

Dear Member,

Following TECSA's attendance at the recent TCC Users Meeting, we wanted to draw your attention to the following points that were discussed:

1. Michael Tame and Ian Dawson (Senior TCC Clerks) said they are receiving too many unnecessary calls about hearings for half a day or less, with callers asking whether hearings were going to be in person or virtual. We are sure you all are aware that default position is that half day hearings will be virtual but given the state of flux, it is perhaps a little harsh that solicitors can be criticised for checking with the Court, but we felt we should share their view.

The position for now remains as per September's announcement that all hearings under half a day, (including adjudication enforcement) the default position is that they will take place remotely. The court will consider a live hearing in such cases only if there is a particular reason why an in-person hearing is more appropriate. The approach for longer hearings and trials will be a matter for the judge on the facts of each case. Remote and hybrid hearings may cover a full menu of options, from proceedings that are fully remote and accessible down to proceedings to which remote access is afforded to a single participant, everyone else being in court.

2. The Third Edition of the TCC Guide should come out by the end of this term. The Second edition has been with us since 2015 and is badly in need of the update. The new Guide will align more with Business and Property Courts.
3. As some of you may know TCC enforcement in London for less than £1m will (unless there is good cause) be transferred to the Central London County Court. But we understand that waits there are currently three months plus.

An alternative for those <£1m is to go to a District Registry and the Judges in Birmingham, Manchester and Newcastle have all said they could take business. So please bear this in mind, no client wants to wait months to enforce.

We were reminded to always attach a cover letter when uploading to explain importance, exceptional case etc.

4. We were told that new procurement law will shortly be passed in place of EU law and transitional provisions etc, and the TCC will issue a bulletin. It has apparently been very busy with procurement cases, many government PPE related etc
5. Mrs Justice O'Farrell's summary of 2021 TCC business is attached. We heard that:
 - There has been an Increase in the number of hearings during the 'lockdowns' and the previous year in that same period.
 - Excluding 5 trials, 262 hearings reported in 2021, in comparison to the previous year with 250.
 - CMC's have doubled to 109
 - Year on year increase in the number of claims in the TCC by 8%
 - More trials are going off due to settlement
6. Finally Mrs Justice O'Farrell expressed a continuing concerns surrounding CE File use and users;
 - Applications being incorrectly filed under the wrong headings
 - Skeletons and submissions being uploaded without confirming receipt
 - Documents not being processed on CE File in time for hearings as processing documents does not happen immediately
 - Users need to recognise the limitations of CE File

- Lack of efficiency from parties as they are issuing applications without indicating that a discussion has been had with the other parties in the claim
- Parties need to tell the court in advance how many applications (if more than one) are to be heard in one hearing to get accurate estimates for judicial reading time and for the hearing itself to avoid adjournments
- Parties providing unrealistic reading time for judges a day before the hearing without notice
- Parties trying to put back hearings on basis of things like taking cat to the vet or going on holiday !

The Civil Litigation Subcommittee of TECSA hopes you will find this update useful

Kind regards

Caroline
Chairman of TECSA