that they were relieved to hear that there is less of a requirement for hard copy documents.

An attendee enquired about a practical guide for first time litigants. Laura Angus explained that the Registry is working on guidance and that the court also has a helpful usher in court

who will direct first time users so people should never be nervous. However, the court cannot recommend hotels.

An attendee asked about the change to the Rules for an extension of time for legal aid. He asked whether a direct email address could be set up for the UKSC so that the legal aid agency can liaise more quickly with the UKSC. The rationale is that if time is no longer extendable on an automatic basis, the channel should be more direct. Lord Stephens said he was not sure about tailor made email addresses but that when the court has sent things to the legal aid agency in the past they respond promptly and often grant legal aid. He asked if the attendee could take the point forward.