



## **Note of the UKSC/JCPC User Group Meeting**

**Held on Friday 20 January 2012 at 11AM in the Lawyers' Suite at the UKSC**

**Present:**

Lady Hale }  
Jenny Rowe (JR) }  
Louise di Mambro (LdiM) }  
Rake Orekie (RO) }

John Almeida	Charles Russell LLP
Chris Barber	Gregory Rowcliffe Milners
Karen Quinlivan QC	Bar Council (NI)
Robin Tam QC	TG Chambers
Steven Durno	Law Society
Derry Moloney	Alan Taylor & Co
Ishbel Smith	McGrigors
Iain Smith	Keegan Smith
Lee John –Charles	TSols
Hannah May	Royds LLP
Nicola Diggle	Blake Laphorn
Jonathan Crow QC	4 Stone Buildings
Nigel Fisher	Norton Rose
Louise Fisher	Ashurst LLP – London
Nicole Curtis	Penningtons
Mark Stephens	Finers Stephens Innocent LLP

**Apologies:**

Nigel Pleming QC	39 Essex
Michael Fordham QC	Blackstone Chambers
Jan Luba QC	Garden Court Chambers
Nora O'Flaherty	HMRC
James Turner QC	1 King's Bench Walk

## **1. Welcome and apologies**

Lady Hale welcomed everyone to the meeting. Ailsa Carmichael QC participated in the meeting via telephone link from Scotland.

Lady Hale noted that, since the last meeting, there had been a separate meeting for JCPC users. She also noted that it would be helpful if an FBLA representative could attend User Group meetings.

## **2. Matters arising from the meeting held on 10 June 2011**

- *Making printed cases available on the website.*

This continued to be an issue in terms of what we could achieve within our existing IT, without spending significant resources.

- *Review of costs*

I explained that we were still waiting to see the final outcome on all the recommendations of the review undertaken by Jackson LJ. We had decided, however, to review our current Practice Directions on costs in both the UKSC and the JCPC. There would be an initial discussion with Lord Dyson and with the costs judges. We would then propose to circulate any changes to users for their comments.

Mark Stephens pointed out that there might be issues in the JCPC where different countries had different mechanisms for funding litigation, for example, conditional fees and contingency fees. This might point to a wider consultation on any changes proposed for the JCPC.

- *Summary of reasons for grant/refusal of permission*

Lady Hale explained that following representations made by a number of people including the User Group, and at a seminar hosted by the UCL Judicial Institute in November, the Justices had considered the feasibility of giving a slightly fuller explanation of the reasons for refusals of permission to appeal. With effect from the next round of permission applications, when the Justices would be using an expanded pro forma, information would appear on the relevant part of the website.

- *Putting information about pending applications for permission to appeal on the website*

I highlighted briefly the same IT issues as I had under item 1.

- *Court dress*

The suggestions made at the last User Group meeting had now been put into effect. Several cases, in both the UKSC and the JCPC, had been heard where counsel had agreed that court dress should be dispensed with.

- *Legal aid reform*

We were still waiting to see the final shape of the legislation before we could consider implications for the Supreme Court in more detail. We were aware that a number of bodies had expressed grave concerns. The current proposals were likely to affect both the volume of certain types of case coming before the courts and thus before the Supreme Court on important points of law and the availability of legal aid for such issues, even in the Supreme Court.

- *Pro Bono costs*

We were looking for a suitable legislative opportunity to ask the MoJ to make this change. **(DN: Lord Pannick QC helpfully tabled an amendment to the Legal Aid Sentencing and Punishment of Offenders Bill.)**

### 3. Revised Practice Directions

We had already circulated the revised Practice Directions and covering note from Louise which highlighted the changes, a number of which had been suggested by the User Group. Issues which arose in the discussion were as follows:

- There were frequently likely to be additional documents parties wished the court to have after the bundles/core volumes had been finalised. At the previous meeting Michael Fordham QC had suggested the court have available in the courtroom a number of ring binders, small enough to fit into the shelves in the Justices' trolleys, into which any additional documents could be placed and which would be relatively easy for the Justices to access. Lady Hale showed an example of such a binder she had bought in Ryman's that morning (two holes rather than four).

**Action: UKSC/JCPC to ensure that each courtroom had a supply of these binders which parties could use if necessary. (Action completed.)**

- There was then some discussion of the desirability of the parties collaborating to prepare a core volume of authorities. The Justices did find these helpful in some cases and Lady Hale was interested in views. She encouraged more thought to be given to the feasibility of preparing such volumes: in the case in which the Justices had been sitting that week (age discrimination and retirement), it was entirely foreseeable that there were a number of authorities to which frequent reference would be made and a core volume would have been useful.

Points made in the discussion included:

The fact that a core volume might not be capable of being prepared until the very last moment.

There were potential IT consequences if the bundles had been prepared electronically. But those using the electronic bundles can quickly locate the

relevant authorities so would not have the same need for a separate electronic core bundle.

Should the core authorities reflect previous pages numbers and tabs or be differently numbered?

**Action – UKSC/Justices to clarify the requirements for a core bundle of authorities.**

- Some changes had been made to the Practice Direction on devolution cases and those from Scotland and Northern Ireland were interested to know the significance of the changes. I explained that they arose from a discussion between me and the Office of the Attorney General of Northern Ireland. When they had come to consider a possible Reference to the Supreme Court it had been clear that the Practice Direction did not entirely cater for those particular circumstances. We had amended the Practice Direction to make some aspects clearer.
- Lord Mance had asked consideration to be given to better indexing of the authorities bundles. He felt it would be particularly helpful to have an index inside the cover of each bundle, plus a separate index of all the authorities.
- Robin Tam QC also asked it would be helpful to have an alphabetical index. Lady Hale indicated that this would be appreciated by the Justices.

#### **4. IT**

A number of those present at the meeting had also been present at the earlier IT awareness raising session held by Lord Kerr in Court One. Two further questions were now asked:

1. Might it be possible for the orientation of the screens used in court to be portrait rather than landscape, so that it was easier to read the whole page at once. RO indicated that this probably was possible, but also pointed out that, if electronic presentation of documents is being used, the fixed screens were there to ensure that every person in the court had the opportunity of looking at the same document at the same time. The Justices would also have their laptops available to them, as would the advocates. But it would be possible for the operator to change the viewing size of the screens.

**Action: UKSC to look at adjusting screens in court.**

2. Were annotations and highlights on the electronic bundle backed up? RO explained that we had back-up arrangements for the Justices so that annotations etc were saved every three minutes. It would be for chambers/solicitors to set up appropriate arrangements on laptops brought into court by parties.

3. A point was made that it would be sensible to standardise references to electronic bundles for example, EB472.

**Action: UKSC to set a standard way of referring to electronic bundles.**

Lady Hale emphasised the importance of page references. And in most cases, where both paper bundles and electronic bundles were being used, advocates needed to be ready to give both references without being asked. Ideally, they should be the same but this was still not happening.

## **5. Supply of core volumes to legal libraries**

I set out briefly the background, which I said that I would repeat in a letter to the wider User Group.

Mixed views were expressed amongst those present. Some thought that the parties could take responsibility for redacting their papers. However, it was clear that not many people were aware of the previous practice of the House of Lords, and some concern was expressed about sensitive material which might have been in case papers and which was now in the various legal libraries. There were not only issues about children and family cases, but also possibly medical reports and mental health issues.

Ailsa Carmichael said that the Faculty of Advocates was aware of the issue from another perspective: the Advocates Library was part of the National Library of Scotland and there was access to the Faculty's records by anyone who had a National Library ticket. Amongst the Library's collection were papers on criminal cases, as well as papers which had been sent to them from the House of Lords.

Karen Quinlivan thought that, if the practical issues could be resolved, the Bar Library in Northern Ireland might be interested in having copies of case papers as well.

**Action: JR to write to users.**

## **6. Any other business**

I mentioned that the Court would soon begin to use Twitter, but only as an institution as opposed to individuals, and only to impart key information about judgments for example. Mark Stephens referred to some work undertaken by the IBA on the use of social media which indicated that this did not give rise to the kind of problems people might fear.

John Almeida thought that it might be sensible at a future meeting to look again at the issue of the timing of the appellant's case. We agreed to put this on the agenda for the next meeting which would most likely be in mid-June.

**JENNY ROWE**  
**Chief Executive**