



# **Annual Report of the Technology and Construction Court**

2022 – 2023







**Courts and  
Tribunals Judiciary**

# **Annual Report of the Technology and Construction Court**

2022 – 2023



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# 1. Introduction

This report covers the work of the Technology and Construction Court (“the TCC”) in England and Wales for the period from 1 October 2022 to 30 September 2023.

The Court remains very busy. There was a slight fall of 5.1% in the number of new claims issued. The settlement rate also fell from 84% to 81% resulting in a slight increase in the number of contested trials. There was a very substantial increase of 38% in the number of applications heard, reflecting the parties’ use of case management tools and early disposal procedures. The number of applications dealt with electronically through the CE-filing system remained high at 1,967.

Most cases that go to fully contested trials are resolved in less than about 12-18 months from issue to final judgment, subject to the scale of the dispute, the needs of the parties and judicial resources. Expedited trials can be accommodated, where justified, within as little as a few weeks. By way of example, in June 2023 an expedited hearing of preliminary issues in a procurement challenge arising out of the competition for the National Lottery, was heard by Coulson LJ, sitting in the TCC, and judgment was handed down before the end of July 2023. Adjudication business continues to be dealt with swiftly and to a highly abridged timetable.

In this last year, the Court has seen an increasing number of disputes arising out of complex computer software and IT infrastructure systems. The TCC judges are well-equipped to deal with such cases, having many years’ experience of multi-discipline technical disputes, combined with the commercial and copyright infringement issues that arise.

Following the Grenfell Tower fire and the Building Safety Act 2022, there has been a notable increase in cases concerning flammable cladding and other materials, together with more general fire protection issues. The introduction of building liability orders, together with the potential extension of corporate liability to include associated companies and corporate officers, and the increase in limitation periods of up to 30 years, have opened up the possibility of expansive litigation in respect of historic developments. The Court is still in the early stages of dealing with these claims. Moving forward, as common issues emerge, it is likely that new, bespoke procedures will be required to provide effective case management.

A significant portion of TCC work concerns procurement challenges, usually brought under the Procurement Regulations. The grounds for most challenges raise issues of equal treatment, non-discrimination, transparency, proportionality, manifest error and irrational decisions. Some also involve judicial review proceedings and, for that reason, are tried by a Judge of the TCC who is also a Nominated Judge of the Administrative Court. Now that the Procurement Act 2023 has been enacted, the Court is working with procurement groups to develop a new procedural framework for such claims.

Greater awareness of environmental issues, climate change and the availability of third party funding has seen an increase in the number of environmental pollution class action claims in the TCC. Judicial continuity is essential to support the parties in managing the claims efficiently and resolving them in an appropriately swift and proportionate manner.

In 2023 the Court celebrated 150 years of the TCC. On 16 March 2023, the inaugural seminar and reception took place in the Rolls Building (“From the Official Referees to the present day: the TCC as innovator”). Further events were held: in London (“The evolution of technology litigation”); Bristol (“Past, present and future: the TCC in Wales and the South West”); Birmingham (“City of technology and construction”); and Manchester (“The Levelling Up Moot”); culminating in a conference at King’s College, London in November (“The future of construction law and dispute resolution”), followed by a gala dinner at the Grand Connaught Rooms.

During the year, “The TCC Archive” was installed in the Rolls Building, an exhibition of cases, artifacts and people who helped build the TCC of today. A commemorative book, “the History of the Technology and Construction Court on its 150th Anniversary”, edited by Peter Coulson LJ and David Sawtell, was published on 6 April 2023.

The success of the 150 years’ celebrations was the result of considerable planning and work by Coulson LJ and Waksman J, the members of the TCC 150 Group, together with the TCC solicitors, barristers, judges and other Court users who contributed their precious time, effort and support.

The TCC congratulates The Right Honourable the Baroness Carr of Walton-on-the-Hill, a former judge of the TCC (together with her many other roles), on her appointment as the 98th Lady Chief Justice of England and Wales, the first woman to hold this post.

The TCC also congratulates Lord Justice Peter Fraser, former Judge in Charge of the TCC, on his elevation to the Court of Appeal and his appointment as Chair of the Law Commission.

Finally, I would like to thank the Court staff for their constant dedication and hard work. The TCC could not operate effectively without them.

**Mrs Justice O’Farrell DBE**

**Judge in Charge of the Technology and Construction Court**



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## 2. The Work of the TCC

The TCC is a specialist court within the King's Bench Division, under the umbrella of the Business and Property Court, which sits in the Rolls Building in London and other BPCs across England and Wales. The TCC deals primarily with litigation of complex disputes arising in the field of technology and construction, together with procurement claims. The former includes traditional construction and engineering claims, IT disputes, energy disputes, adjudication enforcement, claims for professional negligence, environmental damage claims, fire claims, and challenges to arbitrators' decisions in respect of such matters.

Examples of cases dealt with in 2022-2023 include:

- International Game Technology plc & Others v Gambling Commission [2023] EWHC 1961 (procurement challenge arising out of the competition for the fourth licence to run the National Lottery; whether any of the claimants were economic operators under the Concession Contract Regulations 2016)
- Harrison Jalla & Others v Shell International Trading and Shipping Company Limited & Another [2023] EWHC 424 (date on which actionable damage, if any, was suffered by the claimants resulting from an oil spill in the Bonga oilfield off the coast of Nigeria for the purpose of establishing jurisdiction)
- Morgan Sindall Construction and Infrastructure Ltd v Capita Property and Infrastructure (Structures) Ltd [2023] EWHC 166 (whether claim should be struck out for abuse of process – warehousing)
- Vinci Construction Ltd v Eastwood & Others [2023] EWHC 1899 (date of accrual of a cause of action in negligence and consideration of the test for relevant knowledge under section 14A of the Limitation Act 1980)
- James Waste Management LLP v Essex County Council [2023] EWHC 1157 (whether breach of procurement regulations sufficiently serious to give rise to a claim for damages)
- Topalsson GmbH v Rolls-Royce Motor Cars Ltd [2023] EWHC 1765 (termination dispute, intellectual property rights and damages arising out of a contract for digital twin software development)
- Drax Energy Solutions Ltd v Wipro Ltd [2023] 1342 (interpretation of limitation of liability clause in contract for IT system)

- USAF Nominee No.18 Ltd & Others v Watkin Jones & Son Ltd [2023] EWHC 1880 (impact of merger of Jersey companies and assignment on right to sue under a collateral warranty, in tort and under the Defective Premises Act 1972)
- Siemens Mobility Ltd v High Speed Two (HS<sup>2</sup>) Ltd [2023] EWHC (procurement challenge arising out of a competition for the design, manufacture and supply of trains)
- Municipio de Mariana V BHP Group (UK) Limited & Others [2022] EWHC 330; [2023] EWHC 1134; [2023] EWHC 2126 (Group litigation in a class action arising out of the Fundao Dam disaster in Brazil)
- Municipio de Mariana V BHP Group (UK) Limited & Others [2023] EWHC 2030 (challenge to jurisdiction)
- IBM United Kingdom Limited v LzLabs GmbH & Others [2023] EWHC 1183; [2023] EWHC 2072; [2023] EWHC 3142 (document sampling, restoration of electronic documents, disclosure of confidential source code information, keyword searches and pleadings in the context of claims for breach of contract, procuring breaches of contract and unlawful means conspiracy)

There has been a significant shift in favour of electronic working and greater use of remote hearings, whilst continuing to recognise the value of retaining in person hearings where appropriate.

Under the current scheme in the BPC, the default position for hearings under half a day is that such hearings take place remotely, including the Friday procedural hearing lists and adjudication enforcement hearings. This does not apply in Manchester and Leeds, where the default mode for Friday applications is an ‘in person’ hearing. All other hearings are a matter for decision by the judge - the general position is that hearings with an estimate of more than half a day will be ‘in person’ subject to the circumstances of each case.

The TCC has adopted the BPC protocol for remote and hybrid hearings. Remote or hybrid trials require additional preparation and co-operation; the parties are encouraged to raise with the court any practical issues for resolution prior to trial. No person may access a remote or hybrid hearing remotely without the court’s permission, including remote observation under section 198 of the Police, Crime, Sentencing and Courts Act 2022.

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## 3. The Organisation of the TCC

TCC cases are managed and heard by specialist judges in London and at centres throughout England and Wales.

In London the cases are dealt with exclusively by High Court Judges, or other judges and specialist King's Counsel approved to sit as either Deputy High Judges or Recorders in the TCC.

In the regional centres outside London, cases are heard by Circuit Judges designated to hear TCC cases.

The main High Court Centre of the TCC is located at the Rolls Building in Fetter Lane near the Royal Courts of Justice and deals with all High Court TCC claims which are commenced in or transferred to London. The claims include those which arise anywhere in England and Wales as well those arising in jurisdictions overseas.

There are TCC Centres outside London at courts or civil justice centres as part of the Business and Property Courts in Birmingham, Bristol, Cardiff, Leeds, Liverpool, Manchester, and Newcastle. There are other court centres which also have authorised judges to sit on TCC business, which can be made available for cases where it suits the needs of the parties and there is capacity. However, the TCC Centres as part of the Business and Property Courts deal with the vast majority of the specialist work.

In London there is also the specialist TCC List in the Central London County Court, which is based in the Thomas More Building at the Royal Courts of Justice on the Strand. This deals with all London county court TCC cases, including adjudication enforcement in appropriate cases, where early hearing dates can be offered. County court claims can also be issued at the regional TCC Centres.

The High Court judge in charge of the TCC ("the Judge in Charge"), although based principally in London, has overall responsibility for the judicial supervision of TCC business in all courts. Mrs Justice O'Farrell DBE has been the Judge in Charge since her appointment to this role in March 2020.

## 4. The London TCC

### 4.1 Judiciary

The main High Court centre (“the London TCC”) operates from the Rolls Building.

The following High Court Judges sat regularly on TCC business during the period covered by this report (in order of seniority):

- Mr Justice Fraser
- Mr Justice Kerr
- Mrs Justice Jefford
- Mrs Justice O’Farrell - appointed Judge in Charge from March 2020
- Mr Justice Waksman
- Mr Justice Pepperall
- Mrs Justice Joanna Smith
- Mr Justice Eyre
- Mr Justice Constable - appointed in March 2023

In addition, the TCC is able to call upon a number of deputy High Court judges who are authorised under s.9(4) of the Senior Courts Act 1981 (formerly the Supreme Court Act 1981) as well as Recorders who are authorised to carry out work as TCC judges under s.68(1)(a) of the Senior Courts Act 1981.

The availability of flexible listing arrangements is a necessity given the substantial workload, including applications arising from adjudications and arbitrations and Part 8 proceedings which must be dealt with urgently.

The case management powers exercised by the judges themselves are successfully deployed to ensure resolution of cases within as short a time as is fair and reasonably practicable.

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## 4.2 Judicial Deployment

The need for judicial resources elsewhere means the London TCC judges spend some of their time in other courts.

Mrs Justice O'Farrell sat full time in the TCC for the majority of her time whilst Judge in Charge. When commitments allowed, she also undertook general work as a King's Bench Judge in London, including as out of hours duty judge.

During the period covered by this report Mrs Justice Jefford was a Presiding Judge on the Wales Circuit, Mr Justice Pepperall was a Presiding Judge on the Midlands Circuit and Mrs Justice Joanna Smith was based in the Chancery Division.

Additionally, the other London TCC judges sat in the King's Bench Division, the Administrative Court, the Court of Appeal Criminal Division, the Commercial Court, the Crown Court, the Upper Tribunal (Immigration and Asylum) and/or were sitting on circuit. These arrangements occur both by advance planning, part of the deployment of High Court Judges by the President of the King's Bench Division and also if judges become free when cases settle at a late stage.

## 4.3 Case Management

The comparative figures for number of claims issued and number of trials show that the majority of TCC cases settle at some point between commencement and the date fixed for trial. One of the reasons for this is firm and robust case management by TCC judges.

An important feature of case management in the TCC is that at the first case management conference the date for the trial is fixed, usually at the earliest available date in the court diary for the required length.

This will usually have a significant impact on the timetable for all steps of the proceedings up to trial. Occasionally the parties ask the court to fix the trial for a later date owing to the complexity of the case and the nature and extent of the steps to be taken by way of pre-trial preparation. The court will usually accede to this request unless it considers it inappropriate to do so.

The case management bundle provided to the court for the case management conference includes the documents produced by parties in complying with the pre-action protocol. This allows the court to review whether there should be an opportunity, by way of stay or timetabling, for the parties to reach a settlement either by negotiation or ADR. Whether or not a stay is granted for this purpose will usually depend on the amount of time available; the court is reluctant to put back a trial date to accommodate a stay for ADR.

Equally where the dispute between the parties cannot be settled, the case management conference allows the court to consider how a determination of that dispute can be dealt with in the most appropriate way, taking into account the overriding objective of the Civil Procedure Rules.

For those cases covered by the Cost Management provisions in the CPR, costs budgeting and any Costs Management Orders are also made at the first CMC.

#### **4.4 Administrative matters and CE-file**

The London TCC is served by experienced court staff, some of whom have been with us for many years. A list of the current court staff at the London TCC and their functions are set out at the end of this report at Appendix 2. The court staff deal with numerous communications.

The CE-File system, enabling full electronic working at the TCC, is available in all the Business and Property Courts across England and Wales. For a party who is legally represented, electronic working is mandatory to start and/or continue any relevant claims or applications. For a party who is not legally represented, electronic working is optional but is often used by that party to start and/or continue any relevant claims or applications.

The CE-File system is accessible outside of business hours, saving time, costs and resource for all. All users, including judges, staff, professional court users and the public can view these case records, file documents and monitor cases. Unless a party to the case, the viewing will be restricted to public documents only.

Court applications/draft orders to be considered by judges are assigned as ‘alerts’ through this system. Once approved by the judge, these are saved on the CE-File system and orders emailed to parties by the judges’ clerks. As these form event records, a copy of all orders can be later retrieved, as required.

#### **4.5 Marshalling Scheme**

The TCC has an arrangement with the TCC Solicitors Association (TeCSA) and the TCC Barristers Association (TECBAR) for London TCC judges to take trainee or newly qualified solicitors, pupil barristers and junior barristers who are planning to practise in the field to act as marshals for a one-week period. The intention is that marshals read the papers, sit in court next to the judge and discuss the case with the judge out of court. During the period of this report there were 8 marshals.

## 4.6 Overseas Work

The TCC, in common with the Commercial Court, encourages overseas clients to bring their disputes to the TCC for resolution and a significant number of cases now have one or more overseas parties or relate to a project overseas.

The TCC judges have the necessary expertise and experience to deal with international work, having practised internationally before coming to the bench. It is understood that a number of overseas contracts now have jurisdiction clauses which expressly refer disputes to the TCC in the High Court in London. This is to be welcomed and reflects the respect in which the practice, procedure and judicial experience of the TCC is held internationally.

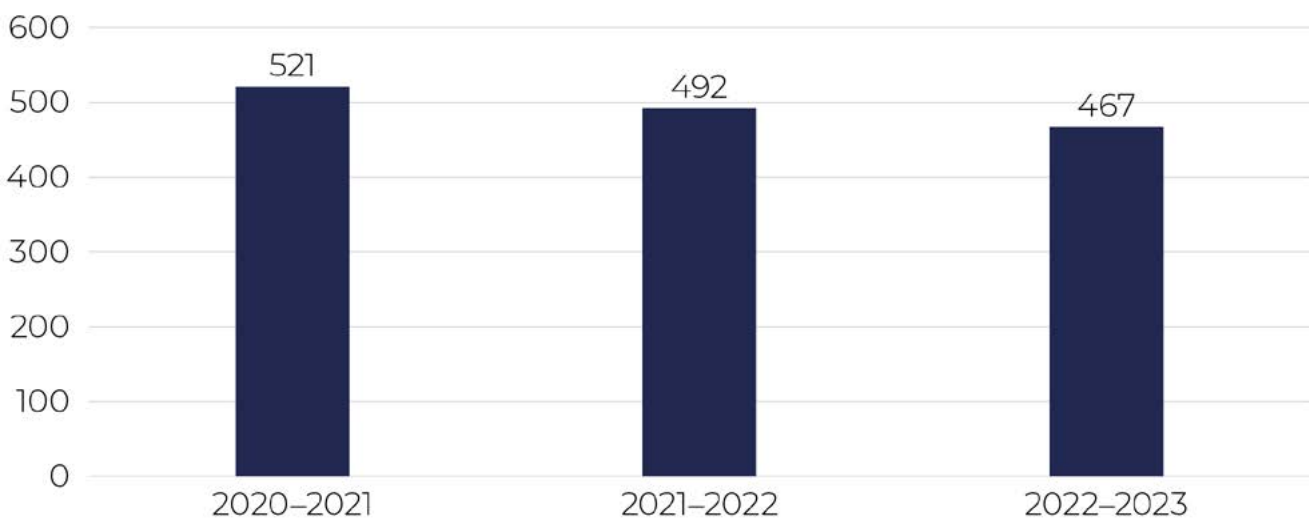
## 4.7 Claims

During October 2022 to September 2023 there were 467 new claims brought to the London TCC.

This represents a decrease of 5.1 % from the previous year, when 492 new claims were registered, falling back to the pre-Covid level.

The graph below shows the number of new claims brought to the London TCC from October 2020 to September 2023, as further comparison:

### Number of Claims



The London TCC transfers adjudication enforcement claims of lower financial value to the Central London County Court, provided that a suitable early hearing date can be offered, the claim value is under £1 million (often significantly lower in value) and the complexity of the case would be suitable for determination by a Deputy High Court Judge. This has been successful in advancing the hearing dates that would otherwise be available for enforcement and allows for more efficient deployment of the resources of the London TCC High Court Judges.

Between October 2022 and September 2023, a total of 58 adjudication claims were transferred to Central London, a decrease from 74 adjudication claims transferred the previous year.

The London TCC takes advantage of the additional flexibility provided by remote hearings to transfer adjudication enforcement claims to other TCC judges sitting outside London, in Liverpool, Manchester and Newcastle. This has the benefit of affording to the parties the earliest convenient hearing date for their case by a specialist TCC judge regardless of where they are based.

It remains open to the parties to request the London TCC to retain a case where greater expedition is necessary, a novel point of law is raised, there are concurrent Part 8 proceedings, or any other particular circumstances that requires a High Court Judge to determine the case.



## 4.8 Trials

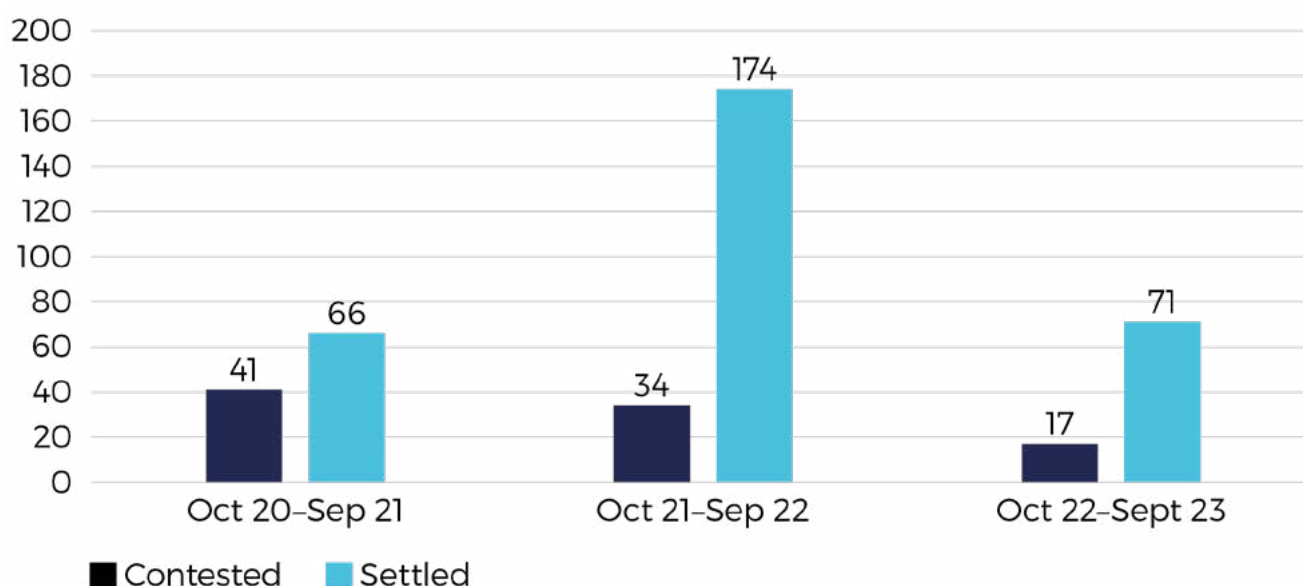
A continuing feature for the TCC is that a substantial number of cases are settled shortly, or sometimes very shortly, before trial.

During the year there were 88 trials listed at TCC during the year, of which 17 were eventually contested.

Thus, 81% of cases started were settled before judgment. This settlement figure compares to 84% during 2021/2022.

The following graph illustrates the number of contested trials heard at the London TCC from October 2020 to September 2023 and those that settled during the same period.

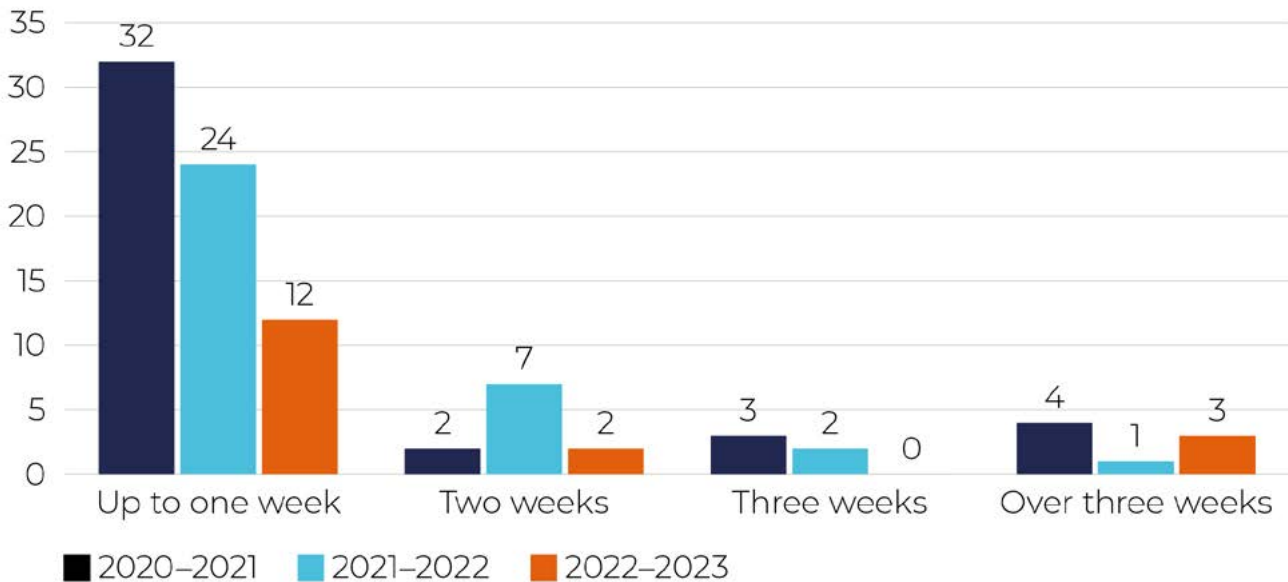
### Trials



For the London TCC the average length of trial in the period covered by this report has been 4 days (including judicial reading). This shows a decrease in comparison to the previous years where the average length of trial was 8.5 days.<sup>1</sup>

Below is a breakdown of the duration of trials at London TCC from 2020-2023:

### Length of Trial



## 4.9 Shorter and Flexible Trials

The aim of the Shorter Trial procedure is to reach trial within approximately ten months of the issue of proceedings, and judgment within six weeks thereafter. The procedure is intended for cases which can be fairly tried on the basis of limited disclosure and oral evidence. The maximum length of trial is four days, including reading time.

The Flexible Trial procedure involves the adoption of 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.

The procedural rules for these schemes in the Business and Property Courts are set out in Practice Direction 57AB.

<sup>1</sup> TCC Annual Report 2020-2021 reports 5 days average, this has been since corrected to 10 days average.

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## 4.10 Disclosure: Practice Direction 57AD

The disclosure pilot started on 1 January 2019 in the BPCs across England and Wales, including the TCC, initially running for two years and extended until introduction of the new Practice Direction 57AD, effective from 1 October 2022.

The disclosure practice direction was introduced to address the perceived excess cost, scale and complexity of the disclosure process. The principle behind the current approach is that in TCC and other BPC cases there is no automatic entitlement to search based disclosure. The Court will only make an order for extended disclosure where there has been full engagement between the parties prior to the CMC. Any order for extended disclosure will be tailored to the issues in the claim and must be reasonable and proportionate to the circumstances of the case. This new approach to disclosure has required a cultural shift in practice. Standard disclosure is no longer seen as the default option. Parties have a duty to co-operate in finding a reasonable and proportionate solution to disclosure. However, there remains an express duty to preserve documents and a duty to disclose known adverse documents.

## 4.11 Applications

During 2022-2023, 541 applications were dealt with at an oral hearing, including case management conferences, pre-trial reviews and specific applications. This compares to 392 the previous year, reflecting a 38% increase.

Hearings varied in length; some were less than half a day and others took more than one day. In rare cases, applications lasted up to four days.

Often preparation time by the court in advance of the hearing exceeds the hearing time itself but this preparation enables applications to be dealt with more rapidly and effectively.

Increasingly, written applications and correspondence are received and processed through the CE-file portal system.

Where an order is approved by a Judge, these are sealed on the CE-file system and emailed to parties.

The TCC encourages the use of electronic applications, as this saves time and costs, provided issues can properly be dealt with in the absence of oral argument, without prejudice to the parties.

The total number of orders sealed on the CE-file during the year was 1,967 which incorporates those approved following oral hearings and those processed as 'alerts'/ paper applications. This is almost unchanged from the figure of 1,964 the previous year.

## 5. Central London Civil Justice Centre

The Central London Civil Justice Centre deals with all county court TCC claims which are brought in London.

His Honour Judge Parfitt was the principal TCC judge at Central London for the period covered by this report.

His Honour Judge Johns KC also assisted and undertook some TCC work.

During the period October 2022 to September 2023 there were 100 TCC claims. Of those claims, 42 TCC cases were issued in the Central London County Court and 58 cases were transferred in from the High Court, 34 cases of which were adjudication enforcement proceedings.

By contrast, there were 135 new claims processed the previous year, signifying an 26% decrease in caseload.

Central London Civil Justice Centre highlight there have been more adjudication enforcement applications transferred from the High Court to the County Court.

The graph below shows the number of new TCC claims brought to the Central London Civil Justice Centre from October 2020 to September 2023, as further comparison:

### Central London



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## **6. TCC Centres outside of London as part of the Business and Property Courts**

The extent to which statistics for TCC work can be isolated from the general statistics for court work outside London depends upon the administrative arrangements at individual court centres.

What follows is a summary of the TCC data provided by certain court centres outside London during the period 2022-2023.

Figures from October 2020 to date have also been included for comparison purposes.

### **6.1 Birmingham**

The TCC court is part of the Business and Property Courts based in the Birmingham Civil Justice Centre.

Her Honour Judge Sarah Watson was the principal TCC Judge for the period of this report.

There are other specialist judges (who sit in TCC, Circuit Commercial and Chancery) authorised to sit in all jurisdictions in the Business and Property Courts, if required. During the period of this report HHJ Worster, HHJ Rawlings, HHJ Williams and HHJ Tindal were authorised to sit in the TCC.

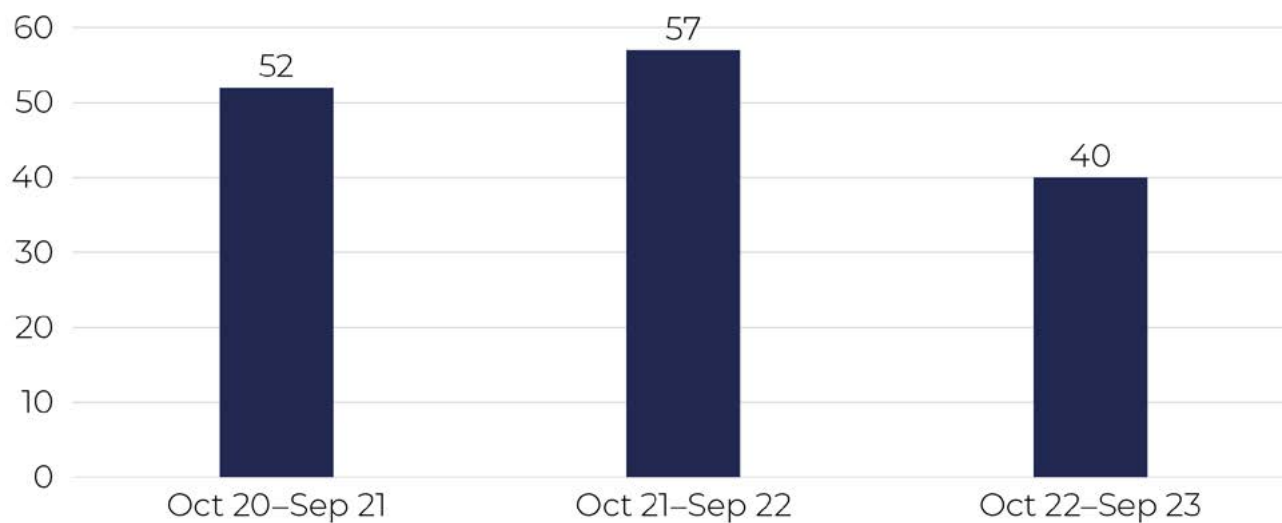
During the period October 2022 to September 2023 there were a total of 40 new TCC claims categorised as 38 new High Court claims, 2 County Court claims, and 11 of those claims were transferred in.

During the period of October 2022 to September 2023 there were 4 trials heard at Birmingham Civil Justice Centre.

In contrast there were 57 new claims received the previous year, reflecting a decrease in workload.

The graph below shows the number of new TCC claims brought to the Birmingham Civil Justice Centre from October 2020 to September 2023, for comparison:

### **Birmingham**



## 6.2 Bristol

The TCC court is part of the Business and Property Courts based in the Bristol Civil Justice Centre.

His Honour Judge Russen KC was the principle TCC judge for the period of the report.

The other specialist district judges dealing with TCC matters during the period of the report were Woodburn DJ and Wales DJ.

During the period October 2022 to September 2023 there were 36 new TCC claims, 8 of which were transferred in. Majority of the claims were adjudication enforcement and construction claims.

In contrast there were a total of 44 new claims received during the period of 2020-2021.

There were also 96 consent orders and on-notice applications dealt with during the period of the report.

The graph below shows the number of new TCC claims brought to the Bristol Civil Justice Centre from October 2020 to September 2023, for comparison:<sup>2</sup>

### Bristol



<sup>2</sup> There were no statistics received during the period of 2021-2022

### 6.3 Cardiff

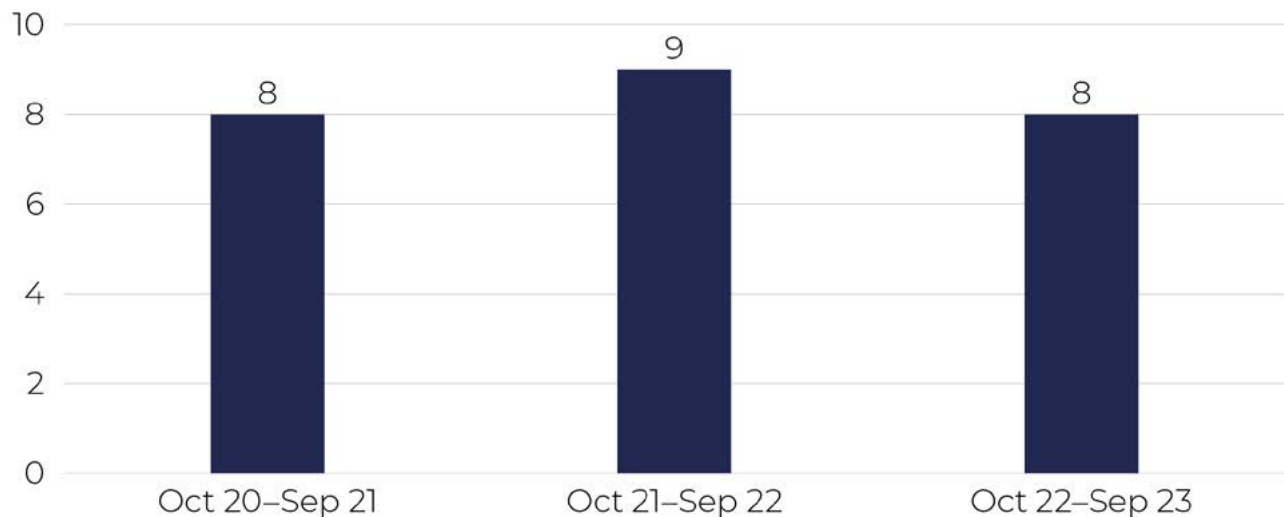
The TCC court is part of the Business and Property Courts based in the Cardiff Civil Justice Centre; some cases are also heard at the Mold Justice Centre where required.

His Honour Judge Keyser KC was the principal TCC judge at Cardiff during the period covered by this report. HHJ Jarman KC also assisted.

During the period October 2022 to September 2023 there were 8 new TCC claims. This is comparable to the previous year, where 9 new claims were received. During the period of this claim there were also approximately 30 paper applications dealt with.

The graph below shows the number of new TCC claims brought to the Cardiff Civil Justice Centre from October 2020 to September 2023, for comparison:

#### Cardiff





## 6.4 Leeds

The TCC court is part of the Business and Property Courts based in the Leeds Combined Court Centre.

Her Honour Judge Siobhan Kelly was the principal TCC judge at Leeds during the period covered by this report. During the period of this report HHJ Klein, HHJ Claire Jackson and HHJ Malcom Davies-White – who has since transferred to Newcastle Combined Court Centre.

During the period October 2022 to September 2023 there were a total of 28 High Court TCC and County Court claims. There were 6 County Court claims recorded between January 2023- August 2023. In contrast there were 9 new claims received the previous year, so figures have significantly increased.

The graph below shows the number of new TCC claims brought to the Leeds Court from October 2020 to September 2023, for comparison:

### Leeds



## 6.5 Liverpool

The TCC court is part of the Business and Property Courts based in the Liverpool Civil Justice Centre.

His Honour Judge Cadwallader was the principal TCC judge alongside His Honour Judge Wood KC at Liverpool during the period covered by this report.

District Judge Baldwin is the specialist DJ Judge in Liverpool, dealing with case management claims and adjudication enforcement claims.

During the period October 2022 to September 2023 there were 31 new TCC claims categorised as 1 County Court, 30 High Court claims and 25 of which were transferred in.

In contrast there were 6 new claims received the previous year, so the number of new cases has significantly increases.

There was also 15 paper applications dealt with during the period of this report.

The graph below shows the number of new TCC claims brought to the Liverpool Civil Justice Centre from October 2020 to September 2023, for comparison:

### Liverpool



## 6.6 Manchester

The TCC court is part of the Business and Property Courts based at the Manchester Civil Justice Centre.

His Honour Judge Stephen Davies sat as full-time principal TCC Judge alongside HHJ Bever in the Civil Justice Centre in Manchester during the period of this report.

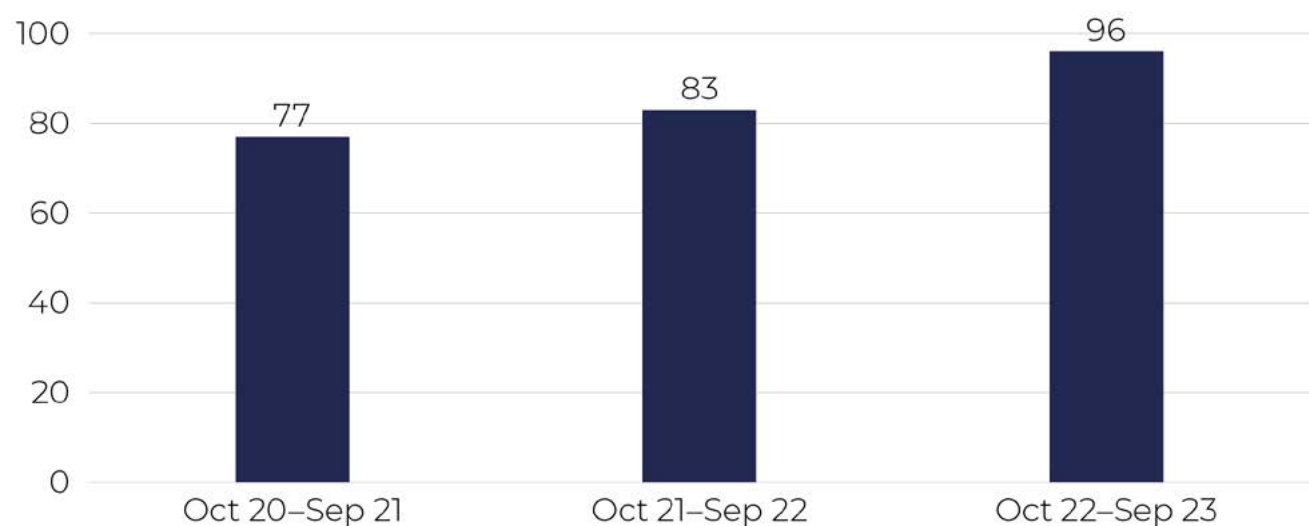
The other specialist judges in the Manchester Business and Property Courts are authorised to sit in all jurisdictions which permits them to cover for TCC work when necessary, namely HHJ David Hodge KC, HHJ Bird, HHJ Richard Pearce, HHJ Mark Halliwell, HHJ Mark Cawson KC.

During the period October 2022 to September 2023 there were 96 new TCC claims. This is broken down further as 47 County Court and 49 High Court, both issued and transferred in. In contrast there were 77 new claims received the previous year, so figures have increased.

During the period covered in this report there were 102 TCC matters listed, and 109 paper applications were dealt with.

The graph below shows the number of new TCC claims brought to the Manchester Civil Justice Centre from October 2020 to September 2023 for comparison:

### Manchester



## 6.7 Newcastle

The TCC court is part of the Business and Property Courts and is based at the Newcastle County Court/District Registry. The majority of cases are heard at the historic Moot Hall in the centre of Newcastle.

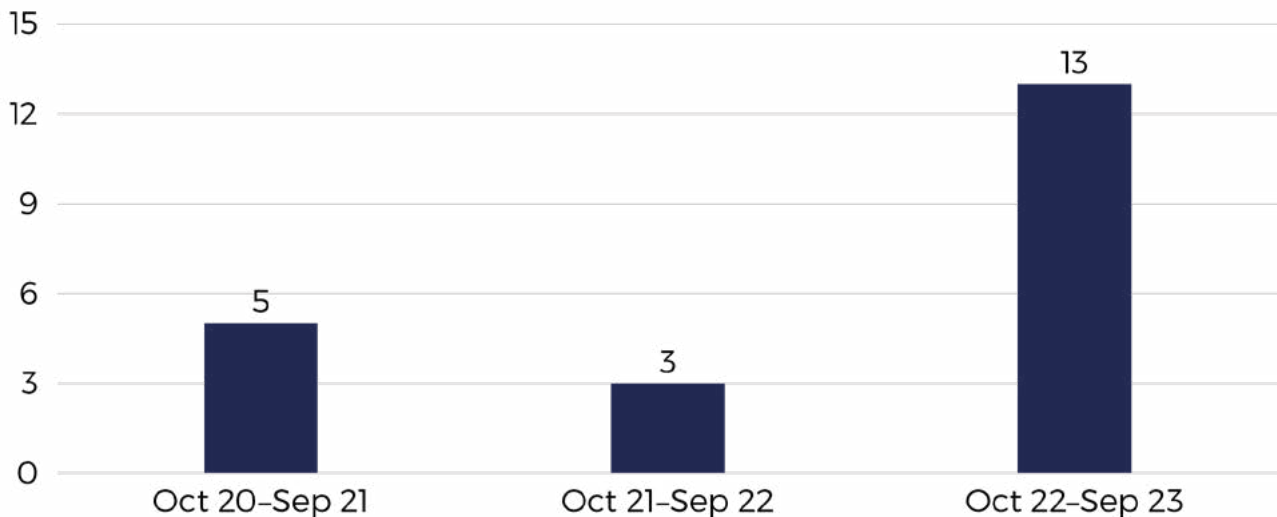
His Honour Judge Kramer and His Honour Judge Davies-White KC were the principal TCC Judges for Newcastle during the period of this report. After many years of valuable service, His Honour Judge Kramer retired in November 2023.

During the period October 2022 to September 2023 there were 13 new TCC claims issued or transferred during the period specified in this report.

In contrast there were 3 claims issued or transferred in the previous year.

The graph below shows the number of new TCC claims brought to the Newcastle Civil Justice Centre from October 2020 to September 2023, for comparison:

### Newcastle



## 7. Overall Division of Cases

As in previous years we include an analysis of the percentages of each type of work carried out in those TCC courts which provided the relevant information.

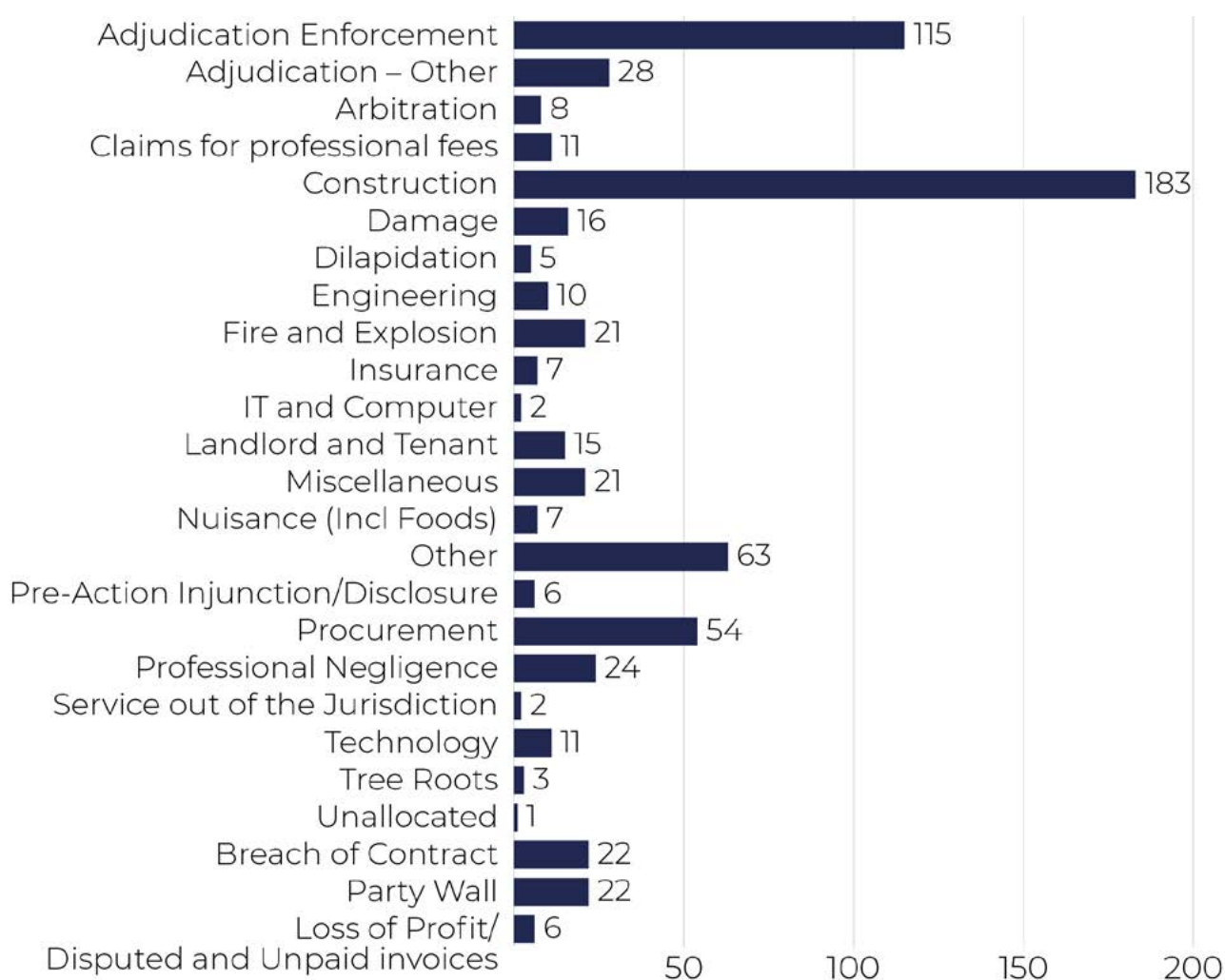
It has been produced solely by reference to the claim and not by reference to the subsequent proceedings.

This means that, for instance, some claims for professional fees may have triggered counterclaims for professional negligence which are not shown as such.

There is also a subjective element in the classification, since some cases lie on the borderline between categories or fall into more than one category.

The statistic recorded below are collected from; TCC London, Central London, Birmingham, Bristol, Cardiff, Leeds, Liverpool, Manchester and Newcastle:

### Overall Division of Cases



## 8. The TCC during the year

### 8.1 Appointments

The Lord Chief Justice’s power under s. 68(1)(a) of the Senior Courts Act 1981 to nominate circuit judges, deputy circuit judges or recorders to deal with “official referees’ business” in the TCC is delegated to the Judge in Charge, who is required to consult with the Lord Chancellor and the senior judiciary before exercising that authority.

Those approved to sit in the TCC with “TCC Tickets” were, in alphabetical order, Cockerill, Constable, Eyre, Fraser, Jefford, Kerr, O’Farrell, Pepperall, Joanna Smith and Waksman JJ.

As mentioned above, the statutory provisions still refer to “official referees” business although under the Civil Procedure Rules the court is referred to the TCC. It is assumed that in due course these statutory provisions will be brought into line with other specialist court jurisdictions.

A full list of TCC Judges including High Court judges, Circuit judges and recorders who have been nominated to manage and try TCC cases is attached as Appendix 1.

### 8.2 King’s Counsel

In March 2023 the following King’s Counsel who regularly practice in the TCC were appointed.

- Paul Buckingham
- David Pliener
- Jonathan Lewis
- Sonia Nolten
- Matthew Lavy
- Kathleen Donnelly
- William Webb
- Catherine Piercy

We are delighted to welcome these specialist TCC practitioners.

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## **8.3 The TCC Guide**

The third edition of the TCC Guide (which originally came into force in October 2005) was produced and published in October 2022.

The new edition was prepared following consultation with the judges of the TCC, TECBAR, TeCSA and the Society of Construction Law, for whose contributions the court is very grateful. As an electronic document, it continues to be updated to reflect developments in the TCC and other court reforms.

## **8.4 Alternative Dispute Resolution**

Alternative dispute resolution (“ADR”) has continued to play a large role in resolving technology and construction disputes during the year. Many cases which are begun in the TCC are resolved by means of ADR, often with the assistance of one of the many highly experienced professional mediators (solicitors, counsel or construction professionals).

TCC judges encourage parties to consider mediation either to settle or to narrow their disputes. Obviously, there are and will continue to be cases where the parties are not able to resolve their disputes without the decision of the court but many cases are resolved effectively through ADR.

The TCC also has available ADR processes of Early Neutral Evaluation and the Court Settlement Process to assist parties to resolve disputes. These are now dealt with more fully in the current TCC Guide.

In addition, in appropriate cases, TCC judges can sit as Arbitrators. Further guidance on this aspect is again contained in the TCC Guide.

## **8.5 TCC User Committees**

TCC user committees are in operation and function at Birmingham, Bristol, Cardiff, Leeds, Liverpool, London, Manchester and Newcastle.

These committees make a valuable contribution to the work of the court. They enable solicitors, barristers, consultants, interest groups and clients to be represented in the development and operation of the TCC.

The TCC is grateful to those who chair and participate as members in the TCC user committees. Their support and assistance is much appreciated and contributes not only to the smooth running of the courts, but to improvements that can be identified.

## **8.6 TCC Liaison Judges**

There are TCC liaison judges at Birmingham, Bristol, Cardiff, Leeds, Liverpool and Newcastle.

The function of these judges is to keep other judges informed about the role and remit of the TCC; to deal with queries from colleagues concerning the TCC or transfer of cases; to deal with any subsidiary matter as directed by a TCC judge and to deal with urgent applications in TCC cases when no TCC judge is available.

We are grateful to them for carrying out this important role during the year.

## **8.7 Judicial Assistants**

The Judicial Assistants Scheme is a centrally funded scheme administered across the whole of the High Court, including the Business and Property Courts. Open competitions are held annually in respect of the post of Judicial Assistants, who typically spend between three and five months sitting with a judge, providing research and administrative support.

The London TCC had the benefit of the following Judicial Assistants up to the end of September 2023: Alice Horn and Anna Richards.

The TCC is very grateful to the Judicial Assistants for their valuable contribution to the work of the Court.

**Mrs Justice Finola O’Farrell DBE**  
**Judge in charge of the Technology and Construction Court**



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## **9. Appendix 1 - The TCC as at 1 October 2023**

### **9.1 London TCC**

Mrs Justice O'Farrell (Judge in Charge of the TCC)

Mrs Justice Cockerill

Mr Justice Constable

Mr Justice Eyre

Mr Justice Fraser

Mrs Justice Jefford

Mrs Justice Joanna Smith

Mr Justice Kerr

Mr Justice Pepperall

Mr Justice Waksman

### **9.2 Birmingham**

Her Honour Judge Sarah Watson (Principal TCC Judge)

His Honour Judge Rawlings

His Honour Judge Williams

His Honour Judge Worster

His Honour Judge Tindal

### **9.3 Bristol**

His Honour Judge Russen KC (Principal TCC Judge)

### **9.4 Cardiff and Mold**

His Honour Judge Keyser KC (Principal TCC Judge)

His Honour Judge Jarman KC

## **9.5 Central London**

His Honour Judge Parfitt (Principal TCC Judge)

His Honour Judge Johns KC

## **9.6 Leeds**

Her Honour Judge Siobhan Kelly (Principal TCC Judge)

His Honour Judge Malcom Davis-White KC (Newcastle)

His Honour Judge Jonathan Klein

Her Honour Judge Claire Jackson

## **9.7 Liverpool**

His Honour Judge Cadwallader (Principal TCC Judge)

His Honour Judge Wood

## **9.8 Manchester**

His Honour Judge Stephen Davies (Principal TCC Judge) His Honour Judge David Hodge KC

His Honour Judge Richard Pearce

His Honour Judge Mark Halliwell KC

His Honour Judge Mark Cawson KC

His Honour Judge Adrian Bever

His Honour Judge Nigel Bird

## **9.9 Newcastle**

His Honour Judge Davis White KC

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## **9.10 Deputy High Court Judges/ Recorders**

Mr Jonathan Acton Davis KC

Mr Alan Bates KC

Mr Martin Bowdery KC

Mr Jason Coppel KC

Ms Anelli Howard KC

Mr Simon Lofthouse KC

Mr Andrew Mitchell KC

Mr Neil Moody KC

Mr Alexander Nissen KC

Mr David Quest KC

Mr Andrew Singer KC

Mr Roger Stewart KC

Mr Roger Ter Haar KC

Mr Adrian Williamson KC

## **9.11 TCC Liaison District Judges**

District Judge Baldwin (Liverpool)

District Judge Hywel James (Cardiff)

District Judge Andrew Bartley (Manchester)

## **9.12 Retired Judges**

His Honour Judge Kramer (Newcastle)

## 10. Appendix 2 - The Staff of the London TCC as at 1 October 2023

<b>Senior Listings Officer</b>	Michael Tame
<b>Listings Officer</b>	Gina Hitchman

<b>Clerk to Mrs Justice O’Farrell</b>	Samia Nur
<b>Clerk to Mrs Justice Cockerill</b>	Laura Hope
<b>Clerk to Mr Justice Fraser</b>	Manizja Latifi*
<b>Clerk to Mrs Justice Jefford</b>	Sam Taylor
<b>Clerk to Mr Justice Kerr</b>	Mandy Torrens
<b>Clerk to Mr Justice Pepperall</b>	Chelsea Fincham
<b>Clerk to Mr Justice Waksman</b>	Lucius Allen
<b>Clerk to Mrs Justice Joanna Smith</b>	Caroline Reid
<b>Clerk to Mr Justice Eyre</b>	Shalizeh Murtaza
<b>Clerk to Mr Justice Constable</b>	Samson Oyedokun



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