



Business and Activity Plan

2009 to 2012

Introduction

In his report Access to Justice (1996), Lord Woolf recommended ‘the establishment of a Civil Justice Council as a continuing body with responsibility for overseeing and co-ordinating the implementation of my proposals’. The Lord Chancellor accepted this recommendation and Council was formed in March 1998 alongside the provisions that introduced the most extensive civil justice reforms for over a century.

At the Council’s inaugural meeting on 20 March 1998, Lord Woolf commented:

‘The Civil Justice Council is the first body of its kind. Never before has a body been set up, comprising of members with such a wide range of interest in all parts of the civil justice system to advise the Lord Chancellor on ensuring that the system is fair, accessible and efficient. This presents an unprecedented opportunity to safeguard the future of civil justice and ensure that it meets the needs of the public in the twenty-first century’.

Responding to the Needs of Users - A Review of the Civil Justice Council

In 2008, the Ministry of Justice, as sponsor Department for the Civil Justice Council, instructed Dr Jonathan Spencer CB to conduct a fundamental review of the Civil Justice Council's purpose and effectiveness. In his report “Review of the Civil Justice Council, Responding to the Needs of Users” he found:

1. The concept of the Civil Justice Council (CJC) was sound, and had been proved to be so over the last ten years.
2. A significant strength of the CJC was its extensive and diverse practitioner expertise, which meant that its proposals were generally well grounded and practical.
3. Another strength was the neutral environment it provided for contacts between the judiciary and other civil justice stakeholders.
4. Another important strength was the Council’s ability to get different interests - including very divergent ones - to sit down together and engage in constructive dialogue.

5. The Council had played an essential mediating role in resolving the ‘costs wars’ - the satellite litigation spawned by the passage of the legislation on Conditional Fee Arrangements - and subsequently on a range of other issues, mostly connected to costs issues.
6. It had broadened its range in recent years, rightly, but with mixed initial success in terms of influence. This is partly because there has been less close collaboration with the Ministry of Justice than there might have been, and partly because it has not broadened its range of stakeholder interests as much as it might.
7. Communications had for some time been a weak link, both internally with members, and more significantly with external interests.
8. There was now an opportunity to give the Council’s work programme a sharper and more strategic focus on the needs of users, rather than what has sometimes been seen to be essentially a compilation of committee chairs’ personal enthusiasms, and including a further move away from the historic central focus on personal injury cases.
9. This might necessitate some shift in the balance of the Council’s membership towards the ‘user’ interest.

It is very much with Dr Spencer's report in mind that this Business Plan is prepared. In the months following the report, the Civil Justice Council has conducted a series of internal reviews and external consultations about its purpose, functions, business, structure, and priorities, and these are reflected in this plan.

The Council has accepted the main thrust of Dr Spencer's recommendations, and has commenced a major re-structuring of its business and resources in line with the recommendations. The report itself recognised the maturing of the Civil Justice Council, having laid down its roots in its first three years of existence, and then evolved into a body with a high reputation that has addressed on an expert and practical level some of the emerging problems in the civil justice system post civil procedure reform. Dr Spencer's recommendations aim to take the Civil Justice Council to a third age of maturity which, having addressed the initial pinch points of the new civil procedure, should now stand back and “scan the horizon” of the civil justice system (to use Dr Spencer's words), perhaps in a more philosophical way, and certainly shifting the emphasis of its interventions from legal and judicial solutions, to a more consumer and citizen-based focus.

The Spencer report anticipates the Council covering more ground, undertaking a wider range of work, providing better-skilled legal and policy support to its members and committees, and developing new communications strategies. Dr Spencer also recognises that such expansion has an inevitable resource implication. Since the report was written, the prevailing economic climate has changed, and it is recognised that public sector resources across Whitehall will need to be reduced. The Civil Justice Council has no anticipation of significant additional resources from Government, indeed in real terms has seen no increase in its non-staff operational running costs for the past seven years, so a considerable challenge for the Council will be how will it give effect to Dr Spencer's recommendations, with no guarantee of additional resource?

The answer to the question above is dependent upon the willingness and hard work of the Council's unpaid membership, the ability to provide better legal and policy support to the membership, and the ability of the Secretariat to the Council to recruit and maintain sufficient quality staff to support the work.

One of the Council's main vulnerabilities is the small size of the team at the centre, and it is recognised that any form of disruption is likely to have considerable consequences for the business it is able to achieve.

Dr Spencer recognises in his report one of the Council's perennial resourcing issues, which is how does the management team provide both intellectual legal/policy support needed by its membership, as well as competent administrative management support, within a team strictly limited in terms of numbers, grades, and internal recruitment restrictions.

Against the view of Council members that the Council should make a louder noise for more and improved resources, we have chosen a more experimental approach. This is to supplement the administrative resource (which in itself will need to be restructured to better address the Council's new business needs) with a team of legal interns, who are law students willing to donate their time to support the research and legal demands of the Council's committees and projects. Initially four students will be recruited, and if successful this will lead to more internships. The Council is grateful to BPP Law School for facilitating the student intern programme.

It is with all the factors above in mind that a difficult decision had to be made. Should this business plan be a conservative estimation of what could be delivered with no additional resource, and with resource contingencies? Or should it embrace Dr Spencer's aspirations for the Council, and provide a highly ambitious set of aims, that might not be realised fully if sufficient or sustainable

resources are not forthcoming, or that a membership that has undergone considerable change is simply unable to deliver?

We have chosen high ambition, and take the view that it is better to aim high, than to settle for a lower achieving but more certain delivery.

Aiming high comes with significant risk, but one of the Council's strengths is its ability to react quickly to emerging civil justice problems, and to re-prioritise its programme to address new priorities. This is part of the Council's monitoring role, and the Council would be a far less effective body if it made static unadventurous plans, and simply “looked on” when a prevailing access to justice problem emerged, on the basis it was not featured or foreseen in a business plan.

It is highly possible that the Council will not achieve everything in this plan, or in the exact order, or to the exact timing. However the aspirations contained in this plan are well thought out, well structured, and supported by a wide range of stakeholders.

Ultimately it will be the users of the civil justice system, whether they are legal groups, judges, or consumers that will rightly determine where we focus our energies. It will be those same groups who will keep our plans under close scrutiny for relevance and priority. A fundamental review of Lord Woolf's reforms, entitled “A Vision for Civil Justice” will dominate our next three years work, supported by our new Committees and Oversight Groups. The Business Plan will reflect everything we hope to achieve, and reflect our priorities within those plans.

Specific Priorities 2009-12

- A Vision for Civil Justice

Dr Spencer's review considered where the Council's future priorities might lie. He consulted extensively with stakeholders in order to gain an understanding of how far the Council had come in terms of business development since its inception in 1999, and what direction it should set for the future.

As part of the natural evolution of the Council, Dr Spencer suggested that the time might now be right (i.e. ten years on) for the Council to engage in some broader reflection on the effectiveness of the civil justice system, whether its implementation and subsequent development was genuinely successful in delivering the purpose of Lord Woolf's reforms. He also recognised the importance of the Council's “horizon scanning” role, to bring in wider experience into evaluation and future proposals for reform.

It is with Dr Spencer's considerations very much in mind that the Council's main priority for 2009-12 is a wider-ranging review of the effectiveness of the Woolf reform ten years on (in reality this is fifteen years on as the original Access to Justice reports were published in 1994 and 1995). To this end, the following three years' activities will be focussed extensively on a new workstream: "A Vision for Civil Justice".

The programme intends to consider the extent of implementation of Lord Woolf's specific proposals; how successful they have been in delivering the goals set; the extent of compliance with the CPR as they now exist; which if any of the original goals have been either sidelined, unsuccessful or overtaken by other developments; and drawing conclusions both on the continuing appropriateness of the objectives then set, and the further measures that should now be taken to improve delivery.¹

The second main priority for the Council is to support Lord Justice Jackson's Fundamental Review of Costs. The Master of the Rolls appointed Lord Justice Jackson to conduct a judicial inquiry into the costs of civil justice amid concerns over the high cost of civil litigation in England and Wales, and the numerous technical challenges on costs that are serving to distract the courts from their primary function.

The Civil Justice Council has a long and successful history in developing practical solutions to the problems that have surrounded costs and funding since the 1999 Conditional Fee Agreement reforms. It has published a series of reports containing proposals to Government for the improvement of costs and funding mechanisms (The "Improved Access to Justice: Funding Options and Proportionate Costs" reports²), and has undertaken a series of predictable costs mediations in personal injury claims.

The Council will provide technical and expert assistance to Lord Justice Jackson's Inquiry, in particular by providing advice during the Inquiry and by holding specialised stakeholder consultation events as required.

Although the Jackson Inquiry is not a Civil Justice Council project, it is intrinsically linked to the Vision of Civil Justice Review, which will inevitably consider broader elements of costs and funding.

1 Review of the Civil Justice Council – responding to the needs of Users. Chapter 5. Content of the future work programme. Dr Jonathan Spencer. Spencer also proposed, inter alia, research on non-court based resolution of disputes (eg ombudsmen, inquisitional systems), the further practical extension of ADR methods, improvements in case management techniques, alternative funding, further promoting consumer rights, and a study of what currently inside the court system could be resolved by bodies such as Tribunals.

2 Available on www.civiljusticecouncil.gov.uk

It is unclear at the time of writing whether, and to what extent, the Civil Justice Council will become involved in the implementation of the Jackson Report. Requests from the Ministry of Justice and/or the senior judiciary for post-report consultation or practical proposals for implementation would inevitably create a significant impact on the timing for delivery of the Council's vision for Civil Justice Programme. Once such involvement is known, plans will be adjusted accordingly.

Lord Justice Jackson is due to report in December 2010.

Statutory Provision

Under Section 6 of the Civil Procedure Act, the Council is charged with:

- keeping the civil justice system under **review**;
- considering how to make the civil justice system more **accessible, fair and efficient**;
- **advising the Lord Chancellor** and the Judiciary on the development of the civil justice system; and
- referring proposals for changes in the civil justice system to the Lord Chancellor and the Civil Procedure Rule Committee, and making proposals for research.

Government Status of the Civil Justice Council

The Civil Justice Council is an advisory Non-Departmental Public Body, sponsored by the Ministry of Justice.

Constitution

The Civil Justice Council provides a diverse and representative cross section of views from those who use, or have an interest in, the civil justice system. The majority of members serve fixed terms limited to three years, and if re-appointed, generally serve no more than two terms.. Non-judicial appointments and re-appointments are made by the Lord Chancellor (presently delegated to a junior Minister), following recommendation by the Chair of the Civil Justice Council, based on an open competition. Judicial appointments are made by the Lord Chief Justice, after consulting with the Lord Chancellor.

All appointments are non-remunerative. Non-judicial appointments are subject to the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies – the Civil Justice Council is classified as a lower tier body. The Council's Recruitment Statement appears at **Annex A**.

To ensure an appropriate spectrum of experience and skills, the Civil Procedure Act 1997 enshrines in legislation a requirement that membership of the Council must include:

- members of the **judiciary**;
- members of the **legal professions**;
- **civil servants** concerned with the administration of the courts;
- persons with experience in and knowledge of **consumer affairs**;
- persons with experience and knowledge of the **lay advice sector**; and
- persons able to represent the interests of particular kinds of litigants (for example business or employees).

The Constitutional Reform Act 2005³ further provides that the Lord Chancellor must define the numbers of members within each category, after consulting the Lord Chief Justice.

Diversity

The Civil Justice Council is committed to diversity in its membership, whether that is on the main Council, its committees, or in its own staff. The appointment of a diverse membership is however difficult in the legal system. Although there have been considerable improvements in recent years, the make-up of senior lawyers and judges is still predominantly male and white. This creates particular difficulties for the Council, as this area is a major pool for prospective appointments (historically 80%, in future 50%).

The Council has advertised in publications targeted at ethnic minority citizens although it has not been historically fruitful in identifying prospective candidates with the skills and experience of the level required by the membership of the Council to enable it to fulfil its statutory functions.⁴

³ Constitutional Reform Act 2005, Sch.4, para.268.

⁴ Ministry of Justice diversity targets in public appointments are as follows: female appointees: 50%, appointees with a disability: 14% and ethnic minority appointees: 11%. This is to be achieved by March 2011.

Membership of the Civil Justice Council

The Head and Deputy Head of Civil Justice are members of the Civil Justice Council. The Head of Civil Justice is the Chair.

Dr Spencer's recent review of the Civil Justice Council recommended that the Council should remain at its present size of 25; that the Council should be composed of approximately equal proportions of members with a legal and lay (i.e. court user) background; that the number of judicial members should be reduced to 5 or 6; that 7 or 8 members should be legal practitioners; and that the other 12 or 13 members should be drawn widely from user, consumer and advice interests and from academia.

At the beginning of 2008 the constitution of Council was 10 lawyers, 8 judges, and 6 lay members (18 legal/judicial, 6 lay = 24). The Council aims to move toward the 50/50 position in two appointment cycles.

Working Methods of the Civil Justice Council

The Civil Justice Council comprises of a full Council of twenty five members. An Executive Committee of; the Chair, Deputy Head of Civil Justice, three Council members, and the Chief Executive make the management and planning decisions. Five committees and seven Oversight Groups undertake the Council's day-to-day activities. The Committees are: Injury, Property, Consumer, Dispute Resolution, and Costs & Funding. The Oversight Groups are: Pre-Action Protocols, Experts, Court Services, EU Comparative Law, Administrative Law, Business, and Debt and Enforcement. A diagram demonstrating the committee structure appears at **Annex B**.

All Committees of the Civil Justice Council are standing committees whose roles are: to monitor and provide advice to the Council on the effectiveness of existing procedures, provide representative opinion of those who use the civil justice system, and to make informed comments on Government proposals for reform of the civil justice system. The value and terms of reference of each committee are reviewed bi-annually by the Chief Executive and the committee chairs. The outcome of these discussions are then put before the Executive Committee and then the Council at its planning and induction awayday for consideration and ratification.

Oversight Groups were established in early 2009, in response to Dr Spencer's call to broaden the business coverage of the Council. They have been developed to fulfil a similar function to standing committees in terms of a monitoring role, but from a lower resource base. Oversight Groups will monitor their individual civil justice sectors, as a "virtual forum", and where they consider that there is

an issue that would require physical discussion, or the establishment of a body to investigate, review, and/or make recommendations to Government they will make proposals to the Executive Committee, and where appropriate, the Council.

Working Groups and Sub-Committees will be established on a sectoral basis, as required, to take forward specific and time-bound pieces of work. Working Groups will be essentially project-driven, for example, a working group is currently undertaking a review of pre-action protocols. Sub-Committees will be established for either short term specific monitoring and advice within the ambit of a standing committee, or fulfil a specific advisory role, for example the Fees Consultative Panel.

The Council and its committees are supported by a secretariat of civil servants.

From 2009, and again with Dr Spencer's recommendations in mind, the secretariat will be re-structured in order to bring in more legal/policy skills to provide better support to Committee Chairs and Council projects. It is intended that the skills of the secretariat be reinforced by the recruitment, on a gradual basis, of up to 12 legally-trained part-time interns. The secretariat also intends to recruit a communications manager to develop better internal and external communications (subject to resourcing).

Funding of the Civil Justice Council

The Civil Justice Council is funded by the Ministry of Justice. The Chief Executive agrees the budget with the policy sponsor in accordance with Government spending rounds, and is responsible for maintaining a financial control system.

The Civil Justice Council budgets⁵ will be 2008-9, £316,600, 2009-10, £313,000. 2010-11, £322,000.

The Chief Executive is the budget holder and accountable officer.

Budget Profile

⁵ Figures are based on the 2007 budget figure which is rolled across the three year period without account of inflation which is to be added at the standard Treasury rate. The figures represent a zero increase in real terms (ie excluding inflationary uplift) since 2002

A budget profile is attached to this plan at **Annex C**.



Civil Justice Council

Purpose, Visions, Values and Objectives

Purpose

The Civil Justice Council's purpose is to help make civil justice increasingly accessible, fair and effective, and that the interests of those who may need to use the civil justice system are central to the system.

Vision

A civil justice system that enables people to have their disputes resolved as quickly, fairly, and efficiently as possible, in a way that is proportionate to their dispute.

That people who have a legal dispute have access to early advice, viable and affordable options to resolve their disputes, the opportunity to exercise informed choice in the way they resolve their disputes.

Values

The Civil Justice Council works in accordance with the following values:

1. Awareness

The Civil Justice Council will identify priorities for potential reform that take account of changes in society, in expectations of the justice system, informed opinion and/or research, and changes in technologies.

2. Openness

The Civil Justice Council will conduct its business in a visible and open manner.

3. Investigation

The Civil Justice Council will investigate or research examples of good practice at home and overseas.

4. Consultation

The Civil Justice Council will consult with interested parties and give due weight to all submissions.

5. Fairness

The Civil Justice Council will produce reports and recommendations based on careful analysis of all the evidence, and will have regard to the interests of all stakeholders.

6. Partnership

The Civil Justice Council will work where possible in partnership with Government to achieve what is practical, while retaining its independent voice.

Strategic Objectives

The Civil Justice Council will keep under review and influence the development of civil justice through:

1. providing authoritative and principled advice and guidance to government and the judiciary, and others within the civil justice system on changes to legislation, practices and procedures to improve the working of the civil justice system;
2. exploring and promoting the scope for new approaches to dispute resolution, and public awareness and legal empowerment, in civil law;
3. recognising and responding to the diverse needs and circumstances of users of the civil justice system, by applying effective monitoring arrangements and being alert to emerging issues;

4. responding authoritatively to proposals for changes in legislation, policy and procedure initiated by others; and
5. making proposals to Government for research that are based on informed opinion and the perceived needs of users of the civil justice system.



“A Vision for Civil Justice”

**A Programme of Review and Evaluation of the Access to
Justice Reforms of 1999**

A Vision for Civil Justice

Terms of Reference

- “A comprehensive review of the outcome of the Woolf reforms. This would consider the extent of implementation of Lord Woolf’s specific proposals; how successful they have been in delivering the goals set; the extent of compliance with the CPR as they now exist; which if any of the original goals have been either sidelined, unsuccessful or overtaken by other developments; and drawing conclusions both on the continuing appropriateness of the objectives then set, and the further measures that should now be taken to improve delivery.”

Objectives

Purpose

Project 1: Research for the Vision for Civil Justice Programme

A summary analysis of Lord Woolf’s Access to Justice proposals, an account of their origin, an analysis of their transposition into the Civil Procedure Rules, or an account of where and why they were not taken forward (Paper by January 10).

A summary of the research into the Civil Procedure reforms conducted from 2000-09, a critique of the effectiveness of the research, and an analysis of any further research priorities including data acquisition recommendations (Paper by March 10).

A study of the major civil justice reforms since Woolf, with an emphasis on Commonwealth reform, and those who have studied the England and Wales experience of Woolf in detail. The study will map the major “Woolf-based” reforms (British Columbia, Ontario, Victoria, Western Australia, Hong Kong)

and analyse where these have departed from Woolf, and for what reason. The study will involve detailed discussion with the leaders of those reforms, and consider where civil justice thinking has moved on from Woolf's thinking of the mid-nineties, and how that might be relevant to the England and Wales jurisdiction today. There will be emphasis on non-court based resolution, the benefits of early intervention in resolving citizens' legal problems, the changing role of the court and the judge in civil justice, filling advice gaps, improving consumer justice, funding social policy initiatives, the development of e-justice solutions, cutting costs and delay, the fundamental problems surrounding funding claims, and the changing role of legal services. The outcome of this project would be an in-depth analysis of what from other major jurisdictions should influence the development of further civil justice reform in England and Wales (Study March – April 09; Analysis May 09- March 10; Paper by August 10).

Project 2: Specialist Analysis of Woolf by sector

To analyse the effectiveness of the CPR on a sector by sector basis, and to make proposals for reform that will improve access to justice. Sectors will include: Injury; Property; Consumer; Dispute Resolution; Costs & Funding (in conjunction with the Jackson Review); pre-action behaviour; experts; the provision of court services (including IT, e-justice, fees, litigants in person); administrative law (i.e. what should be in the court system and what should be outside it); debt and enforcement; business and commerce; and EU comparative law (June 09-July 10). Other specific sectors will include: an examination the barriers to access to justice for small and medium sized enterprises (SMEs); improving access to justice in pharmaceutical claims (Committee scoping and priorities: September – December 09; E-Disclosure Event: April 10; SME event: May 10; Committee papers in draft: June 10; pharmaceutical claims event: July 10; review of the small claims procedure: Event June 2010).

Project 3 – Consultation and Public Seminars

To bring together emerging thinking from the review and outcomes of Project 2, and to hone recommendations through stakeholder engagement. The Programme team will present a draft vision for discussion (Events October 10).

Project 4 – Writing the Interim “Vision of Civil Justice” Report

Purpose: Bringing together the research, study, mapping, analysis and stakeholder projects into the drafting of a final report (First Interim Report by December 10, second Interim Report by December 11, Final Report by December 12).



Committee Objectives and Activities

2009 to 2012

Consumer

Terms of Reference

- To promote the needs of the citizen/consumer in the civil justice system;
- To monitor existing practice and procedure in the civil justice system in terms of consumer access to justice, and make proposals to the Council for improvement;
- To promote awareness of civil justice, in particular improving access to advice, early intervention in dispute resolution, and improving legal literacy; and
- To contribute the consumer perspective to the Vision of Civil Justice Programme, including evaluation of the Civil Procedure reforms, and developing proposals for improvements to access to justice (as part of the programme).

Objectives

Activities

Civil Justice & Social Policy

Putting the consumer, citizen, victim at the heart of the civil justice system.

Meetings with stakeholders, and MOJ to discuss the various initiatives intended to improve access to justice for consumers, citizens, and victims in the civil justice system. Contributing stakeholders' views on developing better information, education, advice, use of resources to improve the confidence and ability of citizens to recognise when they need help, where to go, and how to resolve their disputes most effectively. Contributing the views of stakeholders on how to develop better dispute resolution, identifying the particular needs of disadvantaged or excluded groups. Developing better redress systems.

Output: On-going advice to MoJ

<p><u>Promoting Access to Civil Justice</u> Providing advice on long term sustainable, high quality legal services within the confines of legal aid resources.</p>	<p>As part of the Vision for Civil Justice review, evaluate, and if appropriate, develop proposals for a “Public Law Clearing House” type scheme to improve citizens’ access to publicly funded or <i>pro bono</i> legal services.</p> <p>Output: Contribution to Vision for Civil Justice report (December 2010)</p>
<p><u>Raising Awareness of civil justice amongst younger people, the disadvantaged, and in the workplace</u> To raise awareness amongst younger people about civil justice and the importance of the civil justice system. Developing legal literacy as part of citizenship.</p>	<p>Contribute to the work of the Public Legal Education Task Force (PLENET), following their report, and the Attorney General's <i>Pro bono</i> Committee, in particular provide the link between PLEC and <i>pro bono</i>. Contribute to the Justice in Schools initiative, and contribute to emerging <i>pro bono</i>, and community development initiatives including the development of section 194 of the Legal Services Act. Matching Supply to Demand Event (February 2011). Advice to the Lord Chancellor (October 2011).</p>
<p><u>Fees Consultative Panel</u> Responding to MoJ Civil Fees consultations</p>	<p>Responses are as per MoJ timetables and consultations.</p>
<p><u>Consumers and Collective Redress</u> Developing a framework for better access to Justice in collective actions.</p>	<p>Following consideration by the cross-Whitehall working group, and ministers, develop a draft Rules and legislative framework for collective actions (Response by MoJ: June 09, Framework by December 09).</p>
<p><u>Small Claims</u> Review procedure as part of Vision for Civil Justice.</p>	<p>Evaluate the effectiveness of the small claims procedure from the consumer perspective. Develop proposals for procedural reform (Stakeholder Event by May 11, Advice by March 12).</p>
<p><u>Access to Justice and SMEs</u> Review the access to justice</p>	<p>Consider whether there is an access to justice gap in relation to SMEs bringing claims. Stakeholder Event (October 09). Paper</p>

gap, as part of Vision for Civil Justice. (as part of Vision of Civil Justice - First draft by June 10).

Dispute Resolution

Terms of Reference

- To provide advice to Government and other agencies on improvements to access to justice through the development and support for the use of ADR in the civil justice system;
- To provide a forum for the consideration by stakeholders, the judiciary, and ADR providers to debate initiatives relating to the use of ADR;
- To draft responses to papers coming from Government both in the UK and Europe and from other bodies about the development of ADR;
- To provide assistance to Government and other bodies about issues – including training – relating to the use of ADR; and
- To contribute the ADR perspective to the Vision of Civil Justice Programme, including evaluation of the Civil Procedure reforms, and developing proposals for improvements to access to justice (as part of the programme).

Objectives

Activities

Promote the use of ADR through articles and conferences

Drafting articles for legal journals and publications to promote the use of ADR.

Highlighting conferences, seminars and events to members who can then report back on developments.

Developing links with other organisations promoting the use of ADR such as the Civil Mediation Council and CEDR.

Community ADR

Review community ADR schemes, and what features could be incorporated in a template.

Review community ADR schemes in existence, and make recommendations for a community ADR template (Event May 11; Paper by December 11).

ADR in Injury Claims

Promote ADR in PI claims (with Claims Mediation Council).

Develop proposals to promote a greater take up of ADR in injury claims. Working in conjunction with the Civil Mediation Council (Event May 11; Paper by December 11).

Promotion of ADR with the judiciary

Development and delivery (with the Civil Mediation Council) of ADR awareness training for the judiciary.

Output: Delivery of judicial training in accordance with timetable.

Draft responses to Consultation papers

Output: Written responses to consultation papers with advice on proposals, as per ministerial timetables.

Monitoring and assessing the impact of EU ADR initiatives (with the Comparative Law Committee). Contribute to the EU debate on ADR.

Consideration of the implementation issues following the EU Parliament's passing of the ADR Directive.

Output: Advice on implementation issues, in accordance with ministerial timetables.

Injury

Terms of Reference

- To consider and monitor current problems and proposals in the law and practice of personal injury claims;
- To make comments and proposals to the Council on the law and practice of personal injury claims that are focused practical and deliverable; and
- To contribute the personal injury perspective to the Vision of Civil Justice Programme, including evaluation of the Civil Procedure reforms, and developing proposals for improvements to access to justice (as part of the programme).

Objectives

Activities

Developing Predictable damages in lower value lower complexity claims

Consider other tariff based systems, and the bareme proposal in the EU Motor Insurance directive. Discuss with stakeholders, provide advice to MoJ.

Output: Advice to MoJ on the viability and framework for a tariff of damages (Event April 2011).

To produce a public consultation paper on costs of future care

Draft a consultation paper, publish, analyse responses, prepare instructions to care expert, model care report and benchmarks for care rates prepare advice to MoJ.

Output: Consultation paper (November 09). Analysis of Consultation responses (May 10). Draft Care Claims Protocol

(Event May 2010).

Rehabilitation Working Group
Monitoring the development
and regulation of rehabilitation
services

Considering how to make rehabilitation play a more central role in the compensation system. Providing a forum for consideration of initiatives relating to the use of rehabilitation. Undertaking activities that will promote early rehabilitation in appropriate cases. Drafting responses to papers coming from Government and other bodies about the development of rehabilitation. To provide assistance to Government and other bodies on issues relating to the use of rehabilitation within the civil justice system.

Outputs: Production of a Rehabilitation Strategy Paper. Advice on the integration of rehabilitation into a lower transactional cost scheme for lower value, lower complexity, injury claims, and developing proposals for the promotion and awareness of rehabilitation in middle value claims. Consideration of improvements in pharmaceutical claims. Evaluation of other leading jurisdictions ability to deliver better access to justice than England and Wales.

Vision for Civil Justice -
Collective Redress:
Pharmaceutical Liability

Consider whether pharmaceutical claims warrant special consideration in terms of collective claims. Evaluate fault and no-fault schemes, and any other alternative to court-based litigation. Develop an EU Judicial co-operation project with Sweden and Netherlands (Uppsala and Tilburg Universities). (Event July 10; Interim Paper March 11).

Costs & Funding

Terms of Reference

- To monitor and comment on the effectiveness of existing costs practice and procedure in civil justice system, including the provision of advice, and to make proposals for improvement;
- To work in partnership with Government officials, academics, and appropriate stakeholders to develop workable solutions to the areas of costs identified as requiring priority attention at the Costs Forum Stakeholder Events run by the CJC;
- To work in partnership with representatives of the costs “industry” to develop effective solutions to costs problems that may affect adversely access to justice, and the efficient operation of the courts or those who provide litigation services;
- To contribute stakeholder views to proposed changes in costs law and procedure; and
- To contribute the funding perspective to the Vision of Civil Justice Programme and the Jackson Review of Costs, including evaluation of the Civil Procedure reforms, and developing proposals for improvements to access to justice (as part of the programme).

Objectives

Activities

To develop an effective self regulatory model for third party funding

To undertake meetings with stakeholders, representative bodies, and officials in order to develop effective and proportionate solutions. To consult widely amongst stakeholders.

Output: Publish a voluntary code of best practice for third party funders (October 09).

Support Lord Justice Jackson's Review of Costs

Support Lord Justice Jackson's Review of Costs by providing specialist advice on subjects as required. Undertaking Big Tent meetings to address specific problems raised by Lord Justice Jackson (Events: January 09 - November 09).

Develop options papers, following Lord Justice Jackson's report.

Output: Publication of a series of papers under the ambit of "Improved Access to Justice – Funding Options and Proportionate Costs". Development of proposals January 2010-December 2010. Interim papers by March 2011. Paper to MoJ December 2011.

Develop "industry agreed" extensions to the predictable costs scheme

This existing workstream is contingent on a remit from the Jackson Review of Costs and the Government's consideration of it. If there is a remit, develop predictable costs in the fast track outside the scheme; also develop predictable experts' fees and ATE core premiums.

Output: Advice to Government and Civil Procedure Rule Committee on workable "industry" agreements to costs problems, or informed opinion on best fit solutions. Contribute opinion on the work programme of the Costs Advisory Committee, and assist as required (Agreements in accordance with MoJ remit and deadlines, estimated January-March 2011).

Review the inter-relationship between the Costs Advisory Group and the CJC in developing Predictable Costs (Paper June 10).



Property

Terms of Reference

- To consider and respond to proposals relating to civil procedure specific to housing and land cases;
- To consider existing court rules and practice relating to housing and land cases and make proposals to the Council for improvement;
- To monitor proposed and existing housing legislation for its impact on procedure and make such response as appropriate; and
- To contribute the housing perspective to the Vision of Civil Justice Programme, including evaluation of the Civil Procedure reforms, and developing proposals for improvements to access to justice (as part of the programme).

Objectives

Activities

<u>To monitor the effectiveness of existing pre action protocols in major areas of housing disputes, and propose further protocols as required</u>	Review the effectiveness of the Housing Pre Action Protocols, and make further recommendations for reforms. Advice to the Master of the Rolls and the Civil Procedure Rule Committee (March 2011).
<u>To provide advice and responses to legislative proposals, and proposals stemming from MOJ and Law Commission Reviews, and other Government</u>	Examine how courts deal with tenancy deposit scheme issues (section 214 remedy under CPR Part 8). Output: Advice to Secretary of State (Lord Chancellor) (June 10).

Departments' activities

Consider the implementation of Part 56 CPC, regarding commercial lease renewals.

Output: Advice to the Secretary of State (Lord Chancellor) (December 10).

Oversight Groups

Terms of Reference

- To monitor and keep under review discrete areas of civil justice;
- To identify any access to justice concerns to Council for consideration;
- To make reform proposals to Council;
- To keep under review any best practice guidance owned by the Council; and
- To contribute to the Vision for Civil Justice review by evaluating existing procedure, identifying “access to justice weaknesses” and making proposals for reform.

Groups

Specific Activities

Pre-action Protocols	Review of pre-action protocols by stakeholders (overseen by CJC – Review in first quarter 2010, consultation in second quarter 2010, implementation in third quarter 2010. Consideration of requests for new protocols (ongoing).
Experts	Review of Experts Code (December 10). To consider and make recommendations as to the accreditation, training, professional discipline and court control of and communication with expert witnesses (December 10).

Court Services	Monitor the resourcing of the court system in terms of its affects on access to justice (Ongoing).
EU Comparative Law	<p>Monitor the initiatives for civil justice reform being developed in the EU and its institutions.</p> <p>Consider the implications for the England and Wales jurisdiction of proposed civil justice reforms, and contribute to the reform debate to either promote or protect access to justice and common law procedure (as per EU deadlines).</p> <p>Monitor and debate key reforms in common law and Commonwealth jurisdictions. Evaluate the access to justice implications of these reforms, and make recommendations as appropriate (ongoing).</p>
Administrative law	To consider which elements of court-based civil procedure may be more effectively placed outside the immediate court system (to be scheduled).
Business	To provide an input to civil procedure reform from those who represent the interests of business (ongoing).
Debt and Enforcement	To monitor civil procedure in relation to debt and enforcement (ongoing).

Internal Project -- Communications

Objectives

- To develop a communications strategy;
- To improve the CJC website;
- To develop internal and external newsletters;
- To consider developing a CJC blog;
- To consider a pilot scheme for CJC “civil justice surgeries or seminars”; and
- To develop a model for e-based questionnaires and consultations

Specific Activities

Recruit Communications Manager (February 10).

Produce a draft communications strategy, and plans for an improved website (December 09).

Develop models and resource proposals for newsletters, blog, surgeries, external communications, and a civil justice e-forum with Australia and Canada (June 10). Implementation (July 10).



Statement on Appointments to the Civil Justice Council

2009 to 2012

Appointments to the Civil Justice Council

Appointments to the Civil Justice Council are made by the Lord Chancellor⁶ for non-judicial members, and by the Lord Chief Justice⁷ for judicial members.

Appointments made by ministers are subject to the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies⁸.

The Civil Justice Council is considered to be a Lower Tier Body in terms of application of the Code.

In accordance with the Code of Practice for Ministerial Appointments to Public bodies, the Civil Justice Council, adheres to the following principles:

Merit

All public appointments **must** be governed by the overriding principle of selection based on merit, by the well-informed choice of individuals who through their abilities, experience and qualities match the need of the public body in question.

Independent Scrutiny

No appointment **must** take place without first being scrutinised by an independent panel or by a group including membership independent of the department filling the post.

Equal Opportunities

Departments should sustain programmes to deliver equal opportunities principles.

Probity

⁶ The Lord Chancellor has currently delegated this authority to the Parliamentary Under Secretary of State

⁷ The Lord Chief Justice has delegated authority to the Master of the Rolls

⁸ <http://www.publicappointmentscommissioner.org/Publications/publication,393c55aea73.html>

Members of public bodies **must** be committed to the principles and values of public service and perform their duties with integrity.

Openness and Transparency

The principles of open government **must** be applied to the appointments process, its working must be transparent and information provided about the appointments made.

Proportionality

The appointments procedures should be subject to the principle of proportionality, that is, they should be appropriate for the nature of the post and the size and weight of its responsibilities.

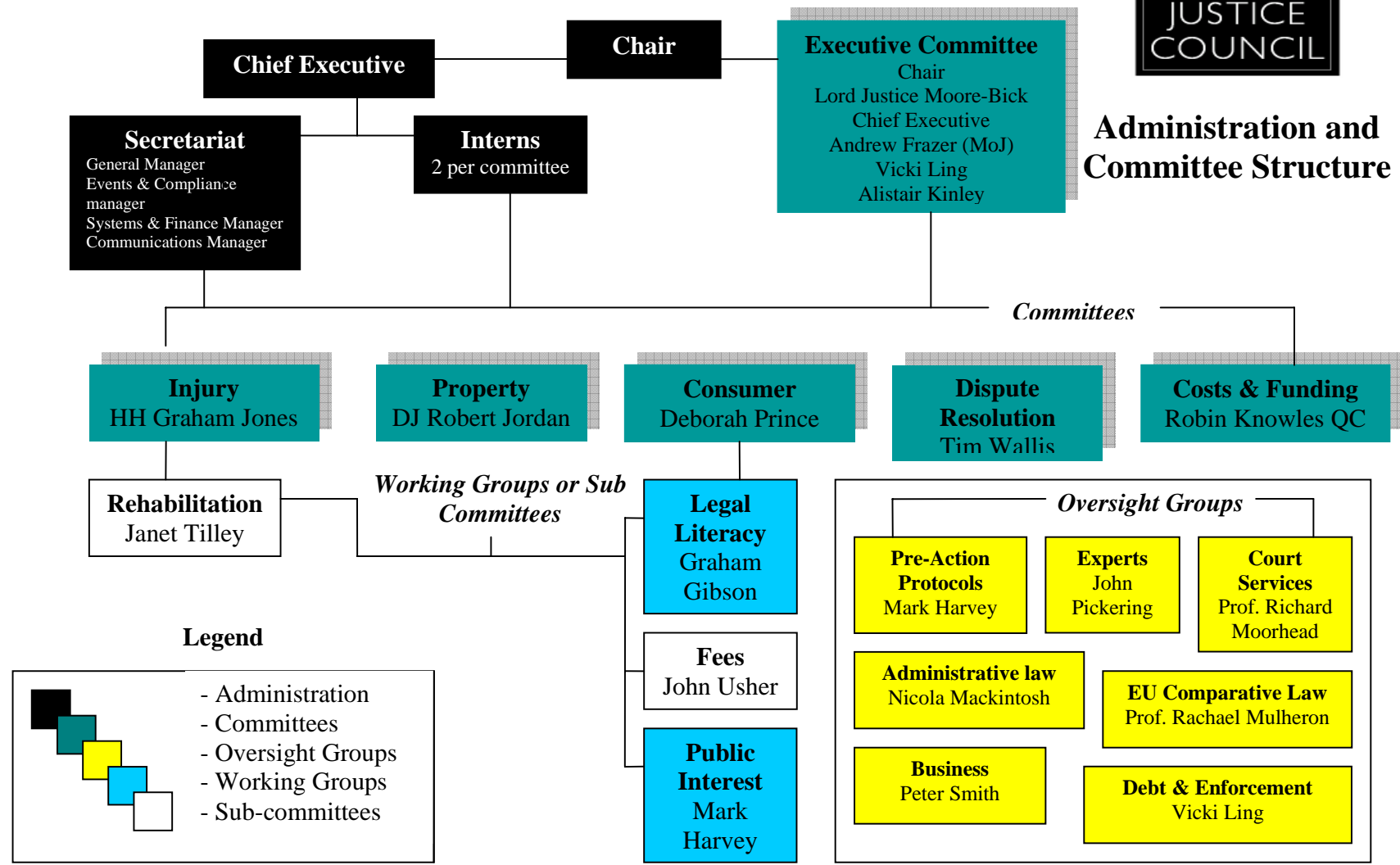


Organisational Chart

2009 to 2012



Administration and Committee Structure





Budget Plan

2009 to 2012

Budget Plan

2009-10	Apr 09	May 09	Jun 09	Jul 09	Aug 09	Sep 09	Oct 09	Nov 09	Dec 09	Jan 09	Feb 09	Mar 09	TOTAL
Meetings Council, Committees & Groups	1350	4750	2290	2950	3150	8140	1600	4750	1140	2640	5300	1940	40000
Events Stakeholder events, Forums, Consultations	9000		9000				18000		9000			9000	54000
Administration Staff costs, Recruitment, Operating Costs	21250	19150	19250	19350	18650	20650	19950	18650	19250	19150	18850	24650	238800
TOTAL	31600	23900	30540	22300	21800	28790	39550	23400	29390	21790	24500	35590	332800

2010-11	Apr 10	May 10	Jun 10	Jul 10	Aug 10	Sep 10	Oct 10	Nov 10	Dec 10	Jan 11	Feb 11	Mar 11	TOTAL
Meetings Council, Committees & Groups	2700	4750	2290	4850	3150	2040	2400	4750	2240	2640	4750	1940	38500
Events Stakeholder events, Forums, Consultations	8000	8000	15000				9000				9000	8000	57000
Administration Staff costs, Recruitment, Operating Costs	21250	19450	19250	19350	18650	18650	21950	18650	18450	19150	19250	23250	238700
TOTAL													332800

2011-12	Apr 11	May 11	Jun 11	Jul 11	Aug 11	Sep 11	Oct 11	Nov 11	Dec 11	Jan 12	Feb 12	Mar 12	TOTAL
Meetings Council, Committees & Groups	2450	4750	3290	2950	3150	1140	2400	4750	1140	2640	4750	2490	36000
Events Stakeholder events, Forums, Consultations	9000	12000		9000			18000				9000		57000
Administration Staff costs, Recruitment, Operating Costs	21850	19350	18850	19750	18650	20650	20550	18650	19150	19250	24250		239800
TOTAL													332800



Schedule of Stakeholder Events

2009 to 2012

Schedule of Stakeholder Events

2009-10	2010-11	2011-12
PI Claims Process. Event I: Outstanding Process Issues - April 2009	Vision for Civil justice Event I: Access to Justice and SMEs - April 2010	Public legal Education III: Matching Supply to Demand - February 2011
PI Claims Process. Event II: Outstanding Process Issues and Predictable Costs - May 2009	The Costs of Future Care in personal injury claims - May 2010	Predictable Damages in injury claims I - April 2011
PI Claims Process. Event III: Predictable Costs - June 2009	Vision for Civil justice Event II: Developing e-justice & e-Disclosure - June 2010	Vision for Civil Justice – First Interim Report Event - April 2011
Jackson Event I: Predictable Costs in RTA Claims Jackson Event II: Predictable Costs in Employers' Accident Claims Jackson Event III: Predictable Costs in Disease Claims [All] September 2009	Vision for Civil Justice Event III – Improving Access to Justice in pharmaceutical liability claims - July 2010	Developing ADR – community ADR and ADR in Injury Claims - May 2011
		<i>Event to be assigned</i> - June 2011
Jackson Event IV: Predictable Costs in Public Liability Claims Jackson Event V: Predictable Costs in Housing Disrepair Claims Jackson Event VI: Final submissions to Jackson Review on Predictable Costs [All] October 2009	Vision for Civil Justice Event IV: Improving access to justice through developing better procedural systems (specific sectoral analysis) - May 2010	Developing guidelines for Protective Costs Orders - July 2011
The Regulation of Third Party Fundors. Event IV: Consulting on the Draft Code - February 2010	Vision for Civil Justice Event V: Improving access to justice in Small Claims - June 2010	Predictable Damages in injury claims II (post consultation) - October 2011
Costs Forum -Implementing Jackson - March 2010	Vision for Civil Justice Event VI: Consultation and Public Seminars - October 2010	Vision for Civil Justice: Post Report Event VII (Consultation) - October 2011
		Civil Justice Council Planning Event - November 2011
Pre-Action Protocol Review - March 2010	Civil Justice Council Planning Event - November 2010	Vision for Civil Justice: Post Second Interim Report Event VIII (Consultation) - February 2012

