



Lies, damned lies and statistics

Francesca Kaye questions the reticence of lawyers to formally record their complaints about the court system

Every day we complain, argue, and debate on behalf of our clients. Why then, are we so reticent to operate the new unified administrative complaints procedure for HM Courts and Tribunal Service (HMCTS) introduced a year ago?

The danger in not complaining is that the system produces a wealth of statistics which testify to well-run processes, rather than highlighting the problems that hinder delivery of effective civil justice.

The aim of the new HMCTS complaints procedure is to resolve any dissatisfaction efficiently when the customer first contacts the court or tribunal to which the complaint relates. There is, we are told, a two-stage escalation process for those who are not satisfied, with complaints going on appeal to the aptly named complaints, correspondence and litigation team at HMCTS.

The first annual report for HMCTS tells us systems are in place to learn from feedback to improve the future service delivered. HMCTS chairman, Robert Ayling, says: "Many under used courts have been closed and the service has operated within the demanding budget which had been set. But at the same time the service to the public has been improved."

The number of new money claims issued in the year to March 2012 was 1,133,900. The number of complaints recorded for the same year was 'just' 17,500 – around 1.5 per cent. Make of those statistics what you will. It's easy to see as a practising lawyer why the phrase there are "lies, damned lies and statistics", whether first said by Disraeli or Mark Twain, has such resonance with us.

Delay and cost

What those working in the courts and tribunals know is that there are serious concerns day-to-day. The statistics do not record the anecdotal evidence. They do not record general dissatisfaction and poor

service unless there is some data record of that dissatisfaction. They do record data that governments and civil servants rely on to justify changes which may have been poorly thought through or poorly implemented.

An example is the County Court Money Claim Centre (CCMCC). The CCMCC aims to process all administrative work within five working days. There is nothing

"What those working in the courts and tribunals know is that there are serious concerns day-to-day. The statistics do not record the anecdotal evidence"

measuring whether what was done was the right thing. CCMCC is saying that it is achieving 97 per cent of its target currently. It says it is processing large numbers of claims, defences and judgments each week.

It does not tell us how much of the administrative processing work is caused because of delays, lost papers, lost cheques applications which would not be needed but for some administrative error.

It does not tell us how much additional work the courts that receive the files have to undertake to resolve these issues; how many additional applications, unless orders or other procedures, are needed as a result of the poor service that many practitioners claim to have experienced at the hands of the CCMCC. It does not tell us how much additional delay and/or cost parties incur as a result of this high-speed approach to moving the administrative work through the CCMCC.

Create a statistic

There are many issues surrounding the perception of poor service and actual examples of poor service at all levels of the court service, not merely at CCMCC.

We simply do not have data for the service levels of many of the courts. What is the target for each level of court for processing a court order for example and how many courts meet that target?

We need to continue to voice our concerns about the poor service that we receive from HMCTS both at County Court and High Court level. Importantly, we actually need to do something that

will create a statistic that HMCTS and government cannot ignore.

Each time there is an unacceptable delay, the wrong application is issued or not issued, documents are lost by the court not just once but several times, notices of hearings are not sent out or judgments are wrongly entered: we should make a complaint that is recorded.

While we as a profession have a huge amount of sympathy for the hardworking under-resourced court staff whose work will be made even harder in the short term by a glut of complaints, it may be the only way that HMCTS and the Ministry of Justice can be made to realise that they have now cut the resources to the courts to an unacceptable level. The poor service that is being provided is having an adverse impact on the administration of justice and access to justice.



Francesca Kaye is president of London Solicitors Litigation Association and litigation partner at Russell Cooke LLP (www.russell-cooke.co.uk)