

CONTENTS

Introduction

- Chapter 1: The Woolf Report - Access to Justice
- Chapter 2: The changes since Woolf
- Chapter 3: Administrative problems
- Chapter 4: Procedural problems
- Chapter 5: Enforcement problems
- Chapter 6: Government policy and the courts
- Chapter 7: The public's view of the county courts
- Chapter 8: The legal profession's view
- Chapter 9: Proposals for change
- Chapter 10: Has Woolf been a success?

Introduction

Having worked in debt recovery litigation since 1998, I have considerable experience of using the county courts in England and Wales. I had little experience of the system before Woolf. In some ways, it was an advantage because it was easier to discard the old rules and start afresh with the new Civil Procedure Rules (CPR) introduced in April 1999. Some lawyers, who had been in practice for many years, found it difficult to discard the old rules and adopt the new over-riding objective that forms the basis of the CPR. Maybe some lawyers have still not fully adopted the changes. In the early years after any reforms, it is always difficult to draw firm conclusions as to whether the system has improved. As more years passed, and increasing examples of the county courts not administering cases in an efficient manner, I started to question whether these were isolated incidents or whether it was a reflection of a wider problem throughout England and Wales. To give a fair representation of the county courts, I felt it was important to consult a variety of people. I have spoken to district judges, barristers, solicitors, court managers, eminent professors of law, as well as non-lawyers and members of the public who have used the county courts.

As well as speaking to those in the court system, I considered the major reports and articles that have assessed civil courts after the Woolf reforms. I tried to avoid making this book read like an academic assignment. Instead, I have attempted to convey the reality of using county courts in England and Wales. Therefore, this book hopefully has wider appeal than an academic study as it attempts to highlight what is really happening to our civil courts by reference to real examples. It is always easier to be critical about something without suggesting practical alternatives, so that is why I explore some of the changes that are feasible and necessary to put the county courts back on the path to justice.

The county courts form the backbone of civil justice in this country dealing with a variety of cases including contractual disputes, debt claims and family matters. They have existed for around 150 years and there are now 219 in England and Wales that come under the administrative control of Her Majesty's Court Service. The county courts derive their powers from statute, mainly the County Courts Act 1984. Each county court exercises jurisdiction for a particular geographical district. In certain cases, such as possession claims, the case must be heard by the county court in which the property is situated. However, in most other types of cases it is possible to start a claim in any county court in the country although if the defendant is an individual and defends the case, the claim will be transferred to the defendant's home court.

The principal judicial officers at the county courts are circuit judges and district judges. Circuit Judges are lawyers with 10 years crown court or county court experience. District Judges are lawyers with 7 years experience who try a variety of small and fast track cases, as well as other cases with a jurisdiction that often exceeds £15,000. Cases that are in the multi-track (generally cases about £15,000) are usually heard by a circuit judge. District judges are full-time judges who deal with the majority of cases in the county courts. They are assigned to a particular circuit and may sit at any of the county courts or district registries of the High Court on that circuit. A district registry is part of the High Court situated in various districts of England and Wales, dealing with High Court family and civil business. District registries are often co-located at county courts and the District Judges sitting there will case manage High Court cases. A deputy district judge is appointed to sit in the county court or in a High Court District Registry to case manage and try civil, family, costs, enforcement and insolvency cases. They try small claims and fast track cases, family ancillary relief hearings, hear interim applications and make procedural directions preparing cases for trial. Their jurisdiction is broadly similar to that of a full time district judge

although they have limited authority to deal with family cases involving children.

It is a fee-paid post open to any fully qualified and currently practising solicitor or barrister with at least 7 years' experience. There are a total of 625 Circuit Judges, 431 District Judges and 770 Deputy District Judges. The correct mode of address for circuit judges is "Your Honour" and district judges are addressed as "Sir" or "Madam".

The administrative officers at county courts are civil servants employed by Her Majesty's Court Service. County courts offices are headed by court managers and correspondence to a county court is usually addressed to this person. The administrative staff draw up and issue court documents, as well as maintaining court records. The county court bailiff is responsible for enforcing judgments and serving documents that need to be served personally. Unlike High Court Enforcement Officers, county court bailiffs are civil servants who are paid a salary whereas High Court Enforcement Officers recover their fees from the defendant.

There had been repeated efforts to reform the civil justice system before the Woolf Inquiry of 1994-1996. The law reforms of the 19th century were an attempt to make law available to all whatever their means. The Common Law Procedure Amendment Act of 1838 simplified procedure, reduced fees and shortened the length of proceedings. The County Courts were established in 1846 and provided a means by which tradesmen could recover credit without spending too much time and money. In 1930, the London Chamber of Commerce reported that although the English legal procedure was the best of its kind in the world, it was beyond the means of the majority of people. The report recommended a simplification of procedure, fixed trial dates and the acceptance of documents unless challenged. Many other Commissions and Inquiries produced reports on a

regular basis throughout the 20th Century, but all of these were partial reforms whereas Woolf was a fundamental review.

The Woolf reforms marked a considerable change in the culture by which civil litigation would be conducted. It was such a significant event that lawyers refer to 'pre and post Woolf', to signify that it was a major dividing line between two eras. This new era underwent much comment from lawyers as to whether it would achieve its overriding objective. Several years on from its implementation, is a good time to assess its impact and success.

In evaluating the success of Woolf, it is necessary to consider the motives behind the reforms. Were the reforms simply designed to improve the efficiency of the civil court system or was the real motive to reduce the number of court cases because the civil justice system had become too expensive?

After examining the Woolf reforms and their impact on the county courts, further proposals for change are suggested. These proposals should improve the prospect of the county courts being able to provide a fair result. The county courts play a vital role in providing the settlement of civil disputes and so it is crucial that their administration and the court rules that govern the cases they hear are designed to achieve justice.

Whilst I do not want others to think that I have some romantic notion that justice is capable of being achieved all of the time in every county court, I believe that it is vital that those who use the courts generally regard them as providing a fair result. As Lord Diplock said in the case of *Bremer v. South India Shipping* (1981):

"Every civilised system of government requires that the state should make available to all its citizens a means for the just and peaceful settlement of disputes between them as to their respective legal rights. The means provided are the courts of justice to which every citizen has

a constitutional right of access in the role of plaintiff to obtain the remedy to which he claims to be entitled in consequence of an alleged breach of his legal or equitable rights by some other citizen, the defendant”.

Calling this book “The Path to Justice” is an appropriate title because as the following chapters reveal, it is a crucial time for the county courts and we must take care to put the civil courts on the path to achieving a system that can deliver a just outcome to the large majority of litigants.

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