



Note of the UKSC/JCPC User Group Meeting

Held on Friday 22 June 2012 at 11am in the Lawyers' suite at the UKSC

Present:

Lady Hale	}	
Jenny Rowe (JR)	}	UK Supreme Court
Louise di Mambro (LdiM)	}	

Lee John-Charles	TSols
David Miles	Blake Laphorn
Nigel Fisher	Norton Rose LLP
Julia Staines	Charles Russell LLP
Jacqueline Harris	Pinsent Masons LLP
John Almeida	Charles Russell LLP
Jan Luba QC	Garden Court Chambers
Robin Tam QC	Temple Garden Chambers
Daniel Waller	Matrix Law
Hannah May	Royds LLP
Nora O'Flaherty	HMRC
Ailsa Carmichael QC	Murray Stable
Michael Fordham QC	Blackstone Chambers
Karen Quinlivan QC	
Andrew Arden QC	Arden Chambers
James Turner QC	1KBW
Mark Stephens	Finers Stephens Innocent
Lucy Barbet	11KBW

1. Welcome and apologies

Apologies had been received from:

Jonathan Crow QC	4 Stone Buildings
Louise Fisher	Ashurst
Richard Todd QC	1 Hare Court, Temple
Lord Brennan QC	
Nicola Gare	Baker & McKenzie LLP
Steve Durno	

Lady Hale welcomed Jacqueline Harris who was replacing Ishbel Smith during Ishbel's career break.

2. Matters arising from the meeting held on 20 January

I reported as follows:

i. IT issues

I explained that we were now concentrating our resources, both human and financial, on a major project to examine the most effective way of replacing the current IT system. This meant that we would not be able to address issues which had been flagged at previous User Group meetings and not yet addressed, although we would seek to address them as part of any new system. Users should continue to flag any IT issue for us so that we could bear that in mind as the work developed.

One of the issues that was currently being addressed was to ensure that WiFi coverage was available throughout the building – although users generally had the benefit of WiFi in the court room, the Lawyers' Suite, and the meeting rooms, there were parts of the building where coverage was not good.

In response to a question from Jan Luba QC, I confirmed that we would, as part of this work, be considering whether any changes were required to the website.

ii. Pro Bono Costs

I updated the User Group on the provisions in the Legal Aid and Sentencing Act. Generally users were keen that the provisions be brought in as quickly as possible. Jan Luba QC offered to draft a transitional provision if one was necessary. **(DN: it later transpired that the Act already contained commencement provision for section 61. I have asked MoJ officials if it is possible to commence this section in October, rather than waiting until next year.)**

iii. Supply of Core Volumes to Legal Libraries

I indicated that I had failed, since the last meeting, to set up a specific meeting to discuss the issue of how we could continue to provide all the papers in each case to some legal libraries, at the same time as complying with

our obligations under the Data Protection Act. I would be arranging a separate meeting to discuss this.

Robin Tam QC and others indicated they would wish to be involved in the discussion. Michael Fordham QC was of the view that those preparing the papers were best placed to identify material which should be redacted or removed.

Mark Stephens wondered if a historian should be involved. However, the issue here was not about which papers should be permanently preserved, as that was the subject of on-going discussion with the National Archives who, in any event, were likely to take all of our cases in the first instance. Lady Hale mentioned that we were currently examining the implications of keeping all the papers in particularly significant cases.

iv. UKSC Review of Costs

I reported that, given the continuing delays over implementation of the Jackson Review's recommendations, we had decided to review our Practice Direction on costs. Lord Dyson was supervising this work and a revised draft would shortly be put to him for consideration. It would then be sent to the Senior Costs Judge, and the other Costs Judges who sit here, before we then undertook a formal consultation with members of the User Group and others with an interest.

3. Timetabling of the appellant's case and other documents

This had been the subject of discussion at most of the previous User Group meetings. The need to prepare an e-bundle had also raised other issues which members of the User Group had been considering.

A number of members of the Group supported John Almeida's proposal that the timetable for filing the core volume and authorities bundles should be amended to allow a full two weeks after the respondent's case had to be filed. He suggested moving the earlier part of the timetable forward by one week with the respondent's case still coming two weeks after the appellant's case. That would give a pattern of six, four and two weeks as opposed to five, three, and two. **(Action: Louise has redrafted Practice Directions and sought approval from Lord Hope and Lord Dyson and the revised provisions are attached.)**

Lady Hale flagged up delays that sometimes occurred in memory sticks being available. The general view was that Oyez should be sending them at the same time as the papers arrived. However, LdiM said that the memory sticks did sometimes arrive separately; and sometimes they had to be sent back because they were not correct.

Members of the Group hoped that the six, four, two timetable would help with finalising marginal references in printed cases and possibly avoid references to tab numbers alone for authorities without identifying which authorities volume is relevant.

A separate issue was raised about how Justices used the earlier loose copies of the parties' cases before the authorities were lodged. It was agreed that the bulk of the loose copies of the cases would be filed two weeks before the hearing so they could include the required cross references. This would mean that the Justices who prefer to work from loose copies of the cases would have copies that include the same cross-references as the versions bound into the core volumes. Thus, at the respective times for the formal filing of the appellant's and respondent's cases (i.e. the 6-week and 4-week points), the parties only need to file one copy with the court in addition to serving a copy on the other party.

Michael Fordham asked for confirmation that the Court was against additional documents being lodged in lever arch files. This was confirmed; although it was also pointed out that, since the last User Group meeting, we had made available in the court room ring binders which could be used for additional material produced at or immediately before the hearing.

It was agreed that any changes in the Practice Direction should come into effect on 1 October, which would give users and other parties the time to plan for the new timetables. It was suggested that parties who were involved in cases coming on next term should be proactively contacted by the court to alert them of the new timetable, which could affect the times at which work will need to be done over the summer. Otherwise, there is a real risk that despite formal promulgation of the new Practice Direction some of these parties will overlook the fact that there has been a change, which could cause confusion. The normal suppliers such as Oyez would also be briefed.

In terms of e-bundles it was pointed out that the Practice Direction did not currently require parties to include the Notice of Objection or the Order granting permission. The draft amendments **attached** reflect these changes too.

It was not felt necessary to include as routine the skeleton arguments from the courts below. They should only be included if required.

4. Confidentiality of draft judgments

I indicated that the Justices had been very concerned by what appeared to be a leak of the judgment in the Trigger litigation to The Independent on Sunday. Lord Phillips had taken a particularly serious view of this and had asked LdiM to talk to all the advocates and solicitors involved in the case. It seemed apparent from the article that the journalist had approached a number of those involved, although all confirmed that they had not leaked the judgment.

Lady Hale emphasised the importance the Justices attached to confidentiality, and the fact that early release of the draft judgment to the parties' representatives was something which could be stopped if there was any repetition.

There was some discussion as to whether the timeframe should be shortened. The general view, however, was that the time was useful for the advocates both to check the judgment, and prepare for the dialogue they would need to have with their client when the matter became public. Andrew Arden QC said that, speaking as a law reporter, the practice of allowing the final draft judgment to be seen by the parties at the end of the week before it was handed down, had led to improvements.

5. Olympics and Paralympics

LdiM and I set out the background to the planned closure of the Registry during the period of the Olympics. Nigel Fisher asked for clarification of precisely what we had in mind (subsequently followed up in an e-mail exchange which led us to redraft slightly the notice on the website).

6. Equality and Diversity Strategy

The purpose of putting this item on the agenda was to ensure that the User Group was aware of our approach to equality and diversity issues and to invite any comments. Members of the Group had no substantive comments.

7. Scotland Act 2012

I indicated that, following the Scotland Act 2012 receiving Royal Assent, we were considering the detailed implications for the route by which cases could come to the Supreme Court. If colleagues from Scotland wished to make any comments we would be happy to receive them.

There would need to be some amendments to Practice Directions, and to the information we published on the website.

8. JCPC Fees

I explained that we hoped shortly to publish a short consultation paper on some changes to JCPC fees. The principal changes would be:

- (a) To remove completely any fees for criminal cases.
- (b) For the fees to be based on the amount of money at stake in civil cases. This would be accompanied by a continuation of a robust fee remission regime. The aim was to ensure that the fees did not inhibit access to justice by individuals.

9. Any Other Business

- Robin Tam QC raised an issue about access to the website and suggested we needed a DNS entry for the description: supremecourt.gov.uk (action taken to ensure this happens).
- Jan Luba QC indicated that the publication of more detailed reasons for refusal of a PTA application was very useful.
- Daniel Waller commended the court on the relationship with the NCCL and the education days which we held here on a roughly monthly basis.
- Lady Hale thanked the User Group for their major influence on the decision by the Justices to allow parties to dispense with wigs and/or robes in circumstances where all parties agreed.