

Assignment for English Legal System

a) Explain and comment on the main reforms made to the civil justice system after the Woolf Report.

It is essential to reform the legal system in order to maintain the contemporary and evolving society – without which the system cannot survive. Legislation made in the early nineteenth century was found to be unfit due to the rapid progressing society, however, the fact that laws appear out of date does not necessarily mean that they will technically cease to apply; such legislation still stands valid until it is repealed.

During the power of the Conservative Government, Lord Woolf was appointed to carry out an extensive review of the civil justice system, which was created to resolve disputes between companies or individuals who felt that their rights had been affected. In July 1996, after two years of intensive research, the *Access to Justice: Final Report* was published by Lord Woolf in which he stated that the civil justice system should:

- (a) be *just* in the results it delivers;
- (b) be *fair* in the way it treats litigants;
- (c) offer appropriate procedures at a reasonable *cost*;
- (d) deal with cases with reasonable *speed*;
- (e) be *understandable* to those who use it;
- (f) be *responsive* to the needs of those who use it;
- (g) provide as much *certainty* as the nature of particular cases allows; and
- (h) be *effective*: adequately resourced and organised. (Lord Woolf Report)

As a result of the review made by Lord Woolf, he was able to conclude that the current system had failed to achieve all of the above goals. The flaws that were identified in the civil justice system, by Lord Woolf, were that the costs often went beyond the value of the actual claim and the process of bringing cases to a conclusion was slow. There was also a lack of equality in the sense that wealthy litigants held more power over the ‘under resourced’ litigants and there was uncertainty in forecasting what costs litigants would face or how long the matter would last. The whole civil justice system appeared to be unbalanced and unorganised.

Lord Woolf described his report as ‘a new landscape for the civil justice for the twenty-first century’. Many of the proposals made in his report received support from the senior judiciary, the Law Society, the Bar and consumer organisations and therefore it was expected that many of the proposals would be implemented. The responsibility for bringing the reforms into effect was passed to Sir Richard Scott, who was appointed as Head of Civil Justice in January 1996. The implementation of the first stages of the Woolf report was set out in the Civil Procedure Act 1997. However, after set backs caused by the new Labour government, it was not until April 1999 that the proposals within the Woolf report were fully implemented.

The ‘main reform’ made, as a result of the Woolf report, was the three track system; small claims track, fast track and multi track. The small claims track deals with claims of up to £5,000, whereas in 1973 the financial limit was only £75. This excludes claims made relating to personal injury which has a threshold of £1,000. All small claims are made to the county court and are usually dealt with in one hearing or by means of a ‘paper disposal’. As a result of the Small Claims Court the costs have now reduced and judges are involving themselves more by questioning parties. Also, claims for costs of solicitors made by winning parties are no longer accepted.

The fast track system is used for simple dispute claims of £5,000 to £15,000 and will involve a trial, usually limited to three hours or one day at the very most. The whole process takes place in the County Court and is dealt within 30 weeks as opposed to an average of 80 weeks, which was previously the case. The expert opinions provided are confined to written reports; however, the parties are able to forward written questions to them. Both parties are restricted from producing unexpected evidence,

which saves time and enables the courts to deal with the matter more summarily. The fast track claims are originally addressed in the County Court, however, if matters become more complex then they may be referred to the High Court.

The multi-track system deals with more complex claims and issues relating to public importance. This system deals with claims above £15,000. All claims worth less than £25,000 are dealt with in the County Court, however, if a claim exceeds the amount of £50,000 then it is addressed in the High Court. If claims are in the middle of £25,000 to £50,000, then the courts will decide who should deal with it based on the complexity, for example, if the claim is relatively straightforward and does not hold any issues of public interest then the matter could be dealt through the County Court. A case may be referred to the County Court by the High Court or vice versa depending on the complexity of the matter and regardless of the amount involved.

The implementing of the above systems has significantly reduced the costs and saved time for both the courts and parties involved, which has enabled the civil legal system to achieve the overriding objective set out in the **Civil Procedures Rule 1999 s1.1**. However, despite the fact that such reforms have shown progress in favour of the courts, a survey displayed that 96% of lawyers were dissatisfied with the service provided by county courts. They felt that they were not able to litigate cases cost effectively, as the reform had intended, due to the lack of assistance within the administration of the courts, such as not being able to obtain urgent orders or contact them over the telephone.

Overall, the developments made to the civil justice system subsequent to the Woolf report have proven to be predominantly effective.

Quickfix Ltd has separate contracts with two companies, Roughs Ltd and Stokes Ltd, to purchase goods. Roughs have failed to deliver some of the goods and it has cost Quickfix £10,000 extra to replace these items and they wish to claim the £10,000 from Roughs. Stokes has delivered faulty goods and Quickfix wish to claim £80,000 from them.

(b) Advise Quickfix on the type of court and procedure likely to be used for each of their claims

In light of the facts, I would first of all advise you to attempt to resolve matters by communicating with both companies. If this proves unsuccessful then correspond with both companies notifying them of your intention to take matters to court unless they respond within 7 days. On assumption that both companies have not responded to your notification, you may then proceed with the matter to court.

In respect of the case against Roughs Ltd (the defendant), as the amount being claimed is £10,000, you (the plaintiff) will need to refer the matter to the County Court by applying through the 'fast track' process, as this deals with claims from £5,000 to £15,000.

Once the case is filed in court, the defendant will be served with a notice within 14 days. They then have the same amount of time to respond as to whether they intend to defend the matter or settle out of court. If the defendant is intending to defend the claim then they must submit the grounds of defence to the courts within 14 days. The court will then serve both you and the defendant with an N150 form, which is known as the 'Allocation Questionnaire' and contains particulars of the claim. This is also given a strict deadline of 14 days. These formal procedures summarise the facts of the claim and legal foundation as well as the remedy being sought and assists the Judge in deciding whether the fast track will be appropriate.

If you and the defendant are in agreement then you can use the allocation questionnaire to request for the proceedings to be 'stayed' for a period of one month. If the judge agrees to this then you will receive an order, which will state when the claim is due to end. During this time you both can attempt to find an alternative dispute resolution by communicating directly with each other or through an expert, mediator or arbitrator. If the matter has not been resolved and you wish to pursue the matter then you must advise the courts accordingly.

If you would like further information from each other, then you can do so by completing a N265 form, which is known as 'List of Documents: standard disclosure'. You will then have to produce a list of all the documents that you intend to use in relation to the action, as will the defendant. If either of you wish to view the material listed then you may do so, this is known as the 'inspection' process.

Although you (and the defence) have an opportunity to obtain expert reports or witness statements, I feel that this is not necessary for you in this matter. However, if you feel that you would like to obtain expert advice then make sure that the judge has allowed such evidence, otherwise you will be liable for all the costs incurred.

Once the judge has decided that your case falls under the fast track procedure, then you will receive a N154 form notifying you of this decision. This form provides the Judge's directions, which will help you to prepare your case for trial. The directions will include a deadline for the completion of a 'listing questionnaire' and states that there will be a period of no more than 3 weeks in which a date for the trial of your claim will be given. The directions give a typical timetable of the whole fast track procedure.

I have set out the timetable below for your understanding.

- After allocation the disclosure and inspection process takes place - 4 weeks
- Exchange of witness statements (if any) - 10 weeks
- Exchange of expert reports (if any) – 14 weeks
- Courts will send out 'listing questionnaires' – 20 weeks
- Listing Questionnaires must be returned – 22 weeks
- Trial – 30 weeks

(timetable taken from www.courtservice.gov.uk)

The courts will forward a N170 and N171 form, this contains the 'listing questionnaire' and the timescale in which it must be returned. You must make sure that you send the questionnaire on time together with the appropriate fee. The fees payable can be confirmed by contacting the court. You will also be expected to send a copy of the listing and allocation questionnaire to the defendant, even if they fail to co-operate with you. The purpose of such a questionnaire is to allow the judge to set a timetable for trial and discuss the order in which the 'bundle' of papers will be arranged. Also, the judge will determine whether there is need for further directions.

The judge may decide to hold a 'case management conference' which involves: making sure that all directions have been followed, both you and the defendant have understood each other's case, further directions where necessary and monitoring the cost.

After this stage, a pre-trial review will be held. The purpose of this is to determine a timetable for trial, arrange who will give evidence and in what order, the content of the bundle and a deadline for it to reach the court and finally the time allowed for trial. The fast track cases are usually dealt within one day lasting a maximum of 5 hours.

After the trial has ended the court will send both you and the defendant with an order (judgement). This will have a detailed decision made by the judge together with any order of costs. If the judgement orders Roughs Ltd to pay the full amount of £10,000 plus costs but they refuse to pay then you must ensure that you enforce your judgement by notifying the courts, as they will not take action unless told to. However, there will be a fee payable to court for this enforcement.

In respect of the second claim the procedure will more or less be the same, however, as this claim is more than £50,000, it will be dealt by the High Court through the multi-track process. The High Court may decide to refer the matter to the County Court as it is relatively straight forward and holds no issues of public concern and it will be dealt with more quickly.