

**Commercial Court User Group Meeting  
June 2024 Minutes**

**Remote Meeting via Microsoft Teams Wednesday 12 June 2024 at 16:45**

**1. Foxton J: Introduction, statistical updates**

Mr Justice Foxton welcomed all attendees to the June 2024 User Group Meeting. He began by giving an update on statistics relating to the court's business.

i. Year on Year Comparison of Commercial Court Business:

	<b>1 October 2022 – 31 May 2023</b>	<b>1 October 2023 – 31 May 2024</b>
Claims issued	477	507
Transfers out	64	41
Paper Applications	2674	3291
Trials Listed	99	77
Trials Heard	32	26
Arbitration permission applications	37	40
Arbitration permission applications struck out	11	4
Arbitrations Listed	77	52
Arbitrations Heard	55	38
Other Hearings Listed	854	780
Other Hearings Heard	582	527

ii. Lead Times:

The current lead times for applications are in reasonable order but longer than ideal for trials.

There has been an uptick in Anti- Return Injunctions (ARIs) and Anti Anti Suit Injunctions (AASIs). The lived experience is that the Commercial Court is busy but activity shows a variation in work when compared to prior periods.

## 2. **Bright J: Foreign Process Section (FPS)**

The delays in serving proceedings out of the jurisdiction is a matter which is taken seriously by both Mr Justice Foxton and His Honour Judge Pelling KC. There have been resourcing problems at the FPS, which is the Central Authority for foreign process in civil litigation. Senior Master Cook has confirmed that the FPS is now up to full strength and the delays are improving. A working group has been set up with the Senior Master, Judges of the Business and Property Courts and representatives from the Law Society's Private International Law Working Group. The first meeting will take place on Monday 17 June 2024. Part of the problems appears to be the processes and the group will be looking into ways of streamlining this. The issue of FPS delays has been raised with the highest levels of the judiciary and is being kept under review.

## 3. **Michael Tame: The View from the Listing Office**

- i. Email and CE-File: Mr Tame confirmed that there is no need to send an email to confirm that correspondence has been sent via CE-File and vice versa. This is unhelpful and the team will no longer respond to such correspondence. Mr Tame asked court users to refrain from contacting the Judges' clerks directly. Any contact about a hearing or paper application should be routed via the Listing Team.
- ii. Vacation: The Listing Team will take steps to remind court users when vacation time is almost upon us. This has been done in the past and is especially important when there is a short vacation as the Commercial Court closes and there are no Judges available.

When the Judges return from a short vacation there will be a slight delay whilst paper applications received during that time are sent to the Judges and determined. The Court works together to turn these applications around quickly but the Listing Team was inundated with requests for updates about paper applications on the second day of the new term.

- iii. Responses to enquiries: The Listing Team receives numerous repeated queries by telephone and email and works hard to deal with these promptly. A new paper apps checklist should help to reduce the number of queries about this type of applications.
  - iv. Urgent applications: So far this year, the Judges have dealt with 38 urgent hearings at very short notice. Please bear in mind that the time taken to deal with these eats into their judgment writing and reading time.
- i. Super-Courts: The Business and Property Courts have 3 Super-Courts and 1 of these is for the use of the Commercial Court. Please bear this in mind when asking for one of these courts. This year Mr Justice Andrew Baker will be using the Super-Court for the trial in Skatteforvaltningen (The Danish Customs and Tax Administration) v

Solo Capital Partners LLP (in special administration) and others. In 2025, Mr Justice Jacobs will be using the Court for *The Public Institution for Social Security v. Al-Rajaan and others*. Please be advised that there are other large court rooms available.

- ii. Time estimates: Please factor in the time it will take for closing submissions when providing trial estimates for trials and update the Listing Team as soon as possible. (Mr Justice Andrew Baker reminded users that this is a requirement of the 11<sup>th</sup> Edition of the Commercial Court Guide – J.5.4(b)).
- iii. Court Bundles: Bundles for Friday applications should be received by 12 noon on the preceding Wednesday. Any unavoidable changes to bundles should be submitted in the form of a supplemental bundle rather than a revised bundle.
- iv. Thank you: Mr Tame expressed his thanks to the User Group for their prompt and generous suggestions when the court seeks guidance and support.
- v. Judge in Charge: Mr Tame noted that this was the final User Group Meeting for Mr Justice Foxton as Judge in Charge of the Commercial Court. The entire Listing Team is very grateful for Foxton J's guidance and leadership over the previous 2 years.

#### **4. Commercial Court Lawyer: Paper Applications Checklist**

Francesca Girardot welcomed the opportunity to speak to the User Group about a new checklist which is to be submitted for all on notice paper applications are considered by the Commercial Judges. The most recent edition of the Commercial Court Guide rewrote the guidance for the submission of on-notice applications so that they should be ready for determination at the point of submission. If an application is not submitted in this way, it can be time-consuming for all concerned whilst requests for further information are sent and responded to. The Court has been working on ways of processing the ever-increasing numbers of paper applications in a more streamlined way, so that they can be dealt with promptly and applicants receive their sealed orders in good time. A recent pilot of the checklist proved to be successful. From now on the Judges of both the Commercial Court and the London Circuit Commercial Court will require a completed checklist to be submitted alongside all on-notice paper applications. The checklist is only a page long and is mainly a tick box list which should be very quick to complete. It is not necessary to complete this form when submitting a without notice paper application or an application for a consent order or a Tomlin order.

## 5. Thomas Raphael KC: Embargoed Judgments

Mr Raphael KC discussed the difficulties regarding role of counsels' clerks in relation to draft judgments following the guidance set out in *R (Counsel General for Wales) v Secretary of State for Business, Energy and Industrial Strategy* [2022]EWCA Civ 181 (“*Wales v BEIS*”) and asked the Commercial Court Users Group and the Commercial Court to consider whether there should be consultation to establish a wider evidence base and whether the desirability of further guidance on these matters should be explored. Foxton J took the view that it would be neither desirable nor appropriate for the Commercial Court to provide its own guidance on this topic, given the desirability for a uniform approach across the judiciary where possible. If a variation to the general approach was to be sought, there would need to be compelling evidence of difficulties with the current system. This might be something for discussion between group members and Mr Raphael KC.

## 6. Robin Knowles J: Update from the Standing Forum of Commercial Courts (SIFoCC)

The purposes of SIFoCC are to:

- share best practice
- support the rule of law
- support developing countries in their own work on resolving commercial disputes

Mr Justice Robin Knowles recently returned from the 5<sup>th</sup> full SIFoCC meeting which took place in Doha, Qatar. Previous meetings have taken place in Sydney, Singapore New York and London. This year 50 delegations attended Doha in person and 6 delegations attended online. There were 2 full days of round table discussions between Judges. Robin Knowles J was proud to represent this jurisdiction with a delegation which included the Lady Chief Justice, the Master of the Rolls and Mr Justice Foxton. The meetings are an excellent opportunity to build relationships. Distinguished guests included the Asian Development Bank, the International Bar Association and ICCA. The following subjects were discussed:

- (1) The relationship between the Commercial Court/arbitration/mediation;
- (2) Third Party Litigation Funding;
- (3) Case management;
- (4) AI, not just within the context of dispute resolution system but also engaging in disputes where AI is in place;
- (5) Corporate Legal Responsibility at Board level where issues include climate change and global development;
- (6) Cross border co-operation.

A full report is to be launched in October 2024 where the fruits of this unique judicial dialogue will be shared.

SIFoCC's Multilateral Memorandum on Enforcement of Commercial Judgments for Money has been revised once again and news about its 3<sup>rd</sup> edition will follow. In the mean time, Mr Justice Robin Knowles invited member of the Group to share any ideas with SIFoCC via [SIFoCC Secretariat](#).

**7. New Judge in Charge**

Mr Justice Foxton confirmed that Mr Justice Henshaw assumes the role of Judge in Charge of the Commercial Court from 1 September 2024. Unfortunately, Henshaw J was unable to attend the User Group Meeting due to pre-existing judicial commitments, but he had asked Foxton J to convey how much he looks forward to working with the members of the User Group. Mr Justice Foxton thanked the members of the User Group for the support they had provided during his time as Judge in Charge.

**8. AoB**

There was no further business and the meeting ended at 17:28.