

Written evidence submitted by Weightmans LLP (WCC0112)

COUNTY COURT CONSULTATION

Weightmans LLP is a top 40 UK law firm with more than 1500 people working from our offices in Birmingham, Cardiff, Glasgow, Leeds, Leicester, Liverpool, London, Manchester and Newcastle.

We have a national team of 500 insurance lawyers led by over 45 partners providing service to leading global and national insurers handling all sizes of claims, with an estimated £2.3 billion of claims reserves under our management at any one time. Although we handle all types of claim-from first notification of loss to arbitration, much of our work is in the litigation sphere -primarily conducted in the county courts, UK wide.

In producing this response to the consultation, we have canvassed the views of our insurance claims handlers who handle litigation conducted in the county court daily.

Current level of delay, regional variations and the day-to-day impact on how justice is administered.

Significant delays are reported across practically all county courts in listing cases for case management hearings and interlocutory applications and in waiting for trial dates or final hearings. Users highlight the Central London County Court, Guildford, Kent and the southeast generally as the worst affected region.

Anecdotal examples include a case where a Defence was filed in September 2023 which still awaits a hearing date for the initial CMC. Delays running into months are not uncommon before courts respond to applications.

Telephone calls to courts take an inordinate time with handlers being on hold for up to 2 hours (particularly via the centralised telephone numbers used for Central London and increasingly elsewhere) and allied to a lack of any effective response when courts are asked to rectify their own errors or mistakes. Some county court staff still cite the Covid-19 pandemic as a reason for their delayed response.

The condition of the court estate and how, if at all, it impacts on the work of the court?

Although court users cite inadequate numbers of conference rooms and report that some court buildings are in need of refurbishment, generally this does not interfere with the running of a trial or hearing. We report separately on technology (below).

The use of technology and how this could be used to improve service?

Court facilities have simply not kept pace with technology, many courts are without facilities to play body worn or CCTV footage, -often requiring either claimant or defendant to provide their own equipment and screens to play footage to the judge, witnesses and the parties to the proceedings. The cost, around £1,000, is often unrecoverable even if the party is successful at trial due to one way cost shifting.

Inconsistency is reported in the use of electronic bundles-often they are simply not passed to the judge.

Users call for greater use of telephone/video conferencing to increase the number of remote interim hearings (e.g directions and application hearings) to avoid 'unnecessary' travel time and the additional costs of in-person hearings. We believe remote interim hearings should be the default position unless there is a specific request or need for an in-person hearing, with the organiser required to explain clearly why an in-person attendance is deemed necessary.

Greater consistency amongst courts is called for in how they deal with remote hearings-different county courts use different remote hearing platforms which invariably requires a clerk to assist joining all parties to the hearing. Better technology exists to enable video conferencing than is currently being promoted by the courts.

On a separate note, which encompasses the issues of both delay and technology, is how the current communication routes with the court are managed ineffectively in silos. In circumstances where an Acknowledgement of Service is filed with the court with an accompanying application to strike out a claim, the claimant or his representative is able to direct an email requesting judgment (judgment.cnbc@justice.gov.uk) which is answered more quickly than the email portal for filing applications(applications.cnbc@justice.gov.uk)-this then requires a separate application to set judgment aside with attendant increase in cost and delay. Users ask for the two addresses to be integrated and managed more effectively.

The Online Civil Money Claims and the Damages Claims Services

The Damages Claims Portal is described by some users as 'not fit for purpose'. Users report it is hard to navigate, not user friendly and that it presents significant risk and compliance issues-as the DCP requires users to input data on screen so Direction Questionnaires, applications and disclosure cannot be approved by a supervisor before being submitted.

Locating orders and documents from the court is far from straightforward and has necessitated the firm employing a team of people to manage it. There have been occasions when users have not received notification that certain documents have been uploaded by other parties, particularly pleadings, and these have only been found during routine periodic reviews of the portal.

Users report that it is unclear in what circumstances, and when, a claim falls outside of either service and proceeds offline or under the heritage system. For those cases proceeding offline, huge delays are reported due to the CNBC failing to process Notices of Change of Solicitor with gaps of 10 weeks or more -a time when the firm is not officially on record meaning we do not receive correspondence and orders from the court.

Other users report concern over a two-tier system; those cases remaining in the DCP have truncated and 'too short' timescales for directions which risk injustice for both parties and are not conducive to resolution. Cases falling out of the DCP, or were never started in it, are subject to significant and unreasonable delays in both listing for case management and for trial.

Adequacy of judicial and staffing levels and its impact on service.

Our county court users point to myriad examples of delay (see above) which point to inadequate staffing across most courts. The most extreme examples include cases adjourned a day prior to the hearing due to inadequate staffing levels when the parties are fully prepared leading to wasted time and costs which cannot be recovered.

Future reform of the county court

The service provided by most county courts simply must improve. Whether this is achieved through investment in more staff and/or managing inefficiencies more effectively is for HMCTS to determine.

Our handlers point to systems operated by the High Court which work more speedily and effectively. For example, the e-filing system in the High Court is described as 'easy to upload', with automated emails providing proof of uploading and swift delivery of orders once made.

Masters are said to manage and move forward cases effectively and efficiently -often within hours whereas in the county court very few documents filed 7 days or more before the hearing are said to find their way to the file or the District Judge in time.

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