



UKSC AND JCPC USER GROUP MEETING

At: 16:30pm on **Wednesday 10 July 2024**

At: The UK Supreme Court,
In person and remotely via Teams

Chaired by Lord Briggs

MINUTES

1. Welcome to the UKSC and JCPC user group and introductions (Lord Briggs)

Lord Briggs welcomed attendees and introduced Laura Angus, Sam Clark, and Daniel Waller. Lord Briggs gave Lord Hodge's apologies.

2. Practice Note issued by Lord Reed regarding junior counsel speaking in hearings (Lord Briggs)

Lord Briggs gave a brief outline of the Practice Note on the participation of junior counsel in hearings, issued by Lord Reed on 7 March 2024. Lord Briggs reminded Users that, where junior counsel are instructed but will not participate in oral argument in the hearing, the UKSC expects to receive confirmation that consideration has been given to whether junior could have a speaking role.

Lord Briggs observed that junior counsel are more frequently participating in oral argument in the UKSC as a result of the Practice Note, and commented that the interventions of junior counsel have been particularly concise and helpful to the Court thus far. Lord Briggs clarified that the Practice Note currently only applies to the UKSC, but that a similar note may be issued in the JCPC in future. Users expressed their support for the Practice Note, and a User noted that a similar practice was being observed in Scotland.

3. Change Programme update (Sam Clark, Laura Angus, and Daniel Waller)

Sam Clarke reminded Users about the Change Programme, and outlined the key stages of the Programme roll-out. Sam Clarke explained that the Court is currently undergoing internal user testing, and that final end to end external user testing is expected to commence in August or September. Sam Clarke noted that the tentative launch date for the Portal is October, but clarified that this cannot be confirmed until the amended Rules are laid before Parliament and the King. It was noted that this has been delayed by the election.

Laura Angus explained that the new Rules would be published with an explanatory Practice Direction on the Portal, and amended Practice Directions. Laura Angus outlined the key changes practitioners should be aware of when filing an application for permission to appeal using the Portal. The key changes noted include that:

- All practitioners will be required to sign up to the Portal, and all filings must occur via the Portal;
- Some practitioners will have cases using the old system and the new system during the transition period, and will therefore be required to use both systems for a period of time (if they have an old and a new case);
- Practitioners must pay for the application (or apply for help with fees) in order to complete a filing. The Portal allows for online payments when documents are filed, and Users will not need to contact the Registry to make payment;
- Practitioners will need to upload all of their documents at one time when filing their application, there is no need to file a bundle at a later stage;
- The application should not be served until after it is filed and issued. After ‘first service’ all service will be effected via the Portal; and
- Correspondence with the Registry will occur via Portal instead of email.

Users had a number of questions about the logistics of the Portal, including how the Portal will accommodate deadlines, closed material, changes in legal representation, document size limits, maintenance services, and BACS payments. Laura Angus noted that users will be provided with support and guidance, including FAQs, guides, and videos.

Daniel Waller demonstrated how a User would file a permission to appeal application in the Portal.

4. Rules consultation updates

a. Proposed JCPC Rule 23

Lord Briggs outlined the background to proposed JCPC Rule 23. Lord Briggs noted that there had been a lot of opposition to the proposed rule. Lord Briggs announced that the proposed rule had been abandoned, and that a new proposal was being put forward for consultation. Lord Briggs outlined the new proposal. All JCPC appeals as of right will be reviewed once the Notice of Appeal and accompanying documents, plus Respondent's Notice of Acknowledgement have been filed. We will only be looking for grounds that fall foul of *Devi v Roy* (i.e. seeking to appeal concurrent findings of fact). We will refer any *Devi v Roy* type appeals to a single Justice for directions.

The single Justice may choose to send directions advising the parties that the case appears to fall foul of the rule in *Devi v Roy*. The parties will be invited to a short case management hearing before three Justices, which is to be listed on notice to the Respondent, who is invited to attend but is not required to make submissions. The appellant is asked to make submissions as to why the appeal should not be dismissed for falling foul of the rule in *Devi v Roy*. The hearing will be listed for 30 minutes if the appellant alone appears, and for 1 hour if the Respondent wishes to be heard. The hearing will be offered as a remote hearing (although the Court cannot insist that parties do not attend the hearing in person.)

If, following the oral hearing, the three Justices feel that the appeal should not proceed to any further argument, they may then dismiss the appeal. They may also choose to allow a further hearing to take place.

For the avoidance of doubt, there will be no 'totally without merit' test applied.

Lord Briggs noted that the proposal would be further discussed at remote meetings on 18 July 2024 at 5pm (chaired by Lord Hodge) and on 22 July 2024 at 12pm (chaired by Lord Briggs).

Laura Angus noted that the responses to the original consultation and the new consultation would be published in a consultation response.

Users expressed support for the new proposal, commenting that it appears to be a fair compromise.

b. General UKSC Rules update

i. Legal Aid

Laura Angus noted that the UKSC would be proceeding with changes to the automatic extension of time currently granted to parties applying for Legal Aid. It was confirmed that the automatic entitlement to an extension of time would be removed, and that the new rule would require parties to update the Court regularly on the progress of their Legal Aid application. It was explained that the purpose of the amendment was to apply pressure on the Legal Aid agencies and applicants to progress their application. It was noted that the Registrar would have the power to refuse an extension of time where she considered that an application for Legal Aid had not been actively progressed. It was clarified that this power would be used sparingly by the Registrar and any party unhappy with a refusal to extend an extension of time can apply to review the Registrar's decision.

ii. Interveners

Laura Angus confirmed that the amended rule relating to interveners would also be implemented. It was clarified that the amended rule does not narrow the role of interveners in proceedings, but merely codifies current practice that is already expressed in the Practice Direction.

iii. Counsel fees

Users expressed an interest in reviewing the level of counsel's fees in the Practice Directions for the purpose of costs assessments. Lord Briggs noted that while the Court had not considered this issue, Users were welcome to write to the Court outlining the issue and their proposals.

iv. Deadline to make a PTA application

Laura Angus noted that there would be a change to the deadline to apply for permission to appeal. This would now be 28 days from the decision by the lower court on permission to appeal (i.e. a change for Northern Ireland and for England and Wales).

v. Rule 42

Users raised proposed Rule 42 and sought clarification around how bundles would be redacted before being published to the website. Laura Angus explained that an application to make redactions to a bundle would need to be filed within good time before the hearing. Lord Briggs clarified that proposed Rule 42 had been amended slightly to restrict publication to the written cases and the SFI.

5. Registry items

Laura Angus reminded Users that:

- the Court photocopying service is no longer available;
- the Practice Direction provides that written cases are to be no more than 50 pages, including footnotes, and in 12 point font, but that a word limit would be imposed in the revised Practice Direction to avoid any abuse of the page limit by adjusting margins; and
- the only document to be filed in hard copy is the Key Bundles Document.

6. AOB

A User noted that they had experienced difficulties contacting the Costs Team by telephone. Laura Angus explained that the Costs Case Manager has been unwell, but that the Registry is still contactable by telephone.

A User sought clarification around the mechanics of listings in JCPC appeals. Laura Angus noted that the previous Listings Officer had retired, and that our new Operations Manager Harriet Grant had taken on listings.

7. 15th Anniversary of the Supreme Court

Lord Briggs explained that 2024 marks the 15th anniversary of the Court, and noted that Vicky Fox gives her apologies as she was unable to attend to celebrate the occasion.

Lord Briggs noted that since 2009, the Court has had a million visitors, half-a-million website views, and hosted a range of education progress. Lord Briggs commented that there would be

an exhibition of significant UKSC cases, and that this would be advertised on the website. Lord Briggs invited Users to celebrate with a drink following the conclusion of the meeting.