



Note of the UKSC/JCPC User Group Meeting

Held on Friday 31 January 2014 in the Lawyers' Suite at the UKSC

Present:

Lord Kerr	}	
Jenny Rowe (JR)	}	UK Supreme Court
Louise di Mambro (LdiM)	}	

Steven Durno	Law Society (E&W)
Nicole Curtis	Penningtons
Annette So	Simons Muirhead & Burton
Andrew Arden QC	Arden Chambers
James Turner QC	1KBW
Nigel Fisher	Norton Rose Fulbright LLP
Michael Fordham QC	Blackstone Chambers
Hannah May	Royds LLP
Alan Taylor	Alan Taylor & Co
Henry Hickman	Harcus Sinclair
Richard Wallington	Ten Old Square (Rep Chancery Bar Association)
Karen Quinlivan QC	Bar Council, Northern Ireland
Lee John-Charles	TSols

Ailsa Carmichael QC joined the meeting by telephone from Scotland.

1. Welcome and apologies

Lord Kerr welcomed everyone to the meeting, his first as Chair. The apologies were not read out but were as follows:

David Miles	Blake Lapthorne
Jonathan Crow QC	4 Stone Buildings
Mark West	Radcliffe Chambers
Robin Tam QC	T G Chambers
Richard Todd QC	1 Hare Court
Nigel Pleming QC	39 Essex Chambers
Ailsa Carmichael QC	Ampersand
Mark Stephens CBE	Howard Kennedy Fsi LLP
Louise Fisher	Ashurst

Lucy Barbet
Camilla Hart
Daniel Waller
Julia Staines

11KBW
Charles Russell
Matrix Chambers
Charles Russell

2. Matters arising from the meeting held on 28 June 2013

Jenny Rowe updated the meeting on two issues:

i. Supply of core volumes

For the benefit of those who were not aware of this issue JR explained the background. She reiterated what she had told the previous meeting, that the advice received from the Information Commissioner's Office (ICO) was that the UKSC files did form a relevant filing system for the purposes of the Data Protection Act. In the light of that advice she had written to Lincoln's Inn Library, the Chancery Bar Association, and the Faculty of Advocates, suggesting that, if they wished to continue receiving copies of case papers, they should nominate an individual who could be trained in the approach that would need to be taken to redact case files. Once a person had been satisfactorily trained a system could be put in place whereby they could look through the files, redact what was necessary and photocopy papers for the Libraries. She went on to explain that the Faculty of Advocates had nominated someone to be trained but that she had not received any response from Lincoln's Inn Library or the Chancery Bar Association.

She went on to highlight an example from a case heard the previous week where a journalist had inadvertently committed a contempt of court on the basis of copies of printed cases given to him by one of the parties. The printed cases contained reference to a person's name and the place to which they were being deported, although the UKSC had confirmed an anonymity order preventing this information being released. The issue had been dealt with, and the Court had reviewed its processes for ensuring that everyone was aware when an anonymity order was in existence. Orders would be made earlier if possible, the Court would place information on the website, and would make sure there was a notice immediately outside the courtroom. But the case highlighted how easy it was for information which should not be made public to become public.

Michael Fordham suggested that parties should address the issue of reporting restrictions at an earlier stage in the process than perhaps they did now. It might, for example, be possible to put information about reporting restrictions as the first point in a printed case.

ii. Revised Practice Direction 13

LdiM reported that the revised Practice Direction was now on the website, and that she had drafted the equivalent Practice Direction for the JCPC. JR pointed out that we had not received any substantive comments from Scotland and Northern Ireland on PD13 and would welcome representatives from those parts of the UK looking carefully at the revisions to the Practice Direction to ensure that practice in those jurisdictions was properly reflected.

iii. Interveners

A paper had been circulated in advance of the meeting which reported the outcome of a discussion at a recent Justices' meeting. The Court was also waiting for further information from Nigel Pleming QC. No further points were raised at the meeting.

iv. JCPC Practice Directions

LdiM reported that there were a number of changes to be made to the JCPC Practice Directions. She would begin working on this soon and wanted to ensure that any further changes people thought should be made were highlighted for her as soon as possible.

(Action – all.)

3. IT

JR updated the meeting on the change of IT provider which had taken place over the Christmas/New Year break. She explained that the new system was settling down and there had been relatively few teething problems so far. Once the Court was sure that everything was running as it should we would be considering a number of outstanding change issues, some of which had been raised by the users.

Lord Kerr indicated that he did wish some consideration to be given as to whether it would be possible to provide memory sticks with PTA applications. This was something the Judicial Assistants had suggested. He was, however, aware that the Registry had some concerns about this as PTA papers often arrived piecemeal.

LdiM said that as part of the changeover of IT we were implementing a new case management system. Not all cases were on that new system as yet and she asked parties to bear with the Court whilst the necessary changes were made.

4. Time Limits for application for permission to appeal

Robin Tam's paper on this issue had been circulated in advance for consideration.

LdiM said that in practice, any application for extension of time on a PTA would go to the panel of Justices, along with the PTA papers. She would be amending the relevant Practice Direction to ensure that this was made clear. She pointed out that the Registry was quite hard on respondents who complained if an application was late. She emphasised that the Registry was as flexible as possible in these circumstances. She also pointed out that she would not wish to have to amend the Rules unless absolutely necessary because that was a lengthy, statutory procedure. She thought that the formulation suggested in paragraph 21 of RT's paper would be a good starting point.

James Turner QC gave an example of the kind of problem that could arise with the time starting from the date of the judgment rather than the time the Order was made. Michael Fordham suggested that the best solution to the problem might be to look at the Civil Procedure Rules since, if time from when the CA refused permission, that could be years after the CA's decision.

(Action – Lord Kerr to talk to the Master of the Rolls and the issue to be placed on the next User Group agenda.)

LdiM mentioned a linked problem if there was an application for a stay. As required by the Rules, the UKSC always sent that back to the Court of Appeal which was not usually a problem. However, in one case, the Court of Appeal had sent the case back to Central London County Court and the Deputy District Judge did not grant the stay.

5. User guide for litigants in person

JR explained that the Court was beginning to see an increase in permission applications from litigants in person. It was too early to say whether this was a trend but, in response, the Court had decided it should produce a simplified guide for litigants in person which would be placed on the website. A copy of the latest draft had been circulated with the agenda and other papers. She asked if any comments could be sent to her and LdiM as soon as possible. (DN – comments subsequently received from James Turner QC and document finalised.)

6. Catering at the Supreme Court

JR updated the User Group on the approach that had been taken to tendering the catering contract, ie, the Court was proposing to let a concession. She explained the background to this, in that the Court was currently having to pay a significant sum of money each year to subsidise the current caterers. In order to make the concession worthwhile, the firm chosen would take over responsibility for the booking of meeting rooms by parties appearing in cases and a charge would be levied for the meeting room. Such arrangements were already in practice for the RCJ/Rolls Building, and for the RCJ in Belfast. She explained that she could not give an indication at present of the likely scale of the charges, or of the new catering provider: the interviews had taken place earlier that week but there were further questions the firms interviewed were having to answer.

In the subsequent discussion the following points were made:

- It would be helpful to know the rates which would be charged as soon as possible.
- It would be helpful if the catering firm was able to discriminate between different groups, for example, those appearing pro bono or for interveners whose fees had been remitted or those who were legally aided.
- If charges were to be introduced then it would be sensible to require those who booked the rooms to buy their sandwiches etc from the catering provider (in practice that is what will happen).

Lord Kerr said that he was in favour of having some flexibility for parties who were being represented pro bono: he did not want these charges to deter access to justice.

7. Equality and Diversity Strategy

The latest update had been circulated with the agenda and of the papers. No issues were raised/questions asked.

8. Any Other Business

JR mentioned the plans for the JCPC exhibition in the summer. No further issues were raised.

JENNY ROWE
Chief Executive
March 2014