

Making IT harder



Kerry Underwood says that electronic filing of tribunal claims has made legal life more difficult

EVERYONE AGREES THAT GREATER USE OF information technology, specifically electronic filing and serving, could dramatically improve and speed up the litigation process. Information could be shared, court documents accessed easily and quickly, and similar cases could be consolidated or heard by the same judge. Test cases could be identified and fast-tracked. An information bank of cases and awards could be made available to all. Quality and efficiency would rise while costs and court fees fell.

US lawyers love IT

Lawyers are not usually at the forefront of such change and in the US it has been necessary to make electronic file-and-serve compulsory. Otherwise lawyers would not use it. Having been forced to adopt the system, they love it. The Woolf Report made great play of the need for a technological revolution in the courts. That and fixed costs were the key parts of Lord Woolf's proposals. Until recently, both have been largely ignored, although the senior judiciary supports both concepts enthusiastically.

Clearly law firms needed some encouragement and leadership from the Department for Constitutional Affairs and the court system, so being primarily an employment lawyer – not that we specialise – I was delighted when the Employment Tribunal Service grasped the nettle. Mandatory claim and response forms available on its website and voluntary electronic filing.

Trainee technology

My two trainee solicitors were duly trained in the art of electronic filing and we now had a fully electronic employment unit: case reports online; textbooks online; filing online. So how is it going?

Senior trainee Vicky Tester takes up the story:

"Completing the employment tribunal application form online was tedious and time-consuming, with many glitches. The confirmation email, confirming receipt of

the application, was sent to my client even though I requested that all correspondence be sent to me. I emailed the tribunal requesting confirmation of receipt but my emails were ignored. Only after numerous phone calls was I able to get confirmation that the application had been received. It was much more time-consuming than using fax or post."

Junior trainee Elish McKee had a more worrying time:

"My career flashed before my eyes when, with Kerry in South Africa, his partner Robert Males came in to tell me that my first employment tribunal application had been rejected because I had not used the prescribed form, we were out of time to re-apply and a trip to the indemnity insurers was likely. My panic turned to confusion when I realised that I had downloaded the form from employment tribunals online and that the self-same form was still on their website. After many phone calls and a dose of herbal rescue remedy everything was sorted out. The tribunal admitted that the form on their own website was out-of-date and they accepted the application. Not an experience I would like to repeat."

Government glitches

More technically, the purple prescribed form is not capable of being recognised by the government's new optical character recognition software which is used to scan in all claim and response forms once the technology is finalised. As Daniel Barnett, barrister and editor of *ELA Briefing*, says:

"Tribunal staff are robustly- albeit apologetically- returning forms to litigants faster than you can say 'laserforms'... there is no extension of time and so... many claims (and responses) will be out of time. This situation is a travesty."

Quite.

The irony is that I am keyboarding this piece in Underwoods South African office. It will be sent electronically and published, just as if I was in Hemel Hempstead. From South

Africa I access my files, the law reports, the firm's bank accounts and generally carry on as normal. Non-electronic correspondence is scanned in at Hemel Hempstead and sent electronically. Our database is updated from here.

Accepting the benefits of electronic technology has taken me a long time. It will take some other lawyers longer. My trainees have been discouraged at the outset.

If a small law firm can get it right and operate successfully electronically between Hemel Hempstead and Cape Town, why can't the UK government do a bit better?

● What do you think?

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