

**JACKSON IN PRACTICE**  
**- the new régime for civil litigation costs**

A paper for  
Property Litigation Association  
Autumn Training Day  
on Thursday, 7<sup>th</sup> November 2013

by

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Karen Walden-Smith is one of the two Specialist Senior Chancery Circuit Judges sitting at Central London Civil Justice Centre. She was appointed to this post in August 2013, having been appointed a Circuit Judge in March 2010 sitting in both civil and criminal jurisdictions. She sits as a s.9 Judge of the High Court in Chancery, QB and Administrative cases and she has also sat as a Tribunal Judge at the Upper Tribunal (Lands Chamber). She was called to the Bar in September 1990 with a predominantly property-based practice and was a member of the Chambers of Henry Harrod at 5 Stone Buildings, Lincoln's Inn, prior to her appointment to the Bench.

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## INTRODUCTION

### THE FUTURE OF CENTRAL LONDON CIVIL JUSTICE CENTRE

The move of Central London Civil Justice Centre (“CLCJC”) to the Thomas More Building to become part of the High Court campus together with the Chancery modernisation review provides an ideal opportunity for the CLCJC Chancery List to become an integral part of the Chancery Justice system. We envisage that the Chancery List at CLCJC will be dealing, in even larger numbers than present, with cases transferred from the Chancery Division which do not require the attention of a full-time High Court Judge. We believe it to be key to a sensible, effective and efficient use of limited resources that work is allocated to the correct level of judge from a very early stage.

The Chancery List currently hears approximately 250 trials a year. Those trials originate from three sources: (1) those issued in Central London, (2) those transferred in from outlying courts (CLCJC being the trial centre for London) and, (3) those transferred down from the High Court. Of the three sources of work it is our experience that it is the cases coming from the Chancery Division which tend to stand up for trial before the Circuit Judges. We believe that in future the Chancery List at the TMB could (and should if our proposals find favour) take on a greater part of the burden of the shorter and less valuable cases commenced in the Chancery Division, whether those cases are transferred down to the county court or dealt with under section 9 authorisation at TMB. We recognise that it is necessary to inform the chancery users that the Chancery List is for such work and that they should in the ordinary course commence their proceedings there rather than in the High Court. We hope that the move to TMB and adoption of new practices and systems will give the court users confidence that they can safely commence their proceedings in Chancery List of CLCJC rather than in the High Court. Chancery cases coming through the doors of the CLCJC, from whatever source, will be allocated to the appropriate level of judiciary; ie s.9 authorised Specialist Circuit Judges, other Circuit Judges, or chancery and bankruptcy specialist District Judges. Effective and pro-active case management and encouraging the use of Alternative Dispute Resolution will ensure that effective and efficient use of court rooms and judicial time. There will be 12 full-time circuit judges and 10 district judges sitting at TMB.

We are firmly of the view that the docketing of cases is very important to the best use of time. Early identification of the real issues by the docketed judge is crucial. Where the case is both docketed and costs case managed we believe that there will be an even greater reduction in the steps to trial (and the number of interim applications) because the path to trial will have been clearly laid out and the recoverable costs limited accordingly.

One of the difficulties that faces all judges, increasingly, is the number of litigants in person. Those cases are likely to take longer and a litigant can feel very agitated and concerned. It is necessary to manage those concerns. The Chancery List will benefit from the move to the TMB because it will have the support of both the CAB and the Personal Support Unit. We are also engaging with the Chancery Bar Association in order to be part of the pro-bono scheme for interim applications.

## TRIAGE

We consider the effective triage of cases to be essential. Every case that is transferred in from the High Court should be considered by one of the two Specialist Chancery Circuit Judges. Cases from the County Courts should be considered by either one of the Chancery Circuit Judges or one of the Chancery District Judges in order to determine whether it is truly Chancery Business. Any case issued in CLCJC will also be seen by one of the specialist Circuit or District Judges.

The Judge who sees the case shall list for a CMC (or Costs CMC as the case may be) for initial case management. The parties will be required to provide a case summary (agreed if possible), a list of issues and draft directions in the standard form issued by the Chancery List at Central London together with their costs estimates in Form H where appropriate.

The Judge with initial consideration of the case must determine whether it is appropriate for that particular case to be allocated to a District Judge or to a Circuit Judge and, if the latter, whether it requires handling by one of the Specialist Circuit Judges. That will be the first step in the triage. If that initial judgment is correct then the Judge who hears the CMC (or CCMC) is likely to be the Judge who both manages and tries the case: whether that is a District Judge or Circuit Judge.

Consistency is extremely important. If the Judge dealing with the CMC (or CCMC) considers, now having the benefit of representations of the parties, that the case requires a different judge then the CMC is the time for making that decision. Docketing involves greater case management by the trial judge and we consider that to be a positive step, albeit that it will be important to ensure that the trial judge has sufficient time to case manage as well as dealing with all other matters he/she is obliged to deal with.

We also support increased flexibility in the transfer of suitable cases from the High Court to CLCJC and transfer of suitable cases from the Circuit Judges to the specialist Chancery District Judges. We are much in favour of increased docketing of cases so that the Circuit Judges carrying out the Chancery work at CLCJC (including the two specialist Chancery Circuit Judges) have greater ownership of their cases – enabling them to build up a rapport with the parties and to case management more effectively. We have found that effective docketing of the lengthier cases gives rise to greater efficiencies, the ability to impose more rigorous timetables (which are then kept to) and, as a very important side-product, a greater degree of settlement.

We consider that docketing will be most useful in the longer cases and in the cases involving one or more litigants in person. The smaller (shorter/less complex) cases which enjoy legal representation on both sides are not as suitable for docketing as, in order to keep waiting times down, it is necessary to retain flexibility with listing insofar as it is possible.

The triaging and docketing of cases will also lead to a quicker turn around of paper applications (many of which are dealt with both by the Circuit Judges and the District Judges in boxwork) and ensure that any applications requiring a hearing will be dealt with more swiftly.

## LISTING

The reduction of waiting times for listing of trials (and lengthier applications) is a clear priority.

CLCJC has already made some progress in this regard by reducing the categories for listing of trials before Circuit Judges from 3 to 2. Category 1 cases are those which can only be heard by one of the two section 9 specialist judges. Category 2 cases may be

heard by the two specialist judges and other judges (including Recorders) who have been approved to sit in the Chancery List. By removing one of the categories for listing, we have increased flexibility and had call upon more judges. Additionally it is plain to us that a significant number of cases which are presently listed for trial by Circuit Judges might properly and appropriately be tried on the multi-track by the specialist chancery and bankruptcy District Judges. We have particularly in mind certain cases in the following categories of work: Trusts of Land and Appointment of Trustees Act 1996, Inheritance (Provision for Family and Dependents) Act 1975 and partnership cases.

We support increased flexibility in the allocation of cases in order that full use can be made of fee-paid deputies and chancery-ticketed recorders to deal with cases that either lack complexity or which fall within their specialist understanding. We intend to create a new list of Chancery ticketed Recorders and Deputy District Judges following the move to TMB.

CLCJC is already reviewing its listing policies (for both Chancery and general lists) and we would like to ensure that the Chancery DJs and the Bankruptcy DJs can be integrated to create a specialist team, based at the TMB, to meet the needs of the Chancery List and its users.

Our current practice is, generally, for Circuit Judges to sit on trials from Monday to Thursday, using Friday as an applications day, although occasionally Fridays are needed for trial work. To maintain our waiting times for CMCs and interim applications we need to run three Chancery applications lists every Friday (for the two Specialist Circuit Judges and one other Circuit Judge ticketed to hear Chancery matters, and in the absence of any one of those three a Chancery-ticketed recorder). Urgent applications are heard as and when necessary before trial hearings. We have introduced a protocol for Friday applications which should by now be known to all the users of the Chancery list. A copy is attached. Importantly, the email address for all skeleton arguments, chronologies etc that you want a Judge to see is [CentralLondonCJskel@hmcts.gsi.gov.uk](mailto:CentralLondonCJskel@hmcts.gsi.gov.uk) or [CentralLondonDJskel@hmcts.gsi.gov.uk](mailto:CentralLondonDJskel@hmcts.gsi.gov.uk)

Please include the title of the case and the case number in the subject box in order that it can be immediately recognised.

CLCJC will continue to operate a policy of block listing in order to be able to over-list substantially, in the expectation that a significant number of applications will settle

before the listed hearing, in order to reduce waiting times. We would aim for CMCs to be heard within a month of the direction for CMC being made and other interim applications within 6 weeks, whether before the Circuit Judges or the District Judges.

## COSTS CASE MANAGEMENT

One of the major changes to the Civil Procedure Rules introduced by the reforms of Lord Justice Jackson is the introduction of costs budgeting set out in the costs management section laid out in part II to CPR part 3.

It came into effect for all claims issued on or after 1 April 2013 in both the County Court and the High Court and applies to all cases except cases in the Admiralty and Commercial Courts, such cases in the Chancery Division as the Chancellor of the High Court may direct and such cases in the TCC and the Mercantile Court as the President of the Queen's Bench Division may direct, unless the proceedings are the subject of fixed costs or scale costs or the court orders otherwise. (CPR 3.12). The purpose of costs management is that the court should manage both the steps to be taken and the costs to be incurred by the parties to any proceedings so as to further the overriding objective. (CPR 3.12[2]).

Whatever the nature of the claim, if the case is a multi track case whether by reason of having been issued under Part 8 CPR or allocated to the multi track under Part 7 CPR, costs budgeting will apply under Part 3.12CPR unless the proceedings are the subject of fixed costs or scale costs or the court otherwise orders.

Pursuant to CPR 3.13, unless the court orders otherwise, the only party exempt from filing and serving a costs budget under Part 3.13 CPR is a litigant in person. However this does not exempt the other party from the need to file and serve a costs budget or the court from considering and setting that budget. The budget must be filed and exchanged in accordance with the date specified in the court's allocation notice sent under part 26.3(1) or, if not such date is specified, 7 days before the CCMC

The court retains a discretion that costs budgeting should not apply to a case. This discretion is unlikely to be widely exercised, otherwise it will undermine the purpose of these part of the reforms. The rules are specific and give the Chancellor in Chancery matters and the President of the QB division specific authority to make costs budgeting inapplicable to certain cases. The discretion of the court to say that costs budgeting

does not apply will only happen in the minority of cases and should be the subject of specific submissions if such an order is sought. It is incumbent on any party who wishes to make that submission to do so before the time for filing of a budget under the rules has passed. In reality, this means that in all Part 7 cases allocated to the multi track, the application/submissions should be filed before the Directions Questionnaire is due as otherwise the costs budget should accompany the Directions Questionnaire. If the court is minded to make such an order, it could for example extend the time for filing of a costs budget to 14 days after the case and costs management conference although the court is only likely to do this if the court is very likely to make an order that costs budgeting should not apply. If no such order is made, the parties ignore the provisions of Part 26.3 at their peril.

Once a defence has been filed to a Part 7 Claim, the court will send out a notice of provisional allocation and if this is to the fast track or the multi track, it will be accompanied by a notice requiring the parties to file and serve a completed Directions Questionnaire (which should have a completed Form H filed with it) and to file proposed directions within a specified period which will be at least 28 days. This date may not be varied by agreement between the parties (see Part 26.3(6A) CPR).

If the parties fail to comply with such a notice, the court will send them a further notice requiring them to comply within seven days of service and if the claim is a designated money claim, the statement of case of the party in default will be struck out without further order of the court (Part 26.3(7A) CPR). If the case is not a designated money claim and a party has not complied with the notice, the court will make such order as it considers appropriate including:

- An order for directions;
- An order striking out the claim;
- An order striking out the defence and entering judgment ; or
- Listing the case for a case management conference.

It is said that every order has a cost and in relation to these provisions, the cost for the party in default is that it will not normally be entitled to the costs of any application to set aside or vary such an order or of attending the case management conference and, unless the court thinks it unjust so to order, it will be ordered to pay the costs that the default caused to any other party. This may include the cost of attending the case

management conference although that may depend on whether one would have been listed in any event.

Costs budgets (in Form H) must be filed and exchanged by all parties as required by the rules or as the court otherwise directs. The notice served on the parties under Part 26(3)(1) CPR which requires the parties to file directions questionnaires will also require them to file and exchange costs budgets on the same date as the directions questionnaires so the parties will have at least 28 days to comply. If they fail to do so, the provisions of Part 3.14 CPR will apply – this provides that any party that fails to file a costs budget despite being required to do so shall be treated as having filed a budget comprising only court fees.

Once the court has made a costs management order, it is required to record the extent to which the budgets are agreed between the parties or record the court's approval after fixing a budget. The court will direct that the costs budget, as approved, be filed at court and served on the other parties. This may require that a specific email address be set up by the court for these but the practice may vary from court to court.

The court is also required, whether it has made a costs management order or not, to have regard to the available budgets of the parties and will take into account the costs involved in any procedural step. If a costs management order has been made, it is likely that the case will have been docketed to a named judge in which case all future interim applications should be listed before that judge. This was also one of the main Jackson reforms and will be implemented.

## CASE MANAGEMENT TO TRIAL

Proper case management including the use of an early CMC, at which the parties set out a case summary and list of issues, and, later, a PTR approximately four weeks before trial, encourages settlement. The nature of chancery litigation in particular is that it is expensive. The amounts in dispute in the cases in the Chancery List can soon be exceeded by the costs. Early settlement/compromise is therefore actively encouraged and having the court (and the judge who is to try the matter) involved from an early stage and throughout encourages the parties to consider alternatives to obtain resolution.

## ALTERNATIVE DISPUTE RESOLUTION

Effective management of cases should include some consideration of alternative resolution to the dispute (for example encouraging mediation or some other ADR). At each CMC it is intended that the judge, with the co-operation of the parties will undertake a costs/benefit analysis to bring home to the parties the risks/potential benefits of their litigation.

If there is to be early neutral evaluation then that will mean the removal of a judge from being able to hear a case. Where, as in CLCJC, there are only two section 9 judges that could cause practical difficulties with listing.

We agree that windows for trial dates, or even trial dates, should be fixed as soon as possible – at the first CMC. The time estimate for the trial should be “firmed up” as time proceeds and the parties have a clearly idea of likely length of witness evidence. There should be a degree of timetabling in order that it is known that the trial will finish (other than exceptionally) within the time set down for the trial. Any time-estimate should include appropriate reading time for the trial judge and time for writing (or at least composing) judgments which should be at least 25% of hearing time. The difficulty for CLCJC is that even where judgment writing time is given, other matters also need to be attended to so that it becomes difficult to make proper use of the judgment writing time .

CLCJC currently operates a system of telephone listing appointments whereby once the trial window is set (at the CMC) and the time estimate given the parties phone the court and receive a fixed slot for the hearing. If either or both of the parties want to change that trial date then it is necessary for an application to be made to the Circuit Judge, and it is highly likely that such an application would be acceded to. This system may not continue (in our review of listing) as it is administratively time consuming. It may be that CLCJC introduce a system that the parties are to provide dates to avoid at the CMC (or CCMC) so that a date can be fixed at that time.

## LITIGANTS IN PERSON

We consider it essential to have proper systems in place to deal effectively with litigants in person. With the removal of public funding from most areas of work there is inevitably going to be a further rise in the number of litigants who are forced to represent themselves. We consider that it is part of the duty of the judge to ensure that the procedure of the court is not so obscure as to create greater difficulties.

The current guide for litigants in person drafted by the Council of Circuit Judges is a useful document but (at 140 pages) might be considered to be too lengthy to be of use to the “average” litigant in person. The Chancery List at CLCJC is currently drafting its own concise guide for litigants in person in order to provide assistance to them (and hence to us). In addition, the guide of Asplin J for interim applications in the Chancery Division is currently in the process of being adapted for use in the Chancery Lists at CLCJC.

We are also in discussions with the Chancery Bar Association for the purpose of encouraging the new pro-bono scheme for representation to cover the Chancery List at CLCJC as well. Subsequent to the move to TMB we hope to have the assistance of both the CAB and the PSU to assist litigants acting in person.

There needs to be care in ensuring that litigants in person feel part of, and not excluded, from the court process even if assistance may be sought from the party who is legally represented to explain the case to the court. Further, there needs to be care that the represented party does not consider that it is being unfairly treated if the judge appears to be expressing greater concern for the unrepresented person. It is a difficult line to tread. Docketing and early effective and vigorous case management can be of great assistance where unrepresented litigants appear as it enables the litigant to establish a rapport with the judge and be better guided as to what should be done in progressing the trial and to be assisted as to what the central issues might be. The judge must, however, not become over familiar (particularly where there is docketing) for fear of creating the wrong impression to the represented side. We further support the suggestion that where there is a litigant in person who would normally be required to provide the bundles and draw up the orders, the represented party is required to undertake those steps but is properly compensated for the additional cost.

Litigants in person are not required to file a costs budget (Part 3.13 CPR) but the other party is. This is relevant as there have been occasions when the represented party has undertaken steps which are normally the responsibility of the other party e.g. preparation of trial bundles. Now that costs budgeting is being applied to the represented party, the court may wish to consider whether this should be repeated and there is a good argument for saying it should not in at least some cases.

A litigant in person is entitled to seek to recover his/her costs if a costs order is made in his/her favour. The Litigant in Person (Costs and Expenses) Act 1975 applies and the current hourly rate is £18.00 per hour. This is subject to the provisions of Part 48.6CPR which contains the rules which apply if a court orders the costs of a litigant in person to be paid by another party.

The costs allowed to a litigant in person must not exceed two thirds of the amount which would have been allowed if the litigant in person had been legally represented, apart from disbursements.

The litigant in person may recover in respect of payments:

- Reasonably made for legal services relating to the conduct of the proceedings; and
- The cost of obtaining expert assistance in assessing the costs claim.

Some litigants in person already use Cost lawyers/Cost draughtsmen to assist them in drawing a bill of costs for detailed assessment and sometimes for representation at the detailed assessment hearing. With the number of fast/multi track trials in which at least one party is a litigant in person set to increase, this use is only going to increase.

Some litigants in person will also obtain some legal advice during the course of a case. If possible, this should be encouraged at the beginning of a case and before issue if possible. Unfortunately, whilst some litigants in person can see the benefit of this if it is suggested to them by the court, others decline to do so as so little free advice is available and otherwise they are unable to afford to pay for this.

When representing a party against a litigant in person, the approach by solicitors needs to be different. The new emphasis on strict compliance with court orders can only assist in this. Some litigants in person are both intelligent and articulate and take a lot of time

and effort to comply with court rules and court orders. Others have more difficulty in doing this and it can be for a variety of reasons, not least of which is an absence of any legal knowledge or understanding as to what might constitute a cause of action or defence. The courts will have to show some lenience in so far as the drafting of statements of case is concerned but it is essential for the court to be able to case manage a case meaningfully for the essential facts relied on to be set out. It remains to be seen whether this may result in more cases being struck out at an early stage.

Once statements of case have been served, the case will move on to the filing of directions questionnaires. These are required to be sent by the court to a litigant in person, but not to the represented parties. They may be difficult for a litigant in person to complete fully as some of the language may be meaningless to them.

Disclosure can be a difficult concept for litigants in person and many would struggle with electronic disclosure. What is often found is that they do not request inspection from the other party, not even by requesting copy documents and this can leave them at a considerable disadvantage later on in the case when they either have themselves to prepare bundles or they receive a bundle from the other party and see these documents for the first time. This can lead to a late application to adjourn the trial. It would then help the other party if they could show the court a clear and timely letter sent to the litigant in person with that party's disclosure setting out that if there are any documents in that disclosure which the litigant in person does not have, they may wish to request a copy. If the letter pointed out that some/all of the documents disclosed would be included in the trial bundle and that it would not be a ground upon which the court would be likely to adjourn the trial if such an application were to be made, that would assist further.

In addition, the requirement under Part 31.5(3) CPR for the parties to each file a disclosure report 14 days before the first case management conference and then not less than seven days before the first case management conference discuss and seek to agree directions for disclosure is likely to prove challenging for many litigants in person and therefore for the solicitors acting for the represented party. However the rules do not exempt litigants in person from compliance with any of the CPR (save for filing of a costs budget) and they must comply with them.

Witness statements can vary enormously when drafted by litigants in person. The judicial template does have directions for these where a detailed explanation for litigants in person is required. It is in the following form, which is very useful.

- Witness statements must:
  - Start with the name of the case and the claim number;
  - State the full name and address of the witness;
  - Set out the witness's evidence clearly in numbered paragraphs on numbered pages;
  - End with this paragraph: 'I believe that the facts stated in this witness statement are true.' (or words to that effect); and
  - Be signed by the witness and dated.

Further difficulties arise if the litigant in person either has literacy issues or requires a translator where tailor made directions will have to be given.

However practical problems will arise and additional time may need to be afforded when the directions are made.

Experts can provide an insuperable problem for many litigants in person in that they have no idea how to find a suitable expert or to instruct them, have no idea what documents they will require or how to get them e.g. hospital records, plans etc; they cannot afford the fees of the expert and there is no fee exemption, some experts refuse to accept instructions from litigants in person at all and litigants in person cannot ask meaningful questions of the other party's expert once that report is served. Prior to 1<sup>st</sup> April 2013, some of these now litigants in person would have been eligible for legal aid and so their solicitors could obtain these reports but that is no longer the position in most cases.

The position when a single joint expert report is ordered is not much simpler as the same issues as to instruction and payment arise. If the other party is a large corporation, the court might consider directing that party to pay the expert's fee initially but it would be subject to any final ruling on costs at the end of the trial. In other circumstances, it might not.

If an expert is then required to attend the trial, the issue of payment arises again.

At trial, many litigants in person will find the procedure bewildering and the rules of evidence incomprehensible. The concept of cross examination is difficult to grasp and conducting it even more so. The same can be said of submissions and skeleton arguments.

The conclusion is that the increase in the number of litigants in person will prove time consuming for the courts and the legal representatives of other parties. All I would suggest is that realistic time for each step in a case is given so that litigants in person can be expected to comply. If they fail to do so, unless orders can be made on a without notice basis and in some cases this will result in the litigant in person's case being struck out. However if the higher judiciary do support robust but fair case management orders made at first instance, they will stay struck out.

It is also expected that the courts will see more parties attending with a McKenzie Friend and it can be important to establish exactly what role they are playing as ultimately it is a matter for the judge as to the extent of the involvement of that McKenzie Friend.

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## PROTOCOL

### CHANCERY APPLICATIONS, CASE MANAGEMENT CONFERENCES AND PRE-TRIAL REVUES AT CENTRAL LONDON COUNTY COURT

1. Chancery applications, including applications for interim remedies, will be dealt with by the Chancery List judges at Central London County Court on Friday of each week; save for urgent applications which will be dealt with as and when necessary.
2. Part 23 of the CPR contains the rules as to how an application is to be made. If an application is being made in existing proceedings it should be made by application notice in accordance with the rules.
3. All case management hearings in Chancery cases, including case management conferences and pre-trial reviews will also be listed for hearing before a Chancery List Judge on Friday of each week.
4. Each application and case management hearing must be accompanied by a realistic time-estimate by the parties. If the parties give an unrealistic time-estimate of the hearing then the judge has a discretion to list that application or case management hearing at the end of the Friday list or to remove it from the list altogether and relist it on another occasion with a more appropriate time estimate.
5. A draft list of all applications and case management hearings to be dealt with by a specified judge on the Friday of any particular week will be compiled by the list officer for dissemination among the Chancery List judges by no later than noon on the Monday preceding the Friday list.
6. By no later than noon on the Wednesday preceding the hearing on Friday, the file for that hearing will have been located and provided to the specified judge by the office and/or the judge's own clerk.
7. The parties to any application or case management hearing must provide, by no later than 4pm on the Wednesday before the Friday listing, copies of a skeleton argument, list of issues, chronology (if appropriate) and proposed directions (drafted in accordance with the Chancery List standard directions known as MT3CHY which can be found in the Chancery List Guide which can be found at  
<http://www.justice.gov.uk/downloads/courts/chancery-court/chancery-business-central-london-guide.pdf>).  
The skeleton argument, list of issues, chronology (if appropriate) and proposed directions are to be filed with the court by using the email address [CentralLondonCJskel@hmcts.gsi.gov.uk](mailto:CentralLondonCJskel@hmcts.gsi.gov.uk) even if the documentation is also sent directly to the judge or judge's clerk on a reserved matter.
8. If the parties fail to provide the necessary documentation in time then the judge has a discretion to list that matter at the end of the Friday list or refuse to hear the application or case management hearing and re-list for another occasion.

9. By no later than noon on the Thursday before the hearing on Friday, the specified judge will have checked that the file is available and that the papers are in order.
10. If the papers have not been filed then the judge will direct his/her clerk to contact the parties and/or their legal representatives for the provision of any missing documentation including case summaries, skeleton arguments, chronologies (if appropriate) and proposed directions.
11. On the day of the Friday hearing all parties and their representatives will be asked to come into court before the judge sits.
12. The judge will run through the list and call on each of the matters in turn so as to enable the judge to establish the identity of the parties, their state of readiness, their estimates of the duration of the hearing and, where relevant, the degree of urgency of the case. On completion of this process the judge will decide the order in which the matters will be heard and will give any other directions that may be necessary at that stage. If parties require further time for the purpose of resolving issues then the judge is to be notified of that fact and their matter may be stood out temporarily with permission to mention it at a convenient moment during the course of the day.
13. Sometimes cases may be released to another judge or if the case is likely to take longer than court time will allow, be given another fixture.
14. After the hearing, if directions have not already been agreed or a draft approved by the judge for immediate sealing, the applicant, or the Claimant in a case management hearing, will provide to court by no later than noon on the following Monday a draft order which has been approved as accurate by the other party or parties by filing the draft order with the judge's clerk or as the judge may direct on the day.
15. Once approved by the judge, that order will be sealed and sent out by the court.

His Hon Judge Dight

8 May 2013