UKSC AND JCPC USER GROUP MEETING

16:30pm on Wednesday 26 July 2023
Hybrid

Chaired by Lord Hodge and Lord Briggs

Minutes

1. **Welcome to the UKSC and JCPC user group and introductions;**
   Lord Hodge introduced Lord Briggs, Vicky Fox, Celia Cave and Laura Angus.
2. **Change Programme update (introduced by Vicky Fox)**
   The background to change programme is the need to move from paper systems to online/digital services. There will be user testing throughout the process, including user research, as the aim is for the court to put the user at the heart of everything it does. The programme will lead an online portal for user enabling electronic filing and payments and case updates. A new and improved website will have case tracking and much improved searching capability. Whilst the intention is to automate as much as possible the court did not want to be faceless. Users expressed keenness to participate in user testing.
3. **MOJ consultation on UKSC fee changes (introduced by Vicky Fox);**
   UKSC fees have been unchanged (save for one exception) since 2009. The court is working with the Ministry of Justice to look at the structure of fees users will be notified of consultation and any approved fee increases in due course.
4. **JCPC specific items:**
a. **Whether the JCPC has jurisdiction in circumstances where a lower court has granted permission to appeal (as of right), granted a stay to the Appellant, and sent the Reproduced Record to the JCPC but the Appellant has not filed a Notice of Appeal (L Briggs).**
   A difficult issue of jurisdiction arose in these circumstances. The Board decided that where the lower court says it is functus the Board can exercise a discretion to strike out. There was a discussion of the issue and past cases. The Board would take a pragmatic approach and in any event in the absence of Notice of appeal it could deal with a breach of its rules.

b. **To what extent are Privy Council agents for the state able (and/or expected by the JCPC) to assist prospective appellants in obtaining relevant documents in order to file a Notice of Appeal?**
There was a helpful discussion on the issue. The guidance given in *Hamilton* in 2012 was important: that even before any application is made the prosecuting authorities should be notified as soon as a prisoner has indicated intention to apply for PTA. The point was made that it is not always easy for the respondent state in cases where there is no live appeal. None the less agents should take some steps prior to filing to assist. L Briggs pointed out that prisoners are uniquely disadvantaged.

5. **Registry items (introduced by Laura Angus and Celia Cave)**
a. **Court deadlines (including deadlines for corrections to judgments);**
In keeping with efforts to keep cases moving the Registry is looking at deadlines closely. It is important that reasons be provided for extensions of time (EOTs) and ideally EOTs should be requested just once, with a realistic new deadline. There are currently different ways of dealing with EOTs (some by email, some by application): in the future (with new user portal) there will be a standardised way of dealing with EOTs.
Users were reminded of the importance of replying to requests from the judgments clerk for corrections to judgments within the stated deadlines: missing them could create problems for the Registry and for justices and ultimately could lead to judgments being delayed.

b. **Court photocopying service**
The Registry would no longer offer printing or photocopying services to parties. Late papers (if any) should be emailed to registry.

c. **Bundles**
Bundles: there is currently an issue with highlighting in electronic bundles: this is being checked by our ICT team to see if it is a system or software problem. We are also trialling a new PDF reader and if that is approved we will let users know so they can test it.

d. **Reminder not to file hard copies except the key documents bundle.**
No hard copies are required. JCPC PD6.4.1 was raised (this requires hard copy of the primary authorities). The PD was out of date and it was pointed out that the justices had not used a hard copy of primary authorities for some time. There was further discussion about requirements for indexing and hyper linking in bundles/authorities. It was clarified that what justice required in authorities bundles were links from the index to the relevant authority. Deadlines for authorities were also raised and the Registry/court would be flexible where it could be but time scales were tight at this stage.

e. **Reminder about guidance on written cases.**
A reminder about PD guidance on written cases, which should be no more than 50 pages long (excluding footnotes) and produced in a 12pt font.

6. **AOB**
Nicola Diggle of Blake Morgan asked what JCPC Registry turnaround times/expectations were for:

(1) PTA applications

(2) Applications on paper (assuming non urgent)
(3) Current window to list an appeal hearing (assuming from SFI and assuming 1 day, not expedited)
(4) Provisional costs assessment
(5) Current window to list detailed costs assessment.

This would be helpful in managing client expectations.

(1) The aim was for 75% of PTAs to be determined within 20 weeks of filing. In April, May and June the percentages were 100%, 20% and 89% respectively.
(2) Time taken to deal with applications depended on the type of application. Some can be done quite quickly (e.g. EOTs); but more meaty applications such as for interventions necessarily took longer.
(3) The current listing window, window assuming SFI and 1 day: currently listing Jan to Easter.
(4) The average time for provisional assessments is currently 18 weeks but we are looking to improve that.
(5) Detailed assessments take 3 to 6 months to list.

Louise di Mambro of Blake Morgan asked for more detail about some of the issues discussed at the Caribbean User Group in particular striking out appeals as of right. Lord Briggs explained that to save respondents costs of responding to meritless appeals the Board had adopted a screening procedure aimed at weeding out appeals as of right that a) involved concurrent findings of fact or b) were totally without merit. It was not right to put respondents to the burden of explaining all this when they shouldn't have to. If the Board thinks an appeal is doubtful it will invite comments from the parties, which go to a panel of 3, who may dismiss/strike out the appeal on the papers. The whole point is to relieve respondents of unnecessary costs. Respondents would in any event receive a copy of the Board's letter inviting comments. It was emphasised that the Board was looking at only truly hopeless cases.

Camilla Hart from Charles Russell Speechlys raised the issue of dispensing with the Reproduced Record (RR), as mentioned in the minutes of Caribbean UG meeting. Laura Angus clarified that what was intended was getting the Reproduced Record out of the timeline for the SFI. Currently the filing of the RR sets off the SFI timeline and if it is delayed, the whole appeal is delayed. Lord Briggs emphasised that the SFI is the key document for the Board. There was a wide-ranging discussion about this and no final decision would be made without further consultation.

Theo Solley from Sheridans asked if the new process (set out above) for strike out of unmeritorious appeals had been published. Laura Angus said that it had not been but we will think about how to do so, and in due course ta note will be published.

Closed session
Vicky Fox explained that a closed session had been arranged so users could express concerns that they did not wish to raise in front of justices.

There was a discussion about dispensing with the primary authority bundle, but this seemed unlikely.

There was a discussion about hyperlinking bundles and authority bundles, in terms of timing and what is supposed to be hyperlinked. The current guidelines for hyperlinks is set out PD 14.6.

There was a short discussion about the time judgments take. Some judgments were more difficult to write than others and took more time. Currently there are no plans to alter advice given to users to check the website regularly for judgments updates.