

The Woolf Report 1996

The civil justice system we have presently is based on the reforms recommended by Lord Woolf in his report *Access to Justice*. This report identified the problems in our previous system and also identified a number of principles which the civil system should meet in order to ensure access to justice.

The problems that were identified were:

- The process was too expensive, costs often exceeded the value of the claim
- The process was too slow in bringing cases to a conclusion
- There is lack of equality between the powerful, wealthy litigant and the under-resourced litigant.
- Too uncertain: the difficulty of forecasting what litigation will cost and how long it will last induces the fear of the unknown.
- Incomprehensible to many litigants
- It was too fragmented in the way it is organised since there is no one with clear overall responsibility for the administration of civil justice and lastly
- The process was too adversarial as cases are run by the parties, not by the courts and the rules of court, all too often are ignored by the parties and not enforced by the court.

In 1995 Lord Woolf made the following recommendations for the civil justice system:

- A civil system should be fair in the results it delivers
- Be fair in the way it treats litigants
- Offer appropriate procedures at a reasonable cost, there will be fixed costs for cases on the fast track and estimates of costs for multi-track should be published or approved by the court
- Deal with cases with reasonable speed, the timescale should be shorter and more certain
- Be understandable to those who use it
- Be responsive to the needs of those who use it
- Provide as much certainty as the nature of the particular case allows
- Be effective, adequately resourced and organized
- Litigation should be less adversarial and more cooperative
- Litigation should be less complex
- Litigation should be avoided wherever possible – people will be encouraged to start court proceedings to resolve disputes only as a last resort

Before April 1999 when reforms were made to the Civil Justice System, the jurisdictions in civil cases were as follows:

The County court only hear small claims up to £3000, personal injury cases under £50,000, and any action less than 25,000 unless transferred to the High Court. The High Court can take action over £50,000 unless transferred to the County court under High Court and Crown court Jurisdiction Order 1991. Cases in contract and tort between £25 - 50,000 could be heard in either court depending on the criteria such as:

- Financial value of the action
- Importance of the action
- Complexity of the case
- Whether transfer of the case will lead to a more speedy trial

After the April 1999 reforms, the jurisdiction in civil cases changed to the following:

Three tracks or ways of dealing with the cases were introduced. The decision on which track should be used is made by the district judge in the County Court or the Master (a procedural judge) in the High Court. The tracks are:

1. The small claims track. Used for disputes under £5,000, with the exception of personal injury cases and housing cases where the limit is usually £1,000. Small claims used to be heard in private, but now under the Woolf reforms they are heard in ordinary courts. The procedure still allows the District Judge to be flexible in the way he hears the case but the process is no longer as informal as under the previous system.
2. The fast track. This is used for straightforward disputes of £5,000 to £15,000. Fast track means that the court will set down a very strict timetable for the pre-trial matters. Once a case is set down for hearing, the aim is to have the case heard within 30 days.
3. The multi track. This is for the cases over £15,000 or complex cases under this amount. If the case has been started in the County Court, it is likely to be tried there; however it could be sent to the High Court especially for claims over £50,000. It will be heard by a Circuit Judge, who will also be expected to 'manage' the case from the moment it is allocated to the multi-track route. The judge can set timetables; it is even possible to ask the two parties to try an alternative method of dispute resolution in an effort to prevent waste of costs.

The County court would hear small claims track cases up to £5000, fast track cases up to £15,000, and multi track cases over £15,000. The High court on the other hand would hear claims which were more than £15,000, personal injury claims over £50,000. Cases less than £50,000 **MAY** be transferred to a CC unless required by legislation to be tried in the High Court.

The main features of the civil justice reforms were: judicial case management with judges taking more control over the conduct of cases, by giving directions, setting a timetable and deciding preliminary issues at a case management conference/ pre-trial review, the move away from an adversarial style of case handling, proportionality in dealing with cases, the use of IT and claimants are now able to make offers to settle (as well as the D).