



## Note of the UKSC/JCPC User Group Meeting

Held on Friday 27 June 2014 at 11:00 in the Lawyers' Suite at the UKSC

**Present:**

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

Annette So	Simons Muirhead & Burton
Nicole Curtis	Penningtons
Gemma Ospedale	Royds LLP
Camilla Hart	Charles Russell LLP
Robin Tam QC	Temple Garden Chambers
Jan Luba QC	Garden Court Chambers
David Miles	Blake Laphorn
Henry Hickman	Harcus Sinclair
Daniel Waller	Matrix Law
Julia Staines	Charles Russell LP
Lee John Charles	TSOL
Karen Quinlivan QC	Bar Library
Nicola Goldfinch-Palmer	Simons Muirhead & Burton
Alan Taylor	Alan Taylor & Co
John Almeida	Charles Russell LP
Robin Lloyds	MA Law (Solicitors) LLP

### 1. Welcome and apologies

Lord Kerr welcomed everyone to the meeting, particularly Gemma Ospedale who was attending for the first time to replace Hannah May.

The apologies were not read out but were as follows :

Louise Fisher (Ashurst)  
Mark West (Radcliffe Chambers)  
Michael Fordham QC (Blackstone Chambers)  
Lucy Barbet (11 King's Bench Walk)

David Pannick QC (Blackstone Chambers)  
Mark Stephens (Howard Kennedy Fsi)  
Timothy Fancourt QC  
Andrew Arden QC  
Nigel Fisher (Norton Rose Fulbright LLP)  
Nigel Fleming QC  
Jonathan Crow QC (4 Stone Buildings)

## **2. Matters arising from the meeting held on 31 January 2014**

Jenny Rowe updated the meeting on two issues as follows:

### **i. Supply of Core Volumes**

JR explained that there continued to be a number of issues for the Court to resolve. We had sought guidance from both the Information Commissioner's Office and from policy officials and lawyers at the MoJ.

She went on to explain that Andrea Longson from the Faculty of Advocates Library in Scotland had come to London to attend a training course and had then gone through some files with the Court's Data Protection Officer. This had led her to realise how much work was potentially involved.

### **ii. Interveners**

JR explained that the Justices had decided that there was no compelling evidence as yet to suggest the Court needed to change the Rules and Practice Directions explicitly to allow interveners to oppose PTA applications. Lord Kerr emphasised, however, that Justices would continue to have regard to points raised by writers-in.

Louise di Mambro updated the meeting on the following:

### **iii. Revised Practice Direction 13**

LdM said that she had not received any negative feedback since the implementation of the revised practice direction. Jan Luba QC wondered if that was because the Practice Direction only applied to cases which started after the Practice Direction came into effect.

### **iv. JCPC Practice Direction 8**

LdM said she had received no feedback from JCPC Users on the draft Costs Practice Direction. If there were comments people wanted to make it would be helpful to have them as soon as possible. (**Action JCPC Users**)

Lord Kerr updated the meeting on:

### **v. Time limits for applications for permission to appeal**

Following the discussion at the previous meeting Lord Kerr had written to Lord Dyson, the Master of the Rolls. Lord Dyson had responded suggesting some changes of practice in the Court of Appeal which might assist in dealing with the

problem pending any change in the Supreme Court Rules. In particular Lord Dyson indicated that he would ask the Deputy Masters and Court Manager to ensure that applications for permission to appeal to the Supreme Court were referred to the relevant members of the Court of Appeal as quickly as possible.

In addition he suggested that the Court of Appeal should revise the information that the Civil Appeals Office provided to appellants when they received an Order refusing permission to appeal to the Supreme Court. He suggested that they should be provided with a note drawing their attention to the relevant provisions of the Supreme Court Rules and to the question whether they needed to consider making an application for an extension of time to the Supreme Court.

Jan Luba QC asked if the problem highlighted at the previous meeting about an application for a stay had been resolved. LdM explained the particular circumstances which had arisen and said that the potential issues had now been dealt with.

### **3. Catering/booking meeting rooms**

JR indicated that there had, as one might expect, been some teething problems in the introduction of the system. Particular problems have been raised by David Miles and by John Almeida but those had now been dealt with. The Court was keen to have feedback and if members present at the meeting had any issues to raise they would be noted and considered.

Robin Tam QC asked about use of the Lawyers Suite. JR explained that that was available for use of counsel and solicitors acting pro bono, or for legally aided counsel. Jan Luba QC said that the information on the website made clear how the arrangements for pro bono/ legally aided counsel should work. But it was also clear that not everyone read the website. He suggested an amendment to the catering booking form so that those who would be entitled to use the Lawyers' Suite without payment should be directed to the appropriate contact. **(Action JR)**

David Miles and John Almeida raised an issue about payment when rooms were required on a number of days. In some circumstances individuals making the bookings had to use their personal credit cards. It would be preferable if payment could be made in a different way. JR agreed to investigate further **(Action JR)**.

JR also referred briefly to an issue which the Court was still considering i.e. how to set aside some private space counsel could use if they wished to have some time away from their clients in order to collect their thoughts. **(Action JR)**

### **4. Time limits in legal aid cases**

Jan Luba QC had written a short paper which he introduced briefly. He suggested there was a lacuna in the Rules which impacted on respondents who were legally aided. LdM had considered the paper and thought that the lacuna was a hang over from the practice at the House of Lords. She went on to say the Registry did all it could to help respondents and adopted a flexible approach, for example, they would accept letters rather than forms if necessary. She went on to say that the workings of the Legal Aid Agency was beyond our control, and noted that the bulk of the work involved in an application for permission to appeal did fall on the

appellant. She also highlighted the Scottish position with devolution cases where the Scottish Legal Aid Board regarded them as criminal matters.

Robin Tam QC suggested an amendment to Practice Direction 8.12.5 and this was agreed (**Action LdM**).

## 5. Authorities volumes

This issue had been suggested by Robin Tam QC. He was concerned that the Practice Directions appeared to require authorities volumes to be arranged in alphabetical order whereas chronological order might be preferable. In practice, some of the cases he had appeared in had been prepared with chronological authorities volumes despite the requirement in the Practice Direction. From his personal point of view having the authorities in chronological order helped in understanding the development of the law, but he did wonder how helpful the Court found this. LdM highlighted the drafting of Practice Direction 6.5.3 which said that where the parties considered that a different order or arrangement would be of greater assistance to the Court, that order or arrangement should be adopted. It was pointed out, however, that adopting that approach might lead to lengthy negotiations between the parties, at a time when there was great pressure to get the volumes prepared.

Lord Kerr commented that in many cases there were simply too many authorities.

There was considerable support at the meeting for moving to arranging authorities in chronological order. A number of people commented that deciding on an alphabetical order was sometimes tricky. But it was also pointed out that the Court should be conscious that solicitors preparing bundles would take the Practice Directions as being an absolute requirement.

LdM suggested that she should move the sentence at 6.5.3 to 6.5.2 which might clarify the position. (**Action LdM**)

There was also a related discussion about the cost of authorities. It was agreed that JR should collect information from a selection of parties about the costs of preparing authority volumes so that the Justices could be made aware. The use of e-bundles would significantly reduce costs. Robin Tam QC suggested consideration of a hybrid arrangement whereby the key authorities which would definitely be referred to in Court were in a core volume (hard copy) whilst other authorities were only provided on the electronic copy of the papers. This suggestion received considerable support.

## 6. IT update

JR had circulated a paper in advance. She went on to say that, as part of the next phase of IT development the Court would be looking at points raised by the User Group in previous meetings to see what might be taken forward. She also flagged up the intention to pilot CaseLines which had the potential to simplify the process of creating e-bundles.

The meeting also considered a point raised by Camilla Hart about e-bundles in the JCPC. It was agreed that a JCPC bundle should be identified and placed on the

JCPC website. In addition the relevant JCPC Practice Direction would be amended (**Action LdM and Camilla Hart**).

Camilla raised a separate question about the preparation of the record in JCPC cases and the order of papers. John Almeida supplemented this by saying some problems were arising where lawyers in the jurisdiction from which the case was coming were preparing the record and not complying with the requirements of the Practice Direction. JR suggested that we send a message to the Courts in the JCPC jurisdictions in the first edition of the JCPC newsletter to be distributed shortly. (**Action JR/LdM**)

Jan Luba QC welcomed the IT developments and, in particular, the free access to Wi Fi that was now available to Users. He suggested that the process for obtaining the password should be amended so that lawyers arriving at the Court would be given a slip of paper with the relevant information. (**Action JR**)

## 7. Summer Exhibition

JR reminded Users of the summer exhibition this year which would be about the JCPC as a Court at the Crossroads of Empire. The opening of the exhibition would be on 31 July and it would be in place until the end of September. She encouraged the Users to attend.

She went on to say that there would be at least two lectures for which we hoped some public seats would be available. Information would be circulated as soon as possible.

There would also be six education days in September where the schools involved would debate key JCPC cases.

## 8. Any other business

- i. **Litigants in person** – JR updated the meeting on the growing number of litigants in person applying for permission to appeal. She thanked those present, and those not present, who were willing to act pro bono, if necessary, for litigants in person.
- ii. Robin Tam QC raised an issue about Practice Direction 6 and the timetable changes which had been agreed at a previous meeting. He wondered how the changes had worked in practice. LdM said that she was only aware of one case where there had been an anxious phone call to the Registry.

Both Daniel Waller and Karen Quinlivan QC indicated that the change in the timescales had eased some of the pressures.

- iii. Robin Tam QC congratulated the Court on one of its recent open days. He had brought a party of visitors to the Court not realising it was an open day and they had been very impressed by seeing other parts of the building and undertaking some of the activities.

- iv. Daniel Waller asked for any feedback on the Court's experience of participating in the Museums at Night. JR indicated that it had been generally successful.
  
- v. Jan Luba QC congratulated the Court on the education work it was undertaking and said how much he enjoyed participating in this activity. He wondered if there was more we could be doing. JR responded to say that the Court was trying to get the message out as much as possible, but care had to be taken not to raise expectations beyond what could be delivered.

**JENNY ROWE**  
**Chief Executive**  
**July 2014**