

Civil Justice Council
Annual Report 2006



The
Royal
Courts
of
Justice

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Foreword

The past year has seen a considerable amount of groundwork undertaken by the Civil Justice Council, both in preparation for a number of anticipated changes to the civil justice system, and by way of fundamental review of some of the core civil procedures, now eight years old.

In March the annual Costs Forum debated the recommendations contained in the paper “Access to Justice – Future Funding Options”, and all but one of the twenty two recommendations received the support to further develop as formal advice to Government.



Following the Forum, I commissioned further specific work on the development of recommendations for a Supplemental or Contingency Legal aid Scheme, based on those already effective in the Hong Kong, Australian, and Canadian jurisdictions. I was pleased to see that Lord Carter made a similar recommendation in his report.

I also invited Council members, jointly with officials of the Legal Services Commission, to consider the particular access to justice problems in multi party and consumer redress claims.

Council members have both contributed and helped facilitate Working Group exercises with DCA colleagues addressing the perception of the much publicised compensation culture. In particular, there has been close co-operation in developing more effective litigation processes for lower value, lower complexity injury claims. A Consultation paper was published in early 2007, and the Civil Justice Council will afford further work in this area a priority for the forthcoming year.

Finally, I would like to record my personal thanks to those who have stepped down from the Council this year. In particular I would like to recognise the considerable achievements of Martin Partington. Martin has served on the Council for more than eight years. He has been an exemplary chairman of a number of Council events, and has been a close advisor to me in his capacity as Executive Committee member. His acute judgment, and leadership will be greatly missed.

A handwritten signature in black ink, which appears to read "Anthony Clarke". The signature is written in a cursive style and ends with a long, sweeping underline.

Sir Anthony Clarke, MR

How the Council Works

The Civil Justice Council is a Non Departmental Public Body, sponsored by the Department for Constitutional Affairs. It was established under the Civil Procedure Act 1997 along side the provisions that paved the way for the most extensive reforms in the civil justice system for over a century. It was intended that the Council be more than a mere consultative body but rather should be a 'high powered body representative of all of the relevant interests which monitors the effects of the new rules in practice'.

The Primary role of the Civil Justice Council

The primary task of the Council is to promote the needs of the civil justice and to monitor the system to ensure that progress to modernise it continues. It advises the Lord Chancellor and his officials on how the civil justice system can be improved to provide a better justice system, reviews policy and procedures to ensure they improve access to justice, and monitors system procedures to assess whether they achieve their stated policy aims.

Statutory provision

The Civil Justice Council was established under the Section 6 of the Civil Procedure Act 1997 and is charged with

- Keeping the civil justice system under review
- Considering how to make the civil justice system more accessible, fair and efficient
- Advising the Secretary of State and the Judiciary on the development of the civil justice system
- Referring proposals for changes in the civil justice system to the Secretary of State and the Civil Procedure Rule Committee, and making proposals for research

Constitution

The Civil Justice Council, to fulfil its purpose effectively must provide a diverse and representative cross section of views from those who use, or have an interest in, the civil justice system. The Civil Procedure Act requires that membership of the Council must include

- Members of the judiciary
- Members of the legal profession
- Civil servants concerned with the administration of the courts
- Persons with experience in and knowledge of consumer affairs
- Persons with experience and knowledge of the lay advice sector
- Persons able to represent the interests of particular kind of litigants (for example businesses or employees)

Ex Officio and Preferred Memberships

The majority of the members serve fixed terms limited to two years. The Secretary of State, following recommendation by the Chair of the Civil Justice Council, makes appointments and re-appointments. All appointments are non remunerative, and accord with guidelines provided for ministerial appointments by the Office of the Commissioner of Public Appointments.

The Head and Deputy Head of Civil Justice are ex officio members of the Civil Justice Council. The Head of Civil Justice is the Chair. Preferred members are; The Chair of the Judicial Studies Board, a High Court judge, a Circuit judge (preferably a Designated Civil Judge), a District judge, a barrister, a solicitor representing claimants interests, a solicitor representing defendants interests, an official of the Law Society, a senior civil servant representing the interests of the Department for Constitutional Affairs or Her Majesty's Court Service, a representative of the insurance industry, an advice service provider, and a representative of consumer interests.

Structure of the Civil Justice Council

The Civil Justice Council comprises of a full Council of twenty-six members (including those ex officio). An Executive Committee comprises of the Chair, Deputy Head of Civil Justice, the Chief Executive, three Council members and a representative from HMCS.

Eight committees, comprising around one hundred members, undertake the Council's day-to-day activities. The Committees are; Alternative Dispute Resolution, Access to Justice (including responsibility for the Fees Consultative Panel and Public Legal Education Working Group), Housing and Land, Clinical Negligence and Serious Injury, Experts, Costs, Rehabilitation Policy Committee, and Rehabilitation Rules Group.

The Council and its committees are supported by a secretariat of civil servants. The Chief Executive of the Council is the senior executive and budget holder.

The Civil Justice Council will undertake activities commensurate with its statutory provision (Section 6 of the Civil Procedure Act).

Civil Justice Council Activities

Civil Justice Council activities are in the main dependent on the achievement of the Department for Constitutional Affairs in delivering its public sector agreement targets, and the success, as perceived by civil justice "stakeholders", of the department's policy, procedures and systems.

Top Level Objectives

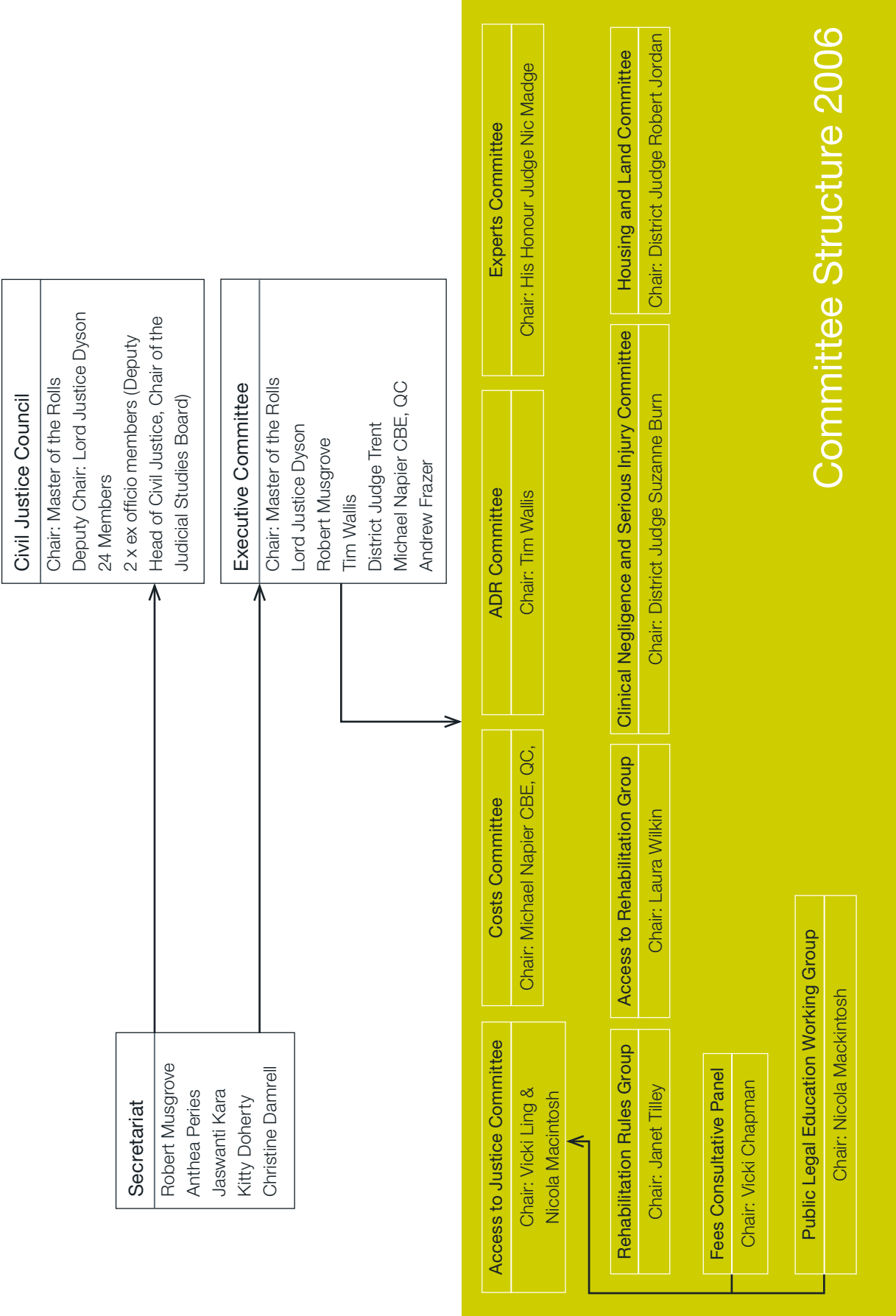
At top level the Civil Justice Council will achieve the following:

Advice to the Secretary of State on Consultation Papers issued by his department on civil justice related matters.

Advice to the Secretary of State on areas of concern, legal or policy, identified by the civil justice community through the Civil Justice Council.

Assistance in developing research ideas and policy solutions relating to civil justice issues of concern, and providing a representative view of civil justice “stakeholders” views during the development of policy or programmes.

Civil Justice Council Organisational Structure



Committee Structure 2006

Developments over the past year

A Review by the Chief Executive

As described in the Chairman's foreword to this year's review, the CJC has focussed on laying the groundwork in preparation for anticipated major reform of the processes and funding of civil claims, and also by way of review of some of the main civil procedures.

The Civil Justice Council contributed no less than five papers to the Carter Review of Legal Aid; four as background papers during their considerations, and one as a formal response following the DCA Consultation Paper.

The distraction of the compensation culture debate has meant that further work on rolling out predictable costs agreements was suspended in 2006, whilst participants to the mediation programme focussed their attention on the DCA's claims process and rehabilitation working groups. There have been further outbreaks in satellite litigation on costs, with parties taking issue with medical expert reports procured by agencies, and further challenges to the construction of conditional fee agreements. The Civil Justice Council has been pursuing industry solutions following Court of Appeal decisions in Myatt, Garret, and Wollard, and has been seeking to resolve issues in the After the Event insurance market.

In June 2006, the CJC conducted a consultation on the proposed Rent Arrears Pre Action Protocol. Having considered responses with Government colleagues, this protocol is now in force, and has been received to considerable acclaim from housing advisors and practitioners. A further housing protocol, relating to Possession claims will be developed in 2007.

In October 2006, the CJC commenced discussions that will lead to greater predictability, and with it sustainability, in After the Event insurance market. ATE insurance is essential to underpin the Government's policy on the funding of personal injury litigation through conditional fee agreements. It is anticipated that a minimum set of market standards can be developed to improve consumer choice and make the market work more openly and effectively. It is also anticipated that more predictable premiums may be achieved.

Having achieved five predictable costs agreements, and with the prospect of more to follow to complete the programme, the CJC has been considering how these predictable costs may best be kept under review. One of the early criticisms of fixed cost rules was that once they were made into law, their up rating was nearly always ignored. The CJC has completed a review of the first predictable costs agreement, but it is apparent that it is not feasible to re-negotiate the figures. The CJC has recommended to the Lord Chancellor the establishment of a Costs Council. This independent body will conduct thorough economic analysis of litigation rates and make recommendations for their timely revision. A Costs Council would also address the concerns of the OFT on the collection of information to inform guideline hourly rates.

In October the CJC facilitated a meeting to discuss the main barriers to access to justice in consumer redress multi party actions. Representatives debated the problems in the processes, and discussed the major problems in the funding of multi party claims. The problems relating to multi party litigation are recognised both nationally and internationally with major consultation papers prepared by the DTI, and EU institutions. This very difficult area will be one of the CJC's main priorities for 2007 and 2008, where particular attention will be paid to the development of effective consumer protection mechanisms, imaginative funding solutions, and the role of private enforcement in deterring anti-competitive behaviour.

In late 2006, the CJC inaugurated its Comparative Law Committee through a series of introductory meetings with EU institutions. The EU is becoming increasingly influential in the development of national civil justice law and policy, and for many years the CJC has been involved in consideration of international and EU law on a less formal basis.

A review of Pre Action Protocols was been undertaken in 2006, and a consultation exercise will take place in early 2007. A combined CJC, DCA, and Law Society Working group has reviewed the operation of all the protocols, and the consultation paper will make recommendations for their consolidation into a core protocol, drawing on best practice, and appending specialist elements. The CJC was appointed guardian of the protocols in Autumn 2006, which means that any requests for new protocols or revisions, will be scrutinised by the CJC, who will make recommendations to the Lord Chancellor prior to implementation through Rules of Court.

Finally, CJC members have been contributing to the work of the Attorney General's Pro Bono Committee. In particular contributions have been made through the Law Schools and New Foundation Sub Committees, looking at the integration of public legal education in the law schools clinical programmes, and the development of a charitable foundation to receive and distribute recoveries from pro bono CFA's.

Robert Musgrove

Committee Members

Tim Wallis (Chair)

David Cooke
Professor Hazel Genn CBE
Harry Hodgkin
Michel Kalipetis QC

Robert Nicholas
Stephen Ruttle QC
Colin Stutt

Reports from the Civil Justice Council Committees

Alternative Dispute Resolution (ADR)

Terms of Reference

To undertake activities relating to supporting the use of ADR in the civil justice system

To promote such conferences, seminars and other meetings as seem appropriate and can be resourced designed to develop the use of ADR in the civil justice system

To provide a forum for the consideration by the judiciary and ADR providers of new initiatives relating to the use of ADR

To provide advice to Government and other agencies, through the Civil Justice Council, about developments relating to ADR which the Committee thinks should be advanced

To draft responses to papers coming from Government both in the UK and Europe and from other bodies about the development of ADR

To provide assistance to Government and other bodies about issues – including training – relating to the use of ADR

1. The Committee has discussed reports from the DCA on:
 - (a) The second annual Mediation Week, a series of awareness raising events involving the promotion of ADR.
 - (b) The extension of the Manchester in court mediator scheme to nine further court areas in 2007. The Manchester scheme demonstrated savings of judicial time, particularly with reference to small claims.
 - (c) The National Mediation Helpline. This telephone helpline answers queries about mediation and cases which may potentially be referred to mediation are distributed to mediation providers. The Helpline is now used to administer all court mediation schemes. Since April the Helpline has taken 3,000 calls.
2. The Committee propose to recommend that the Rules Committee consider amending the Allocation Questionnaire (AQ). Under the heading “Settlement” the AQ presently asks if parties would like a stay to settle the claim, either by informal discussion or alternative dispute resolution. It is suggested that the parties also be asked
 - if they would like to use the mediation service provided by HM Court Service and
 - in the event that they do not wish to settle the claim, to state why they consider the claim is unsuitable for alternative dispute resolutionand that the AQ should state that these questions may be considered by the court when it deals with the question of costs (CPR Part 44.3(4)).

3. The work which the Committee plans to carry out in the near future include consideration of community mediation and the possibility of holding a European seminar to follow the seminar held in the Hague in June 2006.
4. The Committee has also agreed to gather information concerning judicial referral to mediation and particularly the factors which make cases suitable, or unsuitable, for referral. This will involve reviewing various evaluation studies, consulting judicial organisations and bodies such as the Civil Mediation Council about the experience of referring cases since the introduction of the CPR and making comparisons with other jurisdictions.

Tim Wallis
Chair

Committee Members

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|---|--|---|
| Vicki Ling and Nicola Mackintosh (Chairs) | Nony Ardill Philip Bowden DJ Carlos Dabezies | Hilary Lloyd Dan Mace Bob Nightingale |
| Vicki Chapman (Chair of Fees Consultative Panel) | Anna Edwards Richard Grimes Tony Guise | Atul Sharda Brian Havercroft |

Access to Justice

Terms of Reference

To promote awareness of civil justice including making recommendations for improving service delivery, and improving access to advice, information and representation

To consider existing practice and procedure in the civil justice system and make proposals to the Council for improvement

To monitor and comment on the effectiveness of existing practice and procedure in the civil justice system, including the provision of advice, and to make proposals for improvement

To take forward research undertaken on behalf of the Civil Justice Council into the operation of the civil justice system

To monitor and keep abreast of developments, and respond to proposals as appropriate

The CJC believes that the problem of ensuring access to justice cannot be addressed in isolation. Therefore, the Council was very pleased to host a workshop jointly with the Legal Services Commission on 'Resolving Housing Disputes'. Representatives were invited from all sectors which would have an interest and be able to contribute to discussion and development of these themes, including the Housing and Financial Services Ombudsmen, DCA, H.M. Court Service, The Rent Service, Tribunals, Tenants' and Landlords' organisations, Housing lawyers, Citizens Advice, Shelter and others from the voluntary sector.

Participants considered: problems with, and solutions to, current funding arrangements; the role of websites and call-centres; incentives for non-adversarial solutions; and the Law Commission's proposals for systems reform. The workshop established a useful dialogue and ideas were taken forward between the Council and the Legal Services Commission.

The Council's Costs Forum, held in early 2006, supported the ideas for developing the legal aid scheme, first set out in the Council's Report 'Improved Access to Justice – Funding Options & Proportionate Costs'. The Master of the Rolls commissioned members of the Costs Committee, in conjunction with representatives of the Legal Services Commission, to consider in more detail the recommendations relating to the establishment of a contingency legal aid fund, and a supplementary legal aid scheme.

Lord Carter's report "Legal Aid – A market based approach to reform" recommended that the Civil Justice Council, Legal Services Commission and Department for Constitutional Affairs, should explore further options for a contingent legal aid fund. The Civil Justice Council and the Legal Services Commission carried out a detailed comparative study of contingency legal aid funds, and supplemental legal aid schemes. Further work is being carried out to assess the feasibility of these concepts in England and Wales.

Court Fees

The CJC has argued for some years that the current system of exemption and remission of court fees does not adequately protect access to justice. Frequent increases in fees have created a new obstacle for many litigants and potential litigants whose incomes are just above the very low level which would entitle them to automatic fee exemption. The system of fee remission is unsatisfactory because of the inconsistent approach taken by courts in allowing full or partial remission, and a lack of awareness and/or understanding by litigants in person that a system exists.

In 2006 the DCA decided to undertake a fundamental review of the system. A steering group, chaired by Baroness Ashton, was set up to oversee the review, and the CJC was represented on the steering group. It was agreed that there should be a single system for exemption and remission across the high court/county court/magistrates' courts for civil and family cases, and that there should be a system for full remission (which would be automatic for people in receipt of certain passporting benefits) and partial remission based on a sliding scale. The aim was to have a scheme which is fair but practical for court staff to administer.

Two further issues emerged: whether, in a case where the successful party has qualified for full or partial fee remission, the money in respect of the remitted fee should be recoverable from the losing party; and what scope should there be for granting a remission in exceptional circumstances? It is intended to consult further on these questions.

Vicki Ling
Nicola Mackintosh
Chairs

Committee Members

His Honour Judge Nic Madge
(Chair)

Henry Bermingham
Michael Cohen
John Cowan
DJ Richard Fairclough
Tony Guise
Mark Harvey

Alan Kershaw
Simon Morgans
Robin Oppenheim QC
John Stacey

Experts

Terms of Reference

To evaluate the operation of the civil justice system in its approach to and utilisation of expert evidence

To make recommendations for the modification and improvement of the civil justice system in relation to expert evidence, including Civil Procedure Rules and Practice Directions, with a view to furthering the overriding objective

To consider and make recommendations as to the rôle and status of expert witnesses, including in relation to alternative dispute resolution

To consider and make recommendations as to the accreditation, training, professional discipline and court control of and communication with expert witnesses

To consider and make recommendations as to the fees and expenses of expert witnesses

The Experts' Committee had four face to face meetings during 2006. It also progressed its objectives at other times during the year via frequent email discussion between members.

The most important work currently being undertaken by the Experts' Committee relates to the DCA sponsored review of CPR Part 35 (expert evidence) which will take place during 2007. The Civil Procedure Rules Committee has asked the Experts' Committee to carry out a general review of CPR Part 35 as a prelude to that being conducted by the DCA. This is the first review of Part 35 since the introduction of the CPRs in 1999. It will require full consideration of the Rule, the Practice Direction and the Protocol. The Experts' Committee is already discussing the working of Part 35 and will undertake consultation on the subject. After a thorough appraisal, it will make recommendations for any changes deemed appropriate.

One aspect of Part 35 which will be considered is the use of single joint experts. Some people consider that there are inconsistencies in the way in which courts direct the appointment of SJE's. After discussion, the Experts' Committee considered that some additional guidance would be useful and so drafted a short paper with a proposed amendment to PD 35 which was sent to the Civil Procedure Rules Committee.

The Experts' Committee has continued to discuss issues surrounding the accreditation of expert witnesses, both following the Experts Forum II on Accreditation held in 2005 and the Legal Services Commission proposals in their paper *The Use of Experts, Quality Price and Procedures*. Although it has long been agreed that the CJC has no formal role in promoting accreditation, members of the Experts' Committee have been meeting to try to agree some principles of best practice for the accreditation of experts.

The Committee has also expressed concern about the operation in practice of an agreement between the Law Society, APIL, the ABI and the health sector that, subject to the expert witnesses' view, there is a rebuttable presumption that no patient records will be requested for personal injury claims with a value below £10,000. The Committee has been liaising with those bodies to try to ensure that the agreement works satisfactorily.

Nic Madge
Chair

Committee Members

DJ Suzanne Burn
(Chair)

Fiona Freedland
Janet Howe
Mr Justice Langstaff
William Norris QC
John Pickering
Janice Smith

David Southwell
Christine Tompkins
Master John Ungley
Steve Walker
Laura Wilkin

Clinical Negligence and Serious Injury

Terms of Reference

To consider and monitor current problems and proposals in the law and practice of clinical negligence and serious injury claims

To make comments and proposals to the Council on the law and practice of clinical negligence and serious injury claims that are focused, practical and deliverable

Not to duplicate work being carried out by others on aspects of clinical negligence and serious injury claims

The workload of the Committee has continued to be heavy.

Interface between the public provision for future housing and care for seriously injured claimants and their private law claims

In 2005 the Committee decided that in the light of the absence of clear legislative provisions on the above issue, or clear guidance from the court (as there a number of differing High Court decisions), as to who should bear the costs of caring for a seriously disabled accident victim who was entitled to public assistance with his needs, the Committee should prepare a discussion paper on alternatives for resolving the issue. William Norris QC drafted an excellent and detailed paper, which reviews the legislation and case-law, which the Committee discussed on a number of occasions. The final version was approved by the Council in July and submitted to the DCA. The paper canvases a number of options including amending S2 (4) of the Law Reform Personal Injuries Act 1948 to enable a claimant to recover the full costs of private accommodation and care from the tortfeasor, including when the claimant was entitled to state assistance with those needs, or extending the power of local authorities to recover their outlay in providing for claimants from tortfeasors. The paper recommends that the government implement a solution to the problem as soon as possible, as the absence of a clear policy and relevant legislation is causing considerable uncertainty to litigants and public authorities, and resolving the issue on a case by case basis causes delay and increases litigation costs significantly.

Care claims

In 2005 the Committee decided to take forward some very useful work on claims for care, that had been started during the Woolf enquiry in the late 1990s. The working group was reconvened and produced drafts of model instructions for care experts, a questionnaire for claimants and a model report. A very successful awayday (forum) of stakeholders took place in October 2005. Agreement was reached in principle to the incorporation into best practice guidance of the above documents. In November 2005 the main Council agreed that this project should be taken forward.

Considerable progress has been made on the project in 2006. Several meetings of a reformed working group took place, under my chairmanship, and in July a meeting was held with a number of care experts and case managers that produced many useful comments on the working papers.

The plan is for a draft protocol, including some guidance on “benchmark” rates to be paid for care, with questionnaires, standard instructions and a template for a report, to be circulated to key stakeholders for comments in early 2007 and then submitted to the Council for approval.

Group Claims

In September 2006 the Committee revisited the problems being experienced with the conduct of group injury claims, both in relation to funding and procedure. In November the CJC arranged a Forum on group actions and representative claims, which some members of the Committee attended. The Committee and the Council hope to undertake some practical follow-up work on the subject in 2007.

Indemnities for future loss

In 2002 the Master of the Rolls Structured Settlement Working Party recommended that the courts be given the power to make orders for defendants to large claims to give indemnities to claimants, for instance to cover the cost of residential and other services that are supplied to seriously injured claimants by local authorities (and therefore not provided for in the claimant’s damages) if the authority seek to recover those costs from the claimant, or alternatively withdraw the services. Occasionally indemnities are agreed between the parties in personal injury claims, but at present the court has no power to so order. In 2006 the Committee agreed to prepare a discussion paper on the subject. This is now in draft and will be considered by the Committee early in 2007.

Other Work

The Committee contributed to the CJC response to the DCA consultation paper on amending CPR Part 36 Offers to Settle, and the Chair, with assistance from members of the Committee and of the Council, prepared the CJC response to the DCA consultation on Admissions and CPR Part 14, following the Court of Appeal decision in *Sowerby v Charlton*.

The Committee is continuing to monitor the operation of the new regime in periodical payments in practice including important decisions of the Court of Appeal.

The Committee agreed to become involved in the DCA work on damages and to respond to any consultation papers when they were published (a major paper is awaited).

The Committee agreed to include in its future programme of work the valuation of future loss claims in relation to housing (*Roberts v Johnston* claims).

DJ Suzanne Burn
Chair

Committee Members

DJ Robert Jordan (Chair)

Vicki Bailey
Helen Carr
David Carter
John Gallagher
David Greene
Karl King

HHJ Nic Madge
Derek McConnell
David Watkinson
Mike Wrankmore
DJ Jane Wright

Housing and Land

Terms of Reference

To consider and respond to proposals relating to civil procedure specific to housing and land cases

To consider existing court rules and practice relating to housing and land cases and make proposals to the Council for improvement

To monitor proposed and existing housing legislation for its impact on procedure and make such response as appropriate

2006 has been an active and successful year for the Housing and Land Committee of the Civil Justice Council. Its responsibilities and work have again been at the centre of the continuing debate relating to the resolution of housing disputes including disrepair claims and possession. The committee has planned its work in 2007 and looks forward to making similar achievements to those in 2006.

The centre of the work of the Housing and Land Committee in 2006 was the finalisation of the pre-action protocol for possession claims arising from arrears of rent. The committee continued co-operate with the Department for Constitutional Affairs and the Civil Procedure Rules Committee to finalise the protocol and bring it into effect in October 2006.

Following the public consultation process the terms of the pre-action protocol were finalised. Following approval by the Executive Committee of the Civil Justice Council, the draft was submitted to the Civil Procedure Rules Committee which has final authority on protocols to the CPR. The chair and vice chair attended a public session of the Rules Committee. The Rules Committee determined that the protocol should apply only to social housing landlords and not to private landlords. In that form the protocol was approved and published in July 2006. It came into effect on 2 October 2006.

The protocol was welcomed by practitioners. The committee will monitor progress of the protocol during 2007.

The committee has been considering for some time the possibility of a further protocol relating to mortgage possession claims. Such claims form a substantial proportion of issued claims in the County Court but the majority are settled without the necessity of a possession order being made. The committee believes that parties to such claims would benefit from an appropriate pre-action procedure which ensures that appropriate steps are taken to resolve the dispute without litigation.

Having completed the pre-action protocol for rent claims, the committee has been able to turn its attention to this proposal. It has now been discussed with the Civil Justice Council and during 2007 the committee will explore this issue further and make appropriate recommendations to the full Council. In doing so, it will be liaising with HM Treasury, the Financial Services Authority and the Office of Fair Trading, all of which have responsibility for the mortgage market.

During the course of the year the committee has been working with the Law Commission on its consultation process. In particular, the committee made submissions on the Law Commission's paper, "Housing: proportionate dispute resolution – an issues paper". The paper proffered ideas on all aspects of dispute resolution and the future of court process in housing disputes. The committee has also followed closely and worked with the DCA on the development of the law during the course of the year following the decisions in *Harlow District Council v Hall* and *Bristol City Council v Hassan & Another*. Those decisions have fundamentally altered the view of the court of suspended possession orders. The committee has considered and worked on the new Form N28 which required alteration as a result.

Work Plan 2007

The committee will be working on the pre-action protocol for mortgage possession with stakeholders. It will be combining its work with the work of the Civil Justice Council which has proposals to alter the pre-action protocol regime as set out in the Civil Procedure Rules.

The committee will be monitoring the progress of the pre-action protocol for possession claims for arrears of rent. This monitoring will be based initially on the statistics of proceedings issued in the County Court. In due course the committee would like to consider further research into the effects of the protocol and its benefit.

The committee will continue its work with the Law Commission. The Law Commission in particular is due to issue a further paper following on from its 2004 report into "Renting Homes" entitled "Housing: Ensuring Responsible Renting". Further, the Law Commission is due to publish a paper on the termination of tenancies.

The committee will also be monitoring the development of "Possession Claims Online".

The committee has for some time been considering the development of court practice in relation to antisocial behaviour. The committee is establishing a network of practitioners and other stakeholders to consider the workings of the antisocial behaviour process in the civil courts.

David Greene
Chair

Committee Members

| | | | |
|--|---|---|---|
| Laura Wilkin (Chair of Policy Group) | Lord David Hunt Robert Musgrove Mike Napier CBE, QC Janet Tilley Professor Lynne Turner-Stokes Valerie Jones | Janet Tilley (Chair of Rules Group) | Mark Baylis David Marshall Claire McKinney Anna Rowland Ashton West Laura Wilkin |
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Rehabilitation Policy and Rules Group

Terms of Reference

To consider how to make rehabilitation play a more central role in the compensation system

To provide a forum for consideration of initiatives relating to the use of rehabilitation

To undertake activities that will promote early rehabilitation in appropriate cases

To promote conferences, seminars and meetings as appropriate to develop the use of rehabilitation in the civil justice system

To draft responses to papers coming from Government and other bodies about the development of rehabilitation

To provide assistance to Government and other bodies on issues relating to the use of rehabilitation within the civil justice system

Throughout the year, members of the Rehabilitation Rules Working Group have continued to work with the many voluntary groups who are active in this area and to work as part of the DCA Rehabilitation Working Party on practical means of integrating rehabilitation into the civil justice system and removing obstacles. Areas explored include improvements to pre-action process to promote early rehabilitation where appropriate and, in particular, in cases of full recovery, service standards for providers and guidance for all at all entry points post injury. The CJC has facilitated a meeting with case managers to scope further work by case managers on accreditation/common standards.

Future Projects

Projects likely to engage the Committee in the months ahead include:

A programme to promote awareness and understanding of the nature and benefits of rehabilitation amongst the judiciary

A review of the civil procedure rules to ensure they reflect and support early and appropriate intervention.

Laura Wilkin and Janet Tilley
Chairs

Committee Members

Mike Napier CBE, QC
(Chair)

Senior Costs Judge Peter
Hurst
Robert Musgrove
Kevin Rousell

Costs

Terms of Reference

To monitor and comment on the effectiveness of existing costs practice and procedure in civil justice system, including the provision of advice, and to make proposals for improvement

To work in partnership with Government officials, academics, and appropriate stakeholders to develop workable solutions to the areas of costs identified as requiring priority attention at the Costs Forum

To work in partnership with representatives of the costs “industry” to develop effective solutions to costs problems that may affect adversely access to justice, and the efficient operation of the courts or those who provide litigation services

To contribute stakeholder views to proposed changes in costs law and procedure

The programme of work in 2006 has continued to build on the platform of ongoing projects and has particularly focussed on developing the recommendations of the 2005 report “Access to Justice – funding Options and Proportionate Costs” (the Report). In furthering these aims the main events of the past year have been:

Costs Forum

The annual costs forum was held with a wide range of stakeholder groups to discuss the Report. There was a large degree of consensus on the recommendations with particular support for further work on the funding problems for group actions and the proposal for a Costs Council.

Group Actions

With the support of (a) the recommendations in Appendix 3.1 of Lord Carter’s report on Legal Aid where reference was made to the limits of legal aid funding for group actions and (b) recommendations in 11, 12, 13, and 15 of the CJC Report, a further research study has been carried out in other jurisdictions to examine more closely methods of funding group actions. Possible proposals have been reviewed in a private ‘Chatham House’ meeting with stakeholders and should emerge in more developed form in Spring 2007 in a second Report that will also review the other recommendations in the Report. The second Report will be the subject of formal advice to the Secretary of State.

Costs Council

The Civil Justice Council awaits a formal response from the Secretary of State to the proposal for a Costs Council that, if established, would assume responsibility for the annual review of hourly rates as well as wider responsibility for the increasing number of costs issues that arise and currently absorb much Court and practitioner time.

Predictable Costs

- Review of the predictable costs scheme for RTA cases below £10,000 is due. Work has been commissioned to provide data for the review but has slowed pending the outcome of proposals to improve the claims process in lower value cases by the DCA due to appear in a consultation paper in early 2007.
- **Defamation in success fees:**
After a waiting period pending the decisions of the House of Lords in *King v The Telegraph* and *Campbell v MGN* the CJC was invited to conduct a further mediation in predictable success fees. Positive progress was made and further work will continue in 2007.
- **After the event insurance premiums**
Several meetings including a mediation style event have been held during 2006 and progress has been made. The future of the ATE market is essential to underpin the conditional fee system. All sides of the insurance industry (BTE, ATE & liability) and those who represent claimants have a close interest in the stability of the ATE market. Resolution of this area of each litigation funding will be a priority for 2007.
- **Medical report fees**
Previous work by the CJC on predictable fees for medical reports has not progressed pending the outcome of the *Wollard v Fowler* due to be heard by the Court of Appeal in early 2007.
- **Conditional Fees - Myatt and Garrett**
Following the Court of Appeal decision in *Myatt v National Coal Board* and *Garrett v Halton Borough Council* the CJC hosted a meeting of stakeholders to assess the implications. Whether the CJC still has a role to play in this technical area of conditional fee challenges remains to be seen.

2007

The draft second Report on costs and funding will be discussed at a forum with stakeholders in early 2007. Once agreed by the Council the Report will be submitted to the Secretary of State. The CJC will also continue to provide mediation and other assistance to parties involved in the 'costs industry' to resolve issues when invited to do so and will otherwise keep the law of procedure of costs in civil courts under review.

Michael Napier CBE, QC
Chairman

Articles and Publications on Civil Justice Council Issues

Movement under the 'big tent'

Extract from Litigation Funding April 2006

By Neil Rose

From Budgets to BTE, the latest CJC forum housed vigorous debate - and even some consensus.

While the deals over predictable costs and success fees may be the visible successes brokered by the Civil Justice Council (CJC), arguably the most impressive notch on its belt has simply been to get all sides of the litigation process in the same room – or rather, to use the CJC's terminology, inside the 'big tent'. The pre-Callery mediation, which failed miserably because the parties could barely stand to be on the same planet as each other, now seems ancient history.

But this does not mean it is peace in our time. The CJC's latest big tent forum, convened at the turn of March to discuss its own report on the future of funding and costs (see [2005] October, 6), established as much disagreement as agreement. But at least everyone was talking, although Litigation Funding was only given exclusive access to report the event in Buckinghamshire on the basis of Chatham House rules, which forbid us from naming contributors. We can say the delegate list read like a fair who's who of the litigation world, although it was heavily skewed towards personal injury specialists as the opposing generals of the costs war.

The entire litigation process is under scrutiny now, whether through insurance industry pressure to raise the small claims limit for personal injury cases, or recognition that it is failing complex group actions. Discussion turned first to the lower-value end and it was estimated that doubling the small claims limit to £2,000 would bring 67% of claimants within the track, and 91% if it were set at £5,000.

With the obvious exception of defendant parties, delegates applauded the CJC report for opposing any change to the current £1,000. And even then, perhaps getting into the less confrontational spirit of the big tent, insurers focused more on improving procedure. But while people from all sides backed this, there were precious few suggestions as to how it might be done.

The reasoning against a higher limit is not just access to justice, the forum was told. The before- and after-the-event (BTE/ATE) insurance markets, and trade unions' legal support for members, could be wiped out if bread-and-butter personal injury cases enter the small claims track. At the same time, an increase in litigants in person could rebound on insurers – Joe Public is not exactly intimate with the pre-action protocol, and may well be trigger-happy when it comes to issuing proceedings. The prospect of litigants in person adducing expert evidence, or dealing with issues of damages and quantum, left one district judge 'horrified'.

There was widespread agreement that the predictable costs scheme for road traffic cases which settle pre-issue for £10,000 or less is working well, even if bad behaviour still exists on both sides, such as claimant solicitors introducing heads of damages that they should not so as to ramp up the fee, and defendants taking technical or just plain daft points. The quid pro quo at the heart of the scheme – a lower level of costs for claimant solicitors but cases churned more quickly to the benefit of their cash flow – is largely coming to pass, though some questioned whether the levels are too high given that there are solicitors paying hefty referral fees to claims farmers and yet still presumably turning a profit. But should the scheme be extended to all fast-track personal injury, pre and post-issue, and the fast-track limit increased to £25,000, as the CJC recommended?

There was broad support for at least moving on to employer's and public liability – one insurer said 85% of his EL actions settle with no issue on liability – although claimant solicitors were generally wary. For one thing, the current scheme has not yet been finished (disbursements are still outstanding), while the entire fixed fees set-up will fall into disrepute if the levels are not regularly reviewed. Then there needs to be solid research before any extension can be agreed. As to post-issue, simply finding a figure could be tough.

Meanwhile, just as £1,000-£5,000 personal injury cases are too complex for the small claims track, so one worth £25,000 is probably too complex to fit into a fixed-fee straitjacket, many cautioned. One suggested guide was that if all the issues could be dealt with by a single day in court, then it was fast-track.

As the letter page of the Gazette has testified repeatedly in recent months, the major grouch claimant solicitors have with insurers is over late admissions of liability. This provoked interest in a form of 'pre-pre-action' protocol, which would give insurers a short time to admit liability on a basic letter before action, but before the claimant solicitor has done any more work or even, perhaps, taken out ATE. Thus the much-feared frontloading of costs could be avoided.

And so to the multi-track, where the report found far less favour, in general because it offered cures to ills that many participants did not realise they suffered from. Those experienced in £1 million-plus group and other complex actions said there was little need for the proposed rebuttable presumption that the parties should present court-supervised budgets in such cases. Their costs are often agreed without a detailed assessment, perhaps indicating that they are not disproportionate, while they involve a smallish group of specialists who know and can work with each other. And, if not thin air, from where was the £1 million figure plucked?

Then there is the vexed question of when is a budget a budget, and not an estimate or a cap. The terminology may seem uncertain, but less so was the feeling that rather than strengthen the rules, as the CJC suggested, the courts should simply use the

powers they have more actively. Everyone recognises that solicitors regularly fail to file the required estimates at the allocation and listing questionnaire stages, so the judges need to throw their weight around. ‘Just a couple of people need to be decapitated and everyone else will follow,’ predicted one influential figure.

Delegates also worried that holding hearings to set caps would simply increase costs, which would be wasted in the event of settlement or no different from those of a detailed assessment. As for the CJC idea of benchmark costs for pre-action protocol work, the response was negative, mainly because this could impel solicitors to issue early.

Delegates were more receptive to some of the CJC’s headline-grabbing forays into possible funding alternatives, such as the development of Corner House-style protective costs orders – ongoing anyway thanks to a working group put together by human rights group Liberty – and post-Arkin third-party funders. But calls to consider a contingency legal aid fund (CLAF) and court-regulated contingency fees – Canadian rather than US-style – fell on ground that was at least pebbly. The appeal of contingency fees of whatever form was uncertain, though they always have their fans, but critically there appears to be no government appetite.

Despite loud Bar Council support, the basic model of a CLAF – where the fund takes a portion of damages in each successful matter it backs – was criticised in the same manner as in our feature in February: finding the money to set it up (though securitisation was suggested) and adverse selection. It is argued that a CLAF cannot work alongside CFAs because solicitors would only use it for risky cases. However, there was official interest in a hybrid arrangement that mixes CFAs and legal aid for group actions. This could see the Legal Services Commission fund the bulk of the generic costs, with legal aid costs protection. A CFA and ATE would cover individual costs. But the rules would be tweaked so as to do the generic work under a CFA, with a success fee split between the commission and claimant. One problem would be that this requires one-way costs shifting, making it the worst of all worlds for defendants. But if it improves access to justice, it was said to be worth considering.

War almost broke out over the CJC’s bid to encourage further expansion and public awareness of BTE, a product savaged by claimant solicitors for a lack of transparency. Consumers are paying around £15 for advice they could get for free from a solicitor, they said; in fact, given BTE insurers’ widespread demand for referral fees from their panel firms, it could be argued that consumers are paying to allow their insurer to sell their case for up to £700. It was alleged that referral fees prop up the BTE market and are why it can set low premiums. This is a ‘murky’ business, critics said, highlighting other issues such as panel firms agreeing not to bill insurers and problems topping up cover once the BTE limit is reached.

Not that ATE is noticeably healthier. One leading provider gave a downbeat assessment of his market – which he stressed works on volume – saying there was a

lack of certainty and growing problems with adverse selection, evidenced by insurers' loss frequency increasing year on year. 'Claimant solicitors have the ability to bring down the ATE market single-handedly through adverse selection,' he warned.

On costs policy, the idea of a costs council was welcomed in principle, especially against a background of Office of Fair Trading stirrings over the way guideline hourly rates are currently set. Despite questions over who would fund it – the government is at best cautious – it was felt that a more limited council that operated as an advisory body to the judiciary had a role. The CJC had envisaged a body to oversee its reforms and review annually the predictable costs rates and guideline hourly rates.

There was of course consensus that the indemnity principle should be abolished – no big tent forum would be complete without this cry in the dark, together with the usual debate as to whether only primary legislation can effect it. Though delegates backed the regulation of claims farmers, some speakers urged the authorities to consider the impact on solicitors.'

Once you have regulated and therefore respected claims managers, they'll start wanting to do the pre-issue work,' one commentator said, predicting that they would then undercut solicitors.

So after two days of debate, what did the latest big tent achieve? Unlike previous forums, this one was more of a debating chamber. There was momentum on some issues, such as extending predictable costs and the costs council, but it is for the CJC to take these forward. It was criticised for not doing more to take on the work of its 2005 forum, which focused on ATE, which is particularly important given the growing fears for the market. This instability also highlights the need to push on with looking for alternative forms of funding, especially for complex cases.

Then there is the bigger picture of the government's forthcoming reform of legal services and the possibility – or should that be likelihood? – that in a future where insurance companies can own law firms, the personal injury market may be sown up by a relatively small number of players, as John Peysner explains on page 5. This means that access to justice will be a real issue, and that, after all, is what the big tent and the CJC itself are there to protect.

Priorities for 2007

For the forthcoming year, the main priorities will be:

- **Costs and Funding**

A paper will provide formal advice to the Lord Chancellor on the future funding of litigation, in particular recommendations that relate to Contingency or Supplemental Legal Aid schemes, third party funding, costs protection, and contingency fees.

Predictable Costs will continue to be rolled out for ATE, Medical Expert Reports, Public Liability Claims, and post issue injury claims

The establishment of a Costs Council (subject to the Lord Chancellor's approval).

Legal Aid Review. Following a stakeholder event, formal advice will be prepared on the review of civil legal aid. The paper will focus on sustainable efficiencies.

- **Multi Party Consumer Redress**

A paper will provide formal advice to the Lord Chancellor on the development of processes for multi party consumer redress. These will consider funding options, judicial certification and control, opt-in or opt-out, and the distribution of awards. There will be a particular focus on competition and product liability actions.

- **Claims Process**

Advice on the implementation of a more efficient claims process for lower value. Lower complexity injury claims

- **Housing and Land**

The development of pre action protocols, as required, to require better pre litigation co-operation between landlord and tenant.

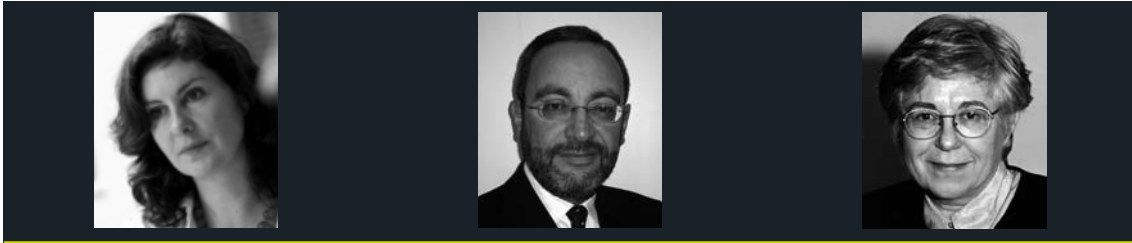
The Civil Justice Council Members



Sir Anthony Clarke was appointed Master of the Rolls and Head of Civil Justice on 1 October 2005. He was called to the Bar (Middle Temple) in 1965 where he was the Pupil of Barry Sheen. In 1979 he became a QC and then a Recorder sitting in both criminal and civil courts. Sir Anthony was appointed to the High Court Bench in 1993 and in April that year succeeded Mr. Justice Sheen as the Admiralty Judge. He sat in the Commercial Court and the Crown Court trying commercial and criminal cases respectively. Appointed to the Court of Appeal in 1998 he was called upon to conduct first the Thames Safety Inquiry and in the following year the Marchioness and Bowbelle Inquiries.

Lord Justice Dyson was appointed Deputy Head of Civil Justice in September 2003. He was called to the Bar in 1968 and appointed Queen's Counsel in 1982. He became a High Court Judge of the Queen's Bench Division in 1993, was a member of the Judicial Studies Board (1994-1998) and judge in charge of the Technology and Construction Court (1998-2000). He has been a Lord Justice of Appeal since 2001.

Lord Justice Keene is a judge of the Court of Appeal of England and Wales. He has held this position since 2000, having been a High Court judge since 1994. He was educated at Hampton Grammar School and Balliol College, Oxford where he obtained a First in Law and of which he is an Honorary Fellow. He then spent nearly 30 years as a barrister, specialising in town planning inquiries and judicial review. He is Chairman of the Judicial Studies Board, which is responsible for training judges throughout England and Wales. He was for some years the Visitor to Brunel University and holds an Hon. LL.D awarded by Brunel. He is the Treasurer of the Inner Temple for 2006.



Tamsin Allen

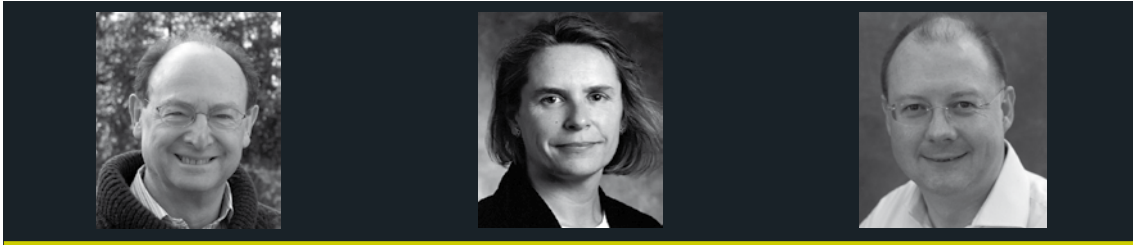
is a solicitor and a partner with Bindman & Partners. She is head of the media and information law department specialising in defamation, privacy, copyright and data protection law. She also represents claimants in international human rights and public law litigation. She is a committee member of the Commonwealth Press Union Legal Support Committee and was educated at Lancing College and Balliol College Oxford.

Michael Black QC

is a barrister practicing from Two Temple Gardens where he is Head of the International Arbitration & Projects Group. He was called to Bar in 1978 and took Silk in 1995. He was appointed a Recorder and a Deputy Judge of Technology & Construction Court in 1999. He served on the Civil Procedure Rule Committee from 2000 to 2004. He is Visiting Professor of Construction and Engineering Law at the School of Mechanical, Aerospace and Civil Engineering, University of Manchester where his particular interest is in dispute resolution. He has written extensively on civil procedure both in the UK and abroad.

Suzanne Burn

is a District Judge at Bromley County Court. Previously she was a senior litigation solicitor, acquired an LLM in advanced litigation, and from 1994-1999 was Secretary to the Law Society's Civil Litigation Committee, leading the Society's work on the Woolf reforms & the CPR. From 1999-2005 she had a "portfolio" of roles, including lecturing and training on civil procedure to lawyers and expert witnesses. She writes widely on civil litigation. Suzanne has been a member of the Civil Justice Council since 2001 and has recently taken over as chair of the Serious Injury and Clinical Negligence Committee.



Mr Justice

Stanley Burnton

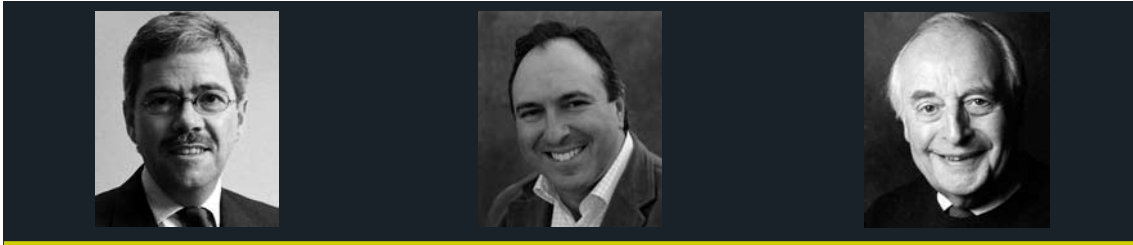
was educated at Hackney Downs Grammar School and St Edmund's Hall Oxford, where he read Jurisprudence. He graduated in 1964 and was called to the Bar in 1965. He practised as a commercial lawyer, took silk in 1982, was a recorder and sat as a deputy High Court judge in the Chancery Division from 1994. He was appointed to the High Court bench in July 2000. He was nominated to the Administrative Court shortly afterwards, and most of his judicial work is now in that Court.

Vicki Chapman

is a solicitor and Head of Law Reform and Legal Policy at the Law Society, and a member of the Civil Justice Council since March 1998. Formerly Policy Director of the Legal Action Group. She was a policy officer at the National Association of Citizens Advice Bureaux 1994-1996, and a solicitor at the Child Poverty Action Group 1988-1992, in charge of CPAG's test case strategy.

Graham Gibson

is the Director of Claims at Groupama Insurances who are a French mutual insurer with their roots based in the farming community. Graham joined the Group in 1995 as Head Office Claims Controller dealing with major and complex losses. He has since held a number of senior claims management positions and, in 2004, was appointed to the position of Director of Claims. His key responsibilities include the technical integrity and service delivery within the Groups' claims centres. Graham has participated in a number of market initiatives and is currently a member of the ABI HLG. In addition he has already served on Civil Justice Council Sub Committees particularly in the area of costs.



David Greene is a solicitor. He qualified in 1980. He was a member of the Civil Procedure Rule Committee between 1997 and 2002. He then joined the Civil Justice Council in 2002. He is Chair of the Housing & Land Committee of the Civil Justice Council. He is on the Housing Dispute Resolution Working Group established by DAC. He is on the editorial board of the Green Book ('Civil Court Practice' Butterworths), author of titles in the Atkins Court Forms series, contributor to Civil Litigation Handbook (Law Society), author of 'The Civil Procedure Rules' (Butterworths).

Mark Harvey is the partner in charge of Product Liability litigation at Hugh James in Cardiff. He has obtained compensation for victims of defective consumer products including both pharmaceuticals and medical devices. He represented victims of many major travel accidents of the last twenty years as well as the first rugby player to successfully sue another for injury occurring during an international rugby match. He is a Fellow of the College of Personal Injury Law, a UK Governor of the Association of Trial Lawyers of America, and Vice-President of Cardiff Law Society. He writes widely on civil litigation.

Graham Jones is a Designated Civil Judge for South and West Wales. He was educated at Porth County Grammar School and St John's College Cambridge. He was admitted as a solicitor in 1961 and was in private practice, Cardiff, civil litigation and advocacy until 1985. He was President of Associated Law Societies of Wales from 1982-1984. Graham was a member of the Lord Chancellor's Legal Aid Advisory Committee. He was appointed Deputy Circuit Judge in 1975, Recorder 1978 and Circuit Judge (assigned to Wales and Chester Circuit) 1985. Resident and Designated Judge Cardiff County Court 1994-1998; Designated Civil Judge Cardiff 1998-2000, South and West Wales 2000-; authorised since 1993 to hear TCC cases and Mercantile cases since 2000 and to sit as Judge of High Court Senior Circuit Judge since 2002.



Karl King

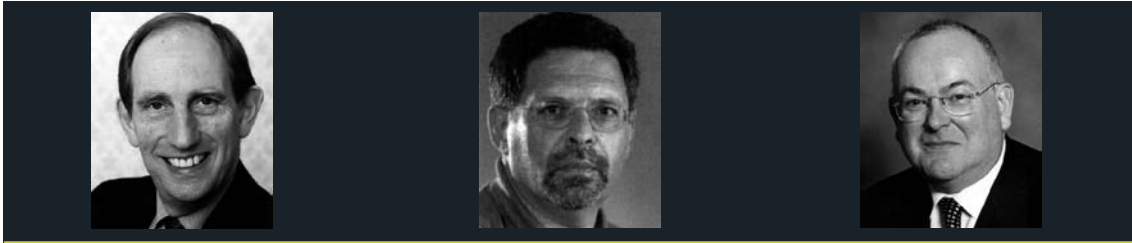
is a Barrister practicing from Hardwicke Chambers where he is head of Housing. He is Vice-Chairman of the Bar Councils Race and Religion Committee. He is a past member of the Bars Professional Conduct and Complaints Committee, is chair of the South Eastern Circuit Minorities Committee and has been appointed as a Recorder.

Vicky Ling

has over twenty years experience in the advice sector as an adviser, manager and currently as a management committee member of Lewisham Citizens Advice Bureaux Service. Vicky was amongst the first staff appointed by the then Legal Aid Board to implement its Quality Assurance Standard. Since 1995 she has worked as a consultant on different aspects of quality management and LSC contract requirements with voluntary organisations (including Citizens Advice) and over 150 firms of solicitors.

Nicola Mackintosh

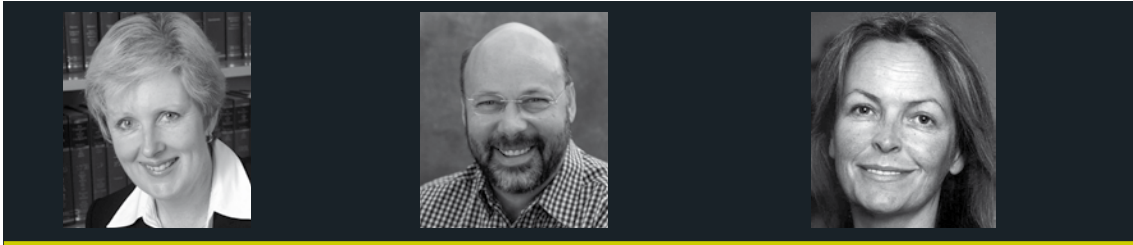
is a partner at Mackintosh Duncan solicitors, established in 1999; she is a member of the Law Society's Mental Health and Disability Committee. She has been involved in many of the test cases in the field of public law, community care/health law and incapacity law. She is regularly involved in 'best interests' cases concerning vulnerable adults and cases concerning access to health and community care services for disabled people and their carers, including hospital and care home closures. She was Legal Aid Lawyer of the Year (Social Welfare Law) 2003.



Michael Napier CBE, QC is a solicitor and senior partner of national law firm Irwin Mitchell. In 2000 he was President of the Law Society and is currently the Attorney General's envoy for the national co-ordination of pro bono work. As a practitioner, after several years as an advocate in crime, mental health, employment and human rights law he has specialised in personal injury law and is a former president of APIL. He has been closely involved in the civil justice reforms particularly conditional fees and the access to justice legislation. He is an accredited mediator.

Professor John Peysner is a Solicitor and Professor of Civil Justice at Nottingham Law School. He has edited 'The Litigator' and was founding Course Leader of the LLM in Advanced Litigation. He has seventeen years experience in litigation practice, including Law Centres, Legal Aid and latterly, defendant Medical Negligence. He has conducted research on case management, costs, civil procedural systems, consumer attitudes to solicitor's services and testing in house against contracted legal services. He was a member of the Lord Chancellor's Committee on Claims Assessors (The Blackwell Committee) and is editor of the Law Society's 'Civil Litigation Handbook'.

Monty Trent has been a District Judge since 1992. He practised as a sole practitioner and later in partnership as a senior partner in Barnett Alexander Chart, specialising in construction and family law. He has a keen interest in IT and has been closely involved in training and supporting judges in the use of Information technology. He is a founder member of the CJC and now sits on its Executive Committee.



Janet Tilley

is a Solicitor and Joint Managing Partner of Colemans-ctts Solicitors specialising in Claimant Personal Injury Law with particular expertise in Road Traffic Accident Claims. She is a former Chairman of the Motor Accident Solicitors Society (MASS) and chaired the MASS RTA Protocol Committee for a number of years. She is a current member of the Bodily Injury Claims Managers Association (BICMA) with a particular interest in Rehabilitation and Chairman of the Civil Justice Councils Rehabilitation Rules Group.

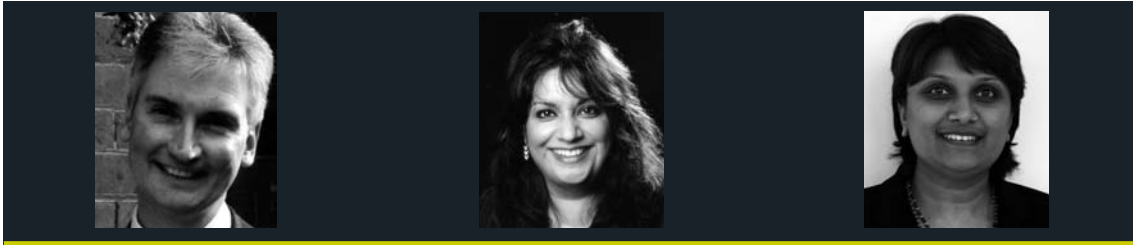
Tim Wallis

is solicitor and mediator and a Partner with Crutes Law Firm. He joined Crutes in 1976 and became a Partner in 1981, Joint Managing Partner in 1995 and was Senior Partner/Chairman 2000-2005. Initially a claimant lawyer for trade union members, he subsequently specialised in defendant civil litigation, mainly for insurers and also NHS clients. He is a member of the Civil Justice Council Executive Committee and Chair of the ADR Committee. Tim is a former President of the Forum of Insurance Lawyers (FOIL), former member of Civil Litigation and ADR Committees of the Law Society. Trained as a mediator in 1994 and researched ADR in USA, lectures on ADR and contributes to Sweet and Maxwell's "The Litigation Practice" (section on ADR).

Laura Wilkin

is a Partner with Weightmans where she heads the Knowhow and Best Practice Division. She has 15 years experience in defendant litigation practice and is Lobby Officer for FOIL, the Federation of Insurance Lawyers. Laura has recently been appointed to the Courts Board and was formerly a member of the Editorial Board of the Journal of Personal Injury Litigation.

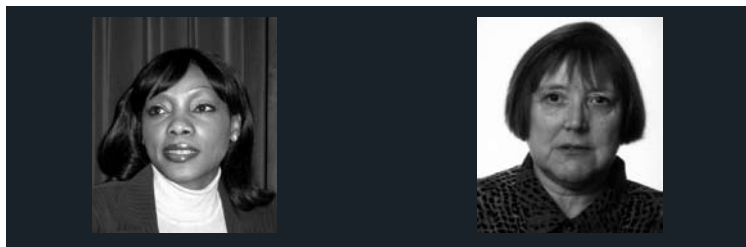
The Secretariat



Robert Musgrove is Chief Executive of the Civil Justice Council. He has worked in the administration of the civil justice system for nearly twenty years and has practical experience of the operation, planning and financing of the court system. He has been Head of Project Management for the Access to Justice Reforms in the Lord Chancellor's Department, and also the Civil Justice Reform Research and Evaluation Programme Manager.

Anthea Peries Previously worked in the Law Commission and joined the Civil Justice Council Secretariat as General Office Manager in October 2006. She has worked in the Department for Constitutional Affairs for number of years and her experience has ranged between HR, Information Technology, Facilities and Project Management. She is also a graduate member of the British Psychological Society.

Jaswanti Kara joined the Civil Justice Council Secretariat in June 2003. She previously worked in Barnet and Central London County Courts. She is responsible for ensuring the compliance of the Civil Justice Council to regulations governing NDPBs. She also works with committees and the secretariat on policy and recruitment matters.



Kitty Doherty joined the Civil Justice Council Secretariat in October 2006. She previously worked in the Family Division and the Civil Appeals Office. She works with the committees and is responsible for the Civil Justice Council website and policy and recruitment matters.

Christine Damrell has worked for the Civil Justice Council since July 2002. She previously worked in the Civil Appeals Office where she first started working for the Department for Constitutional Affairs. Christine provides admin support to the CJC and its committees as well as the Master of the Rolls Private Office Team. She also assists with the Council's recruitment and publicity.

Contacting the Council

“Your Voice in the Civil Justice System”

The Council is your voice in the civil justice debate. It needs to hear the views of anyone that uses the system to make sure that the recommendations it makes to the Department for Constitutional Affairs are the best way of modernising the system. The Council therefore wants to hear your views about the effectiveness of the reforms, whether the procedures are meeting their aims of making civil justice quicker, cheaper and fairer, or any suggestions you have for improvement or further development. Are there particular problems that you think that the Council should be addressing? How are the reforms working in practice? What are the good and bad aspects of the reforms?

Remember that although the Council welcomes and indeed encourages your general comments on using the civil courts, it cannot comment on any individual court action or dispute, the conduct of any legal practitioner, and is unable to provide procedural advice.

Contacting the Council

Write to the Secretariat, Room E218, Royal Courts of Justice, London, WC2A 2LL or email to cjc@judiciary.gsi.gov.uk. You can also email direct to the Council Secretariat from the Council’s website.

How can I find out more about the Council?

Information on the following matters is available on the Council’s website
www.civiljusticecouncil.gov.uk

The latest issues that the Council is focussing on and current events

Summaries of Council meetings and Committee meetings

The membership of the Council and its Committees

Copies of responses to consultation papers and other documents

Copies of the Council’s annual reports



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