

THE CIVIL JUSTICE SYSTEM

THE PRINCIPLES

Lord Woolf, *Access to Justice* (Final Report, July 1996), identified a number of principles which the civil justice system should meet in order to ensure access to justice. The system should:

- (a) be *just* in the results it delivers;
- (b) be *fair* in the way it treats litigants;
- (c) offer appropriate procedures at a reasonable *cost*;
- (d) deal with cases with reasonable *speed*;
- (e) be *understandable* to those who use it;
- (f) be *responsive* to the needs of those who use it;
- (g) provide as much *certainty* as the nature of the particular case allows; and
- (h) be *effective*: adequately resourced and organised.

THE PROBLEMS

The defects Lord Woolf identified in our present system were that it is:

- (a) too *expensive* in that the costs often exceed the value of the claim;
- (b) too *slow* in bringing cases to a conclusion;
- (c) too *unequal*: there is a lack of equality between the powerful, wealthy litigant and the under resourced litigant;
- (d) too *uncertain*: the difficulty of forecasting what litigation will cost and how long it will last induces the fear of the unknown;
- (e) *incomprehensible* to many litigants;
- (f) too *fragmented* in the way it is organised since there is no one with clear overall responsibility for the administration of civil justice; and
- (g) too *adversarial* as cases are run by the parties, not by the courts and the rules of court, all too often, are ignored by the parties and not enforced by the court.

THE BASIC REFORMS

A system is needed where the courts are responsible for the management of cases. The courts should decide what procedures are suitable for each case; set realistic timetables; and ensure that the procedures and timetables are complied with. Defended cases should be allocated to one of three tracks:

- (a) an expanded small claims jurisdiction with a financial limit of £3,000;
- (b) a new fast track for straightforward cases up to £10,000, with strictly limited procedures, fixed timetables (20-30 weeks to trial) and fixed costs; and

- (c) a new multi track for cases above £10,000, providing individual hands on management by judicial teams for the heaviest cases, and standard or tailor made directions where these are appropriate.

Lord Woolf's Inquiry was also asked to produce a single, simpler procedural code to apply to civil litigation in the High Court and county courts. The Final Report was accompanied by a draft of the general rules which would form the core of the new code.

THE NEW LANDSCAPE

Lord Woolf stated that if his recommendations are implemented the landscape of civil litigation will be fundamentally different from what it is now. The new landscape will have the following features:

- (a) *Litigation will be avoided wherever possible.*

People will be encouraged to start court proceedings to resolve disputes only as a last resort, and after using other more appropriate means when available.

- (b) *Litigation will be less adversarial and more co-operative.*

There will be an expectation of openness and co-operation between parties from the outset, supported by pre-litigation protocols on disclosure and experts.

- (c) *Litigation will be less complex.*

There will be a single set of rules applying to the High Court and the county courts. The rules will be simpler.

- (d) *The timescale of litigation will be shorter and more certain.*

All cases will progress to trial in accordance with a timetable set and monitored by the court.

- (e) *The cost of litigation will be more affordable, more predictable, and more proportionate to the value and complexity of individual cases.*

There will be fixed costs for cases on the fast track. Estimates of costs for multi track cases will be published or approved by the court.

- (f) *Parties of limited financial means will be able to conduct litigation on a more equal footing.*

Litigants who are not legally represented will be able to get more help from advice services and from the courts.

- (g) *There will be clear lines of judicial and administrative responsibility for the civil justice system.*

The Head of Civil Justice will have overall responsibility for the civil justice system.

- (h) *The structure of the courts and the deployment of judges will be designed to meet the needs of litigants.*

Heavier and more complex civil cases will be concentrated at trial centres which have the resources needed, including specialist judges, to ensure that the work is dealt with effectively.

- (i) *Judges will be deployed effectively so that they can manage litigation in accordance with the new rules and protocols.*

Judges will be given the training they need to manage cases.

- (j) *The civil justice system will be responsive to the needs of litigants.*

Courts will provide advice and assistance to litigants through court based or duty advice & assistance schemes, especially in courts with substantial levels of debt and housing work.

IMPLEMENTATION OF LORD WOOLF'S REFORMS

Some of Lord Woolf's interim proposals were implemented even before the Final Report.

- (a) Sir Richard Scott V-C was appointed as Head of Civil Justice to take overall management control of the reforms proposed by Lord Woolf. (Lord Woolf was appointed Master of the Rolls in 1996.)
- (b) The small claims limit was raised to £3,000 as of 8 January 1996.
- (c) The Civil Procedure Act 1997 gave the Lord Chancellor the power to establish a Civil Procedure Rule Committee with the power to make rules of court for all civil, non-family, litigation. The CPRC is now active (with its own web site). The official Civil Procedure Rules were published on 29 January 1999.

THE WAY FORWARD

The Lord Chancellor announced his package of Civil Justice Reforms at the Solicitor's Annual Conference on 18 October 1997:

- (a) The small claims limit should be increased to £5,000, but personal injury cases up to £1,000 will remain within the small claims procedure.
- (b) The Fast Track and Multi-Track will be introduced, to support the principle and operation of judicial case management.
- (c) The Fast Track limit should be £15,000.
- (d) Personal injury cases between £1,000 and £15,000 will go into the Fast Track.
- (e) The Fast Track will be supported by a fixed costs regime.
- (f) The civil court fee structure will be revised to complement the new procedures, improving fairness to litigants.

In making his announcement, Lord Irvine said he believed the reforms would successfully tackle the unacceptable levels of delay, complexity and cost attached to the current system. They would also promote certainty and fairness for litigants.

The reforms were implemented on 26 April 1999.