



Post-Jackson: year-end school report

Francesca Kaye delivers her report on the progress of civil litigation over the last 12 months, and finds some members of the class doing better than others

It has been a year of profound change and challenge. Against the backdrop of a deep recession, stiff budget cuts from government, major legal reforms and rule changes, how has the civil justice system performed?

Arrivals: this year the civil justice system welcomed, in particular, Christopher Grayling MP as lord chancellor in September 2012 and Lord Neuberger as president of the Supreme Court in October 2012.

Departures: we saw the departure of civil legal aid in almost all areas of civil justice in April 2013 coupled with the loss of recoverable ATE premiums and success fees from defendants – also in April 2013.

“This has been a challenging year for solicitors with many changes to the syllabus”

By ‘class’ New CPR rules

This is a large group whose performance has been very mixed. Even those who have had some success have been hampered by a lack of attention to detail and a lack of consistency. Timing is an area that should be worked on. There needs to be more thought about the consequences of introducing new rules and less about speed of delivery. They would not be doing retakes this coming autumn if they had started their work earlier, applied themselves more conscientiously and listened to the advice they were given. The new CPR rules should not be afraid of seeking assistance from others. We want to see more quality over the next 12 months as they embark on the next set of new rules and amendments.

DBA regulations

The DBA regulations must try harder next time. They need to do some serious revision before their retakes and seek external help if they are to have any chance of being properly implemented. It was particularly disappointing that they did not take on board the assistance offered by the working party.

Disclosure

Disclosure has some good ideas which we hope it can continue to develop over the next six–12 months. It is too early to say whether disclosure will be wholly successful. There are early concerns about increased costs and increased front loading. Performance needs to be kept under review.

Costs management

Costs management has a serious attitude problem. Just because costs management had some pilot tests does not mean that it is always right. It needs to listen more and accept constructive criticism. Costs management and fixed costs need to think about the consequences of their actions before it is too late and some irreparable damage is done.

Case management

Case management has for a long time been threatening to improve its performance. With the help of new CPR rules it has developed a new approach called “robust but fair”. Early indications suggest that it is overly zealous in its approach but perhaps with a few more months of experience it will settle down. Overall, it is a positive change and one that we look forward to seeing develop.

Mixed success Solicitors

This is a diverse mixed-ability group who can be disruptive if not fully consulted

about changes to the syllabus. This has been a challenging year for solicitors with many changes to the syllabus. There have been lots of new groups to make friends with.

It is clear that solicitors have had mixed success with new CPR rules, disclosure and case management but have found costs management and fixed costs particularly difficult. They seem to have ignored the DBA regulations altogether.

This is a resilient group whose creativity is beginning to show through as they get to grips with the new syllabus. We should expect solicitors try to reassert their dominance over new CPR rules and costs management in the coming six-12 months. The judiciary can expect a busy and challenging time as a result.

Judiciary

Judiciary have shown a lack of consistency in recent months. As seniors they must realise this helps neither the new CPR rules nor the solicitors. They need to decide between a rigid procedural approach or a merit-based flexible approach, and then bear in mind the comments made on costs management who are particularly influenced by the judiciary’s approach.

Headteacher’s summary

It is clear that every “class” need to be more proactive and take full advantage of the help available from others, asking questions when necessary. If they do not they may all underperform to the detriment of the civil justice system as a whole. I look forward to watching their success over the next 12 months.



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