JUDICIARY OF
ENGLAND AND WALES

Business and Property Courts

The Commercial Court Report 2017-2018

(Including the Admiralty Court Report)

Business and
Property Courts

The Commercial Court Report 2017-2018

(Including the Admiralty Court Report)

This publication is available at www.judiciary.uk

Any enquiries regarding this publication should be sent to us at website.enquiries@judiciary.uk

Published by Judicial Office
11th floor Thomas More Building
Royal Courts of Justice
Strand
London
WC2A 2LL

www.judiciary.uk

Contents

Introduction

For some years it was the practice of the Commercial and Admiralty Courts to produce an Annual Report. Sadly, this practice fell by the wayside a few years ago.

But in the light of increasing interest both domestically and internationally in the work of the Court, it has seemed a good time to revive the old tradition and provide a report on the Commercial and Admiralty Courts.

This can both act as an introduction to those who are not particularly familiar with this work, and provide the kinds of detailed information and statistics which will be of interest to regular users of the Court.

We are very grateful for the help the Judicial Communications Office has provided in producing this revived Annual Report.

This report covers the work of the Commercial Court and Admiralty Court. The same judges sit in both Courts, share a common administration and follow the same procedures. When we refer to 'the Court' in this report, we refer to both the Commercial Court and the Admiralty Court.

Traditionally the Admiralty Court was named first. However, the 10th Edition of the Commercial Court Guide took the decision to change that practice, reflecting the balance of work which currently exists as between the Courts, and the general habits of users; and we adopt that change.

The Court would not have been able to achieve what it has done without the very hard work and unfailing help of the Court staff. This has always been given unstintingly and without complaint, despite the pressure and difficult circumstances under which the Court staff have had to work..

Mr Justice Teare
Commercial Court and Admiralty Court

The Courts

The work of the Commercial Court

The jurisdiction of the Commercial Court is wide. It extends to any claim relating to the transaction of trade and commerce (including commercial agreements, import and export, carriage of goods by sea, land and air, banking and financial services, insurance and reinsurance, markets and exchanges, commodities, oil, gas and natural resources, the construction of ships, agency, arbitration and competition matters).

The Admiralty Court has exclusive jurisdiction over certain maritime claims (including collisions and salvage), but many maritime claims (for example those relating to disputes under bills of lading or charterparties) may be brought in either the Admiralty Court or the Commercial Court. Claims in rem against the vessel leading to arrest and sale may of course be brought only in the Admiralty Court.

As is nearly always the case, the Court has experienced a very busy year in terms of the overall volume and complexity of the cases it has handled. After a number of years of operating very much below strength in terms of the number of full-time judges available to sit in the Court, the past year has seen a considerable increase in judicial personnel.

Five new judges (Bryan J, Moulder J, Cockerill J, Butcher J and Jacobs J) have joined in the year 2017-2018, and HHJ Waksman QC became Waksman J in October 2018.

However, the gains have been to some extent offset by losses: Blair J retired in September 2017, Leggatt J moved to the Court of Appeal in February 2018, and he will shortly be followed there by Males J.

The judges of the Commercial Court are now: Teare J (Judge in Charge), Andrew Baker J, Bryan J, Butcher J, Carr J, Cockerill J, Jacobs J, Robin Knowles J, Males J, Moulder J, Phillips J, Picken J, Popplewell J, Waksman J and Walker J. Their clerks' contact details can be found at: https://www.judiciary.uk/you-and-the-judiciary/going-to-court/high-court/queens-bench-division/courts-of-the-queens-bench-division/commercial-court/judges-clerks/

The subject matter of cases handled by the Court remains varied.

The balance of work has changed somewhat from the picture painted by the old Commercial Court Reports, where international insurance and reinsurance disputes together with shipping disputes dominated the Court's time.

Both these areas of work remain, and are among the larger categories of business with which the Court deals, but they are now joined by commercial fraud, actions arising out of commercial and business acquisition agreements and claims relating to banking, financial services and securities transactions.

Now the Court sees many more banking and financial services disputes than it used to, and disputes (based either in contract or tort) between high net worth individuals from around the world now provide a considerable share of the Court's business.

A significant proportion of the claims issued (roughly 25%) relate to matters arising out of arbitration. This reflects London's importance as a centre for international arbitration.

The applications include challenges to awards, whether on the grounds of jurisdiction (s. 67), appeal on a point of law (s. 69) or irregularity (s. 68).

However, there are also numerous applications for injunctions arising from arbitrations, and for enforcement of arbitration awards. There are also many other types of application, including applications to the court for the appointment of an arbitrator.

The work of the Admiralty Court

The exercise of the Court's jurisdiction has been as broad as always.

The Court maintains its reputation for ease of access, speed and flexibility in the arrest, release and sale of vessels. The Court acknowledges the role played by solicitors in this and the Admiralty Marshal is greatly assisted by early notification of claimants' intention to arrest vessels.

The most recent development of practice is the introduction of a fast track procedure for collision actions where both vessels have voyage data recorders which record the track of each vessel. This development was summarised by the Admiralty Judge in his judgment in *Nautical Challenge v Evergreen Marine* [2017] EWHC 453 (Admlty) at paragraph 2 follows:

> "The prevalence of electronic data which records the navigation of each vessel has led the court, with the assistance of the Admiralty Bar and the Admiralty Solicitors Group, to propose (i) the early disclosure and inspection of such data so that the navigation of vessels in collision can be agreed at an early stage and (ii) in the event of there still being a dispute as to liability, the adoption of trial procedures designed to achieve a speedy and cost effective resolution of that dispute. The required changes to CPR 61 and PD 61 came into force on 28 February 2017; see the Civil Procedure (Amendment) Rules 2017 SI 95 of 2017 and the 88th update to the Practice Directions. The effects of those changes are summarised on the court's web site and will be included in Section N of the Admiralty and Commercial Courts Guide."

The purpose of this development is described in the Court Guide at Appendix 13. It is to promote the rapid and cost-effective resolution of disputes arising out of collisions.

It is hoped that this development will be of benefit to those engaged in the shipping industry and will demonstrate that the Admiralty Court, though an ancient institution, is up to date with modern developments in the industry.

In the first case under Appendix 13, a Case Management Conference (CMC) was held swiftly, with a fast-track trial then being scheduled for later in 2018, which assisted the parties to reach settlement without the need for a trial.

Sources and volume of the Courts' work

The sources of the courts' business

The work of the Commercial Court has long been very international in nature. From time to time surveys have been made to ascertain the proportion of the Commercial Courts' work which emanates from businesses outside the UK.

Recently statistics have begun to be formally gathered to ascertain how much of the Court's work is domestic and how much is international.

A domestic case is one in which the subject matter of the disputes between the parties' concern property or events situated in the United Kingdom and the parties are UK based relative to the dispute.

For these purposes a party is "UK based relative to the dispute" if the part of its business which is relevant to the dispute is carried on in the UK, irrespective of whether it is incorporated, resident or registered overseas. All other cases are "international cases".

The surveys in 2017/18 indicate international cases account for 70% of the Court's business.

These statistics indicate that the Commercial Court remains predominantly an international court. Parties choose the Court to resolve their disputes either because they have specifically provided in their contracts for English law or for the English courts to resolve their disputes; alternatively, because they regard the Court as the most suitable one in which to bring claims.

The judges and the staff of the Court are conscious of the need to maintain their ability to handle efficiently and effectively the large number of claims that come to the Court from outside the jurisdiction and, effectively, at the choice of the parties involved.

The volume of the business of the Commercial Court

The number of claim forms issued has been relatively consistent over the last two years: 888 in 2016-17 and 864 in 2017-2018.

The number of hearings (including applications listed) in the year was 1,788. However, of these nearly 600 hearings were not effective, often because the matter was agreed settled. This compares to 1,607 hearings listed in 2016-2017, some 500 of which were not effective.

Of these, the figures for trials were: 161 listed for 2017-18 with a 60% settlement rate (very few are vacated for reasons other than settlement) compared with 182 in the previous year with a 62% settlement rate.

	2016-2017	2017-2018
Number of claims forms issued	888	864
Number of hearings	1,607	1,788
Not effective hearings	500	600
Number of trials	182	161
Settlement rate	62%	60%

The Court believes that the promotion of settlements is a very important part of its function. This is assisted by the process of defining the issues at an early stage, before the first Case Management Conference, and then by an evaluation of the parties' positions in the light of disclosure and the exchange of witness statements and experts' reports. The fact that trial dates can be fixed with very reasonable lead times means that the parties and their lawyers must concentrate on whether or not an impending trial should actually be fought.

In the year ending 31 July 2018, the Commercial Court heard 57 trials. This compares with 51 trials in 2017. An increasing amount of time is required for pre-reading and judgment writing in increasingly document heavy trials.

As to the length of trials heard over the year, in 2016-17 and 2017-18 the figures were:

	2016-2017		2017-2018	
Under a week	26	50%	28	49%
1-2 weeks	15	29%	17	29%
3-4 weeks	6	11%	9	16%
Over 4 weeks	4	7%	3	5%
	51		57	

No specific statistics are kept concerning the amounts involved in claims. However, it is clear the vast majority of cases brought in the Commercial Court concern claims for sums well in excess of £10 million.

The largest noted was a claim for US$3 billion and there were over a dozen claims worth over £100 million. Many arbitration claims concern awards made for extremely substantial sums, sometimes into the billions of pounds.

The volume of business of the Admiralty Court

The total number of claims issued in the Admiralty Court has remained constant in 2016 and 2017, namely 163 and 165 respectively. This shows that the Admiralty jurisdiction remains important and well used.

Of those, 18 were in 2016 for damage caused by a collision and in 2017 19 were for damage caused by collision. Most of the rest were for personal injury (the County Court no longer having Admiralty jurisdiction), cargo damage and other agency and contractual claims.

In 2016, 10 actions were set down for trial, five before the Judge and five before the Registrar. Six were tried: two before the Judge and four before the Registrar.

In 2017, 11 actions were set down for trial: three before the Judge and eight before the Registrar. Five were tried: two before the Judge and three before the Registrar.

The number of interlocutory hearings before the Admiralty Judge (or a Commercial Court authorised to sit in Admiralty) was 43 in both 2016 and 2017. The number of interlocutory hearings before the Admiralty Registrar in those years was 11 and 9 respectively, so that the number of interlocutory hearings overall was constant at 54 and 52.

	2016	2017
Claims issued	163	165
Trials	10	11
Interlocutory hearings	54	52

The Registrar conducted two references in 2016 and one in 2017. There were 17 arrests of a ship in 2016 and 10 arrests in 2017. There were no sales of a ship in 2016 but three in 2017. The ready availability of P&I Club or Hull Underwriters' letters of undertaking means that although arrest and sale are the distinctive features of the Admiralty action in rem they are not often required; see *The Alcyon* [2018] EWCA 2033 (Admlty) at paragraph 15.

The Financial List

With the encouragement of users, the Financial List was established as a specialist court to hear cases requiring particular expertise in the financial markets or which raise issues of general importance to the financial markets, or where the value at issue exceeds £50 million.

The Financial List was established in 2015 but builds on the longstanding strength and reputation of the Commercial Court and the Chancery Division.

It draws specialist High Court Judges from each to hear cases. The List is within the umbrella of the Business and Property Courts of England & Wales.

Recent cases heard or in progress in the Financial List have included cases concerning the interpretation of standard form documents or terms in market wide use, market behaviour, complex financial instruments and derivatives, financial structuring, sovereign debt, emissions trading, interest rate benchmarks, and Islamic finance. It is not designed to be a high-volume list and its workload remains in line with projections at about 15 cases a year.

Most of the cases are international, and although value is not the sole criterion, the value in issue has been high or very high.

The Financial List has been noted for the contribution it can make to reducing legal certainty and to stability. It holds user meetings from time to time and welcomes suggestions. A market test case procedure is also available within the Financial List.

Case Management

Case management has been a key feature of the conduct of litigation in the Commercial Court since its inception.

As noted in the Introduction to the first volume of The Times Reports of Commercial Cases: "The course of procedure followed in chambers has been to ascertain, upon the making of the order for the transfer of the case to the commercial list, what directions were needed to secure a trial at the earliest convenient date."

It remains a most important part in the work of the Court. In all cases there will be at least one Case Management Conference ("CMC") which is conducted by a Commercial Judge.

The idea behind the CMC is that the parties should be ready to deal with all aspects of case management and the issues in the case at a CMC so that the judge can ensure that the case is managed effectively.

To assist in bringing this about the parties are required to agree and lodge a Case Memorandum which outlines the case and its key features, and a List of Common Ground and of Issues, as well as a Case Management Information Sheet, which is a detailed questionnaire setting out the parties' respective positions on all the key questions leading up to trial.

For most cases it is the practice of the Court to set a timetable down to trial at the first Case Management Conference. The Court has a standard pro forma which parties are encouraged to customise to the requirements of their individual cases.

Where an order for directions to trial is made, the parties are required to fix, within a few days of the CMC, a date for trial on, or very soon after, a date which is identified and specified at the CMC.

In very large or complex cases, or in cases where disclosure is anticipated substantially to impact issues such as expert evidence it is not always possible to set a timetable right down to the trial date.

However, it is the practice of the Court to set a detailed timetable for as much of the pre-trial period as possible, and to fix future CMCs as necessary so that the Court can monitor progress carefully.

The Court encourages parties to engage in Alternative Dispute Resolution ("ADR") procedures. Pre-trial timetables will always allow for this if parties request it. Parties are required to consider ADR in advance of the CMC and to inform the Court of whether it has been considered between the parties.

However, fixed dates for court procedures are always given so that proceedings will continue if ADR fails and so there is always a timetable to the trial date. In some cases, the parties have difficulty in agreeing on a mediator who will conduct the ADR process.

Parties may agree to a paragraph in an ADR Order which permits them to submit a shortlist of potential mediators to the judge who has conducted the CMC, on the understanding that the parties will abide by the judge's choice of mediator from the agreed shortlist.

The Court attaches importance to the 'progress monitoring date' which is set when the parties attend a CMC. The PMD is the date by which the parties must report their compliance with the pre-trial timetable and preparation for the trial.

The Court reviews these reports from the parties and, where necessary, can take active steps to ensure that cases are ready for trial on the date that has been fixed. However, in the vast majority of cases, the professionalism of the Court users means that no such steps are needed.

For more than 15 years it has been possible for parties to agree directions in straightforward cases so that the Court can dispense an oral hearing at a Case Management Conference.

Because the cost of oral hearings is high, more parties are applying to the Court to dispense with oral hearings for CMCs in cases where there are agreed directions.

While the Court wishes to encourage this practice in appropriate cases, there are concerns that sometimes directions are agreed without full consideration being given to the issues which would be ventilated at the CMC, with a resulting negative impact on the efficient conduct of the trial.

In the future this may be particularly important where the disclosure pilot is involved. It is for this reason that the Court requires that if this procedure is to be adopted, the Court has the proposed directions, together with the parties' information sheets, Case Memorandum and List of Issues as well as the draft Order in very good time, as well as a statement from Counsel certifying that the case is indeed appropriate for consideration on paper.

In all cases, of course, it is for the Court to decide whether it approves the proposed draft Order.

Shorter and Flexible Trials and expedition

The Commercial Court has always aimed to accommodate very urgent cases when the need arises. It has been able to offer expedited dates for trial in suitable cases.

The Commercial Court has also been one of the courts trialling the Shorter and Flexible Trials Pilot Schemes. Both schemes are designed to provide shorter and earlier trials for business related litigation at a reasonable and proportionate cost. The Shorter Trials Scheme is designed to provide a start to finish resolution of a case in under a year: trial within 10 months of issue and judgment within six weeks of trial. It is limited to cases which can be heard in four days or less and so is intended for trials which require limited disclosure and oral evidence.

The Flexible Trials procedure involves the adoption of a more flexible case management procedures where the parties so agree, resulting in a more simplified and expedited procedure than the full trial procedure currently provided for under the CPR.

Both schemes are designed to help foster a change in litigation culture, in particular a recognition that comprehensive disclosure and a full oral trial on all issues is often not necessary for justice to be achieved. They are now confirmed as full-time schemes and appear in Practice Direction 57 AB.

Disclosure

The Court (in particular via Robin Knowles J and Phillips J) has been heavily involved in the development of a pilot scheme to deal with the burden and cost of the disclosure process in business and commercial litigation.

The pilot results from work commenced in 2016 and following feedback from extensive engagement with practitioners and users it has now been confirmed that a pilot of the new disclosure protocol in the Commercial Court (and in all most other Courts within the Business and Property Courts umbrella) from January 2019. The pilot will not apply to the Admiralty Court.

The scheme retains disclosure as part of commercial litigation, recognising that it is important in achieving the fair resolution of proceedings. However, the pilot lays the ground for improvement in the culture of commercial litigation in this area. It increases the facility for disclosure to be tailored to be proportionate to the case, and to the issues in the case.

Under the pilot, there will be a process of Initial Disclosure in many cases, allowing reflection on whether Extended Disclosure is needed. Disclosure duties of parties and their lawyers are codified, and known adverse documents will remain disclosable.

If Extended Disclosure is required, a number of models are provided and discussions about which of these is needed will be focused on the issues with the help of a new Disclosure Review Document ("DRD").

Disclosure Guidance Hearings are available to the parties as well as the existing arrangements for Case Management Conferences. The Practice Direction introducing the two-year pilot and other relevant documentation is at: https://www.judiciary.uk/publications/announcement-that-cprc-has-approved-disclosure-pilot/

Witness statements

There has for some years been a concern that the use of witness statements has drawbacks. Aside from concerns which are regularly raised about the length of witness statements and the inclusion of material which is not germane to the issues in the action, there are also issues as to whether the provision of at least some parts of a witness's evidence in chief orally may in some cases be desirable.

This is because experience shows that formal evidence in chief by reference to what is often an 'aspirational' version of what a witness may be able to recall may operate unfairly to the witness and may not assist the trial process.

Further recent research in the context of criminal trials is that 'best evidence' may be obtained from a traditional examination in chief. That benefit is rarely retained in commercial litigation at present.

There is also an issue as to whether throwing witnesses straight into cross-examination puts them on the defensive from the outset; the desire for witnesses to give simple, short, cross-examination answers wherever possible limits witnesses' ability to express things in their own words and re-examination is a very uncertain and ineffective tool to repair that.

With this in mind, the Court has instituted a working party under Andrew Baker J with a view to reporting back to the various interested parties in due course with possible proposals for reform.

The Working Party includes representatives from the Commercial Court judiciary, the legal profession, the arbitral community and users (through a GC100 representative).

The primary conclusion of the Working Group's initial discussions has been that it should gather evidence to inform further discussions, and the formulation of any proposals for reform, by conducting a survey. The survey has just been launched, using Survey Monkey.

The project is of interest to the other primary Rolls Building jurisdictions (the Chancery Division and the TCC). As a result, the survey now launched has been developed in collaboration with representatives from the judiciary in those jurisdictions and we have had the benefit of administrative support for our work from a member of the Chancellor's support staff.

A distribution list of contacts has been drawn up, to whose attention the survey will be drawn with a request that they distribute widely amongst their relevant communities, with the aim of capturing the views of all types of professionals and users of the Commercial Court (and the other main Rolls Building jurisdictions).

The distribution list also includes contacts at legal press publications in the hope that they will assist in 'spreading the word'.

It is hoped the Working Group will be able to convene again, to review the survey responses and take its deliberations further, either towards the end of this term or early in the New Year.

Managing the work of the Courts

CE-File

Since 25 April 2017 all documents required to be filed at the Court have been required to be filed electronically via the CE-File system.

This enables judges to access full case records where needed, and has done away with the need to maintain voluminous hard copy case files.

Many short applications (such as for extensions of time or for Tomlin Orders on settlement) are considered entirely via the electronic system by judges. Orders are now sealed and sent to the parties by email by the judges' clerks, which has enabled sealed orders to be processed far more expeditiously.

The Court is very grateful for its users' co-operation in utilising CE-File. Inevitably there have been some difficulties in use.

Two which have been flagged are:

(i) the importance of filing all relevant documents with an application (Popplewell J having ruled – see below – that non-compliant filings will be rejected): https://www.judiciary.uk/publications/electronic-filing-of-applications-to-be-dealt-with-without-a-hearing/

(ii) provision of adequate contact details on the CE File system to enable the Listing Office and judges' clerks to know whom to email (for example with requests for missing documents or to pass on sealed orders).

Lead times

It is well understood by the Court that it is vital to the financial, trading and business community in the City of London and internationally that the Court can provide rapid and efficient dispute resolution procedures.

The Court aims to keep "lead times" (i.e. the time between the date when a hearing is fixed and the date when the hearing will take place) within certain targets. The present targets for applications and trials are as follows:

Dates for application hearings

Length of hearing	**Hearing dates available after**
30 minutes	March 2019
1 day	June 2019

Dates for trials

Length of trial	**Trial dates available after**
1 - 3 days	July 2019
1 week	October 2019
2 - 3 weeks	January 2020
4 weeks or more	June 2020

Updated information is maintained at https://www.gov.uk/guidance/commercial-court-hearing-and-trial-dates

In general application hearings of half a day or less can be heard within a month. Genuinely urgent cases can always be dealt with in a suitable timescale.

Generally, the Court's experience is that for trials, especially longer trials, the dates offered are as early as the parties wish to have their trials heard, because of the burden of disclosure and evidence preparation.

Long vacation sittings

Judges of the Commercial Court sit regularly during the Long Vacation in August and September.

Two judges are sitting in the Commercial Court at all times during this period. They deal with both urgent business and some regular business including applications on the documents. The aim is to ensure that there is always a judge available to deal with commercial matters if required during this period.

The Judges of the Court

A total of 14 Queen's Bench judges are nominated to sit in the Commercial and Admiralty Courts. Other judicial business takes most of these judges away from the Commercial Court on a regular basis.

Commercial Court Judges, as judges of the Queen's Bench Division will sit on circuit in criminal trials for a portion of the year, as well as sitting in the general Queen's Bench list, the Administrative Court and the Court of Criminal Appeal.

However, the workload of the Court has required eight or nine judges to sit for most of the period of the last year.

Commercial cases are frequently complex and heavily documented. In the majority of cases the judge will have to read much material which will have been identified in a "pre-reading list" supplied by the advocates.

Advocates assume (rightly) that, by the start of a trial or application, a judge will have read the written Skeleton Arguments and the documents that have been previously identified – so long as the reading list is realistic for the amount of pre-reading time allocated.

It is important for parties to (i) provide accurate estimates of pre-reading time required (ii) to update the Listing Office if this estimate changes as trial approaches and (iii) ensure that reading lists, when provided are realistic.

Parties often forget that the judge reading into the case lacks their familiarity with the case; estimates need to bear in mind the need to allow time for important documents to be read carefully.

Because of the heavy cost involved in all court hearings, time spent in dealing in court with evidence from witnesses and with oral submissions is kept to a minimum.

The consequence of this regime is that Commercial Judges spend much of their time out of Court either preparing for a hearing or preparing a judgment after the conclusion of argument.

Where possible, some "judgment writing time" is built into the Court timetable in order that judgments can be written within a reasonable time of the hearing.

Judges of the Court also deal with a large quantity of applications on documents out of court. These applications include permission to serve proceedings out of the jurisdiction, leave to appeal to bring arbitration appeals under section 69 of the Arbitration Act 1996, to vary pre-trial timetables and other interlocutory matters.

Two judges act as "duty papers applications" judges during each week of term on a set rota. At the same time one judge each week acts as the duty judge in charge of s.68/69 applications. These are in addition to their normal workload.

In addition, the Judge in Charge of the Commercial Court deals with applications to transfer in and out of the Commercial Court, together with matters concerning listing and correspondence from solicitors as is necessary.

Use of Deputy Judges in the Commercial Court

A small number of retired Commercial Court Judges, the London Circuit Commercial Court Judge and a number of Queen's Counsel who practise regularly in the Commercial Court are authorised to sit as Deputy Judges in the Commercial Court. Recently retired judges who still sit on occasion in the Court include Sir William Blair, Sir Ross Cranston, Sir Michael Burton and Sir Andrew Smith.

Deputies are used for both applications and trials to help ensure that the targets for lead times can be maintained. Deputies will only be used either when the parties agree that the matter may be dealt with by a deputy or when the Judge in Charge of the Commercial Court considers that a matter may be dealt with by a deputy.

The Registry and the Listing Office

The Court is dependent upon the very close working relationship it enjoys with the Listing Office. The Listing Office has been for the last four years under the leadership of Joe Quinn. He has moved to take over Chancery Listing from October 2018. A list of current staff is at Appendix 1.

The Listing Office, in addition to its headline role of listing, continues to provide essential assistance to the Court and the profession in relation to the numerous applications on documents made to the Court and the ever-increasing amount of correspondence with parties, solicitors and counsel. This includes checking on whether parties have complied with the timetable set by the Court at the Case Management Conference, and ensuring that cases have been prepared and are ready for trial.

The Listing Office also administers applications under the Arbitration Act 1996. Members of the Listing Office staff also play a vital role in relation to the Commercial Court Guide and the official forms that are used.

The operation of the Listing Office is fundamental to the smooth operation of the Court and the disposal of its work efficiently. It has continued to operate with conspicuous success in the last year.

Sources of Information about the Courts

Reports of Cases

Reports of material decisions of the Commercial and Admiralty Courts are published on-line in the following sites:

- BAILII (the British and Irish Legal Information Institute) - www.bailii.org this is for unreported cases and is free

- The Court is now commencing to publish summaries of cases heard in the previous term: https://www.judiciary.uk/judgments/?filter_type=judgment&search=commercial+court&tax-single-court=887&tax-single-judgment-jurisdiction=-1&date-range-after=&date-range-before=

The Commercial Court Guide

The Commercial Court Guide is currently in its 10th edition. It sets out the practice of the Court in the context of the full Civil Procedure Rules.

The Guide takes a step by step approach to the service offered by the Court to users and sets out the expectations the Court has of users. It is available on-line but and was also published in hard copy by Informa Law from Routledge in the course of the year.

The Commercial Court Users' Committee

The Commercial and Admiralty Courts are there to provide services for their users who are lawyers, members of other professions and businesspeople from around the world.

The Commercial Court Users' Committee reflects the worldwide connections with the Court. Both Users' Committees have remained very supportive of their respective Courts and continue to provide an invaluable forum to discuss issues relating to the works of the Courts.

In the last year the membership of the Commercial Court Users' Committee has been reviewed and updated to ensure that its profile reflects that of the users of the Court.

Members of the Users Committee are currently assisting the Judges of the Commercial Court in evaluating options for changes to the rules on witness statements in the Commercial Court (see above).

The Admiralty Court Users' Committee

The Admiralty Court Users' Committee has recently been revived. It meets twice a year to consider improvements to the rules and practice direction for Admiralty actions. It welcomes proposals by users.

Its work on developing a fast track procedure in collision cases where there is electronic track data has already been mentioned.

Its most recent work concerns the drafting of a proposed change to the rules and practice direction arising out of the Court of Appeal's decision in *Kairos Shipping v Enka, The Atlantik Confidence* [2014] EWCA Civ 217 which permitted a limitation fund to be constituted by a P&I Club guarantee instead of a payment into court.

Judicial Assistants Pilot Scheme

2018 saw the first pilot for what it is hoped will become an ongoing scheme (supported by the Commercial Bar Association (COMBAR)) by which outstanding junior barristers in commercial practice will gain an in-depth understanding of the work of the Commercial Court and an exposure to different styles of advocacy.

From January to July three judicial assistants drawn from tenants in COMBAR sets in their first two years of tenancy have been sitting with the judges of the Commercial Court.

Each Judicial Assistant will assist the Judge to whom they are allocated, for example by carrying out research, and will have the opportunity to discuss cases and hearings with the Judge. This is a full-time position, so successful applicants will be expected not to take on any outside work during the Judicial Assistant placement.

The first pilot of the Judicial Assistant Pilot Scheme has proved a great success, with very positive feedback both from the Judicial Assistants and the judges involved.

A second pilot, not limited to COMBAR sets and open to all tenants in commercial practice in the first five years of practice will take place during 2018-2019. Six judicial assistants will participate, in two groups: October to February and March to July.

International Liason

Standing International Forum of Commercial Courts

The Standing International Forum of Commercial Courts (SIFOCC) was created in 2017 to share best practice, further the rule of law and assist developing countries: https://www.sifocc.org/about-us/

Its creation followed the invitation issued in 2016 by Lord Thomas, former Lord Chief Justice of England and Wales (and himself a former judge of the Commercial Court in London) to his counterparts around the world to come together to create the Forum. The secretariat is based at the Rolls Building and is further supported by the international team at the Judicial Office and by the City of London.

After a first meeting in London in 2017, the second meeting of SIFoCC took place in New York in September 2018. This brought together senior judges - including Chief Justices - from 36 jurisdictions worldwide, including Australia, China, the Emirates, France, Germany, Hong Kong, Japan, Malaysia, Netherlands, Nigeria, Saudi Arabia, Singapore, Uganda, the United Kingdom and the United States. The programme included round table discussions on commercial dispute resolution including case management and technology.

The meeting was joined at different points by General Counsel from major users, and by leaders from The Hague Conference, the New York Federal Reserve, the SEC, UNCITRAL and the World Bank.

A full report of the progress and next actions from the event, including the agreed finalisation and publication of a multilateral memorandum on efficient enforcement of commercial judgments for money, will be available at www.sifocc.org. The third meeting will take place in Singapore in early 2020.

Judges

Judge Arbitrators

Under section 93 of the Arbitration Act 1996, judges of the Commercial Court may, if in all the circumstances the judge thinks it fit, accept appointment as a sole arbitrator, or umpire.

However, a judge cannot accept appointment unless the Lord Chief Justice has informed him that, "*having regard to the state of business in the High Court and the Crown Court, he can be made available*".

In recent years the facility to appoint judge- arbitrators has been very little used, usually because the demands on the time of judges of the Commercial Court are such that the Lord Chief Justice has not been able to give his consent to release a judge to sit as an arbitrator.

It is hoped that this facility of providing Commercial Judges as judge–arbitrators can be used more in the future, if the work–load of the Commercial Court permits it. Users of the Court who are considering the appointment of a Commercial Judge in accordance with section 93 of the 1996 Act should, in the first place, send enquiries to the Judge in Charge of the Commercial Court.

All fees payable for the services of a Judge of the Commercial Court who is appointed as an arbitrator or umpire "*shall be taken in the High Court*" (s.93(4)), not by the judge himself.

Visitors to the Commercial Court

During the year the Court received a large number of visitors, especially from overseas, and engaged substantially with the judiciary of other jurisdictions.

In addition to work through SIFoCC (see above) the Court received or assisted judiciary from Africa, the Americas, Asia, Australasia, the Middle East and the Far East.

The Court is party to the UK/China Joint Judicial Working Group on commercial dispute resolution established in 2016 by the Supreme Court of the United Kingdom and the Supreme People's Court of China, and this led to meetings in Beijing, Shenzhen and Shanghai during the year.

Assistance with commercial dispute resolution, including case management, is one of the highest areas of demand internationally from the Judicial College of England & Wales and the Commercial Court plays its full part in responding to this demand where it can.

Appendix 1: Commercial and Admiralty Court Office Staff

Senior Listing Officer (to October 2018) Joseph Quinn

Listing Officer- Daniel Hull

Listing Officer- Steven Gibbon

Clerk- Ian Dawson

Master Kay's Clerk- Shirley Sweeney

Listing Clerk- Gina Hitchman

Listing Clerk- Lewis Lisk