

Message from Mrs. Justice Gloster, Judge in Charge of the Commercial Court

At a meeting of the Commercial Court Judges on Monday 12 March, certain procedural concerns were raised. The Judge in Charge would be grateful if these concerns could be brought to the attention of all Commercial Court practitioners, both barristers and solicitors:

Time Estimates

The judges expressed concern as to the adequacy of time estimates, particularly in the context of urgent, without notice applications.

The Commercial Court always tries to accommodate parties seeking such injunctions, on an urgent basis, whenever that is possible. But the task would be made considerably easier, in terms of both listing, and selection of the judge to hear the application, if practitioners paid more attention to the accuracy of time estimates - not only for hearing but also for reading. An over-estimate was as bad as an under-estimate. Practitioners should remember that for the purposes of an urgent without notice application, there was often a limit to what needed to be properly brought to the judge's attention.

Practitioners should also pay more attention to the provision of realistic reading lists. If an application were truly urgent, it was often more important that the judge should hear counsel's submissions and be taken to the relevant documents, rather than being asked to spend valuable time reading everything in advance.

Citation of Authorities

The Judges would also remind practitioners of the provisions of the recent PRACTICE DIRECTION: CITATION OF AUTHORITIES (2012) <http://www.judiciary.gov.uk/Resources/JCO/Documents/Practice%20Directions/lcj-pract-dir-citation-authorities-2012.pdf> handed down by the Lord Chief Justice on 23 March 2012. They should note, in particular, the requirement in paragraph 6 that:

"Where a judgment is reported in the Official Law Reports (A.C., Q.B., Ch., Fam.) published by the Incorporated Council of Law Reporting for England and Wales, that report must be cited. These are the most authoritative reports; they contain a summary of the argument. Other series of reports and official transcripts of judgment may only be used when a case is not reported in the Official Law Reports. "

The Judges also remind practitioners of the need to state the proposition of law demonstrated by the particular authority and identify the specific passages in the judgment supporting the proposition.