

E-working in the civil courts in England and Wales

Tony Guise calls for a quick and efficient national roll-out of e-working solutions to make sure clients in the regions are as well served as those in London

It was 4.30pm on a wet Monday afternoon in the City of London, and Rachel found herself working on another Issue relating to the reciprocal enforcement of asset protection injunctions obtained in the Miami courts. Where was that last order the US judge had made? She had been looking for it for over an hour now without success, and the Commercial Court would need it for tomorrow. She suddenly had a brainwave: of course, it would be on the case extranet provided by the Miami Court! Logging on, she quickly found the order and printed it off. Job done.

At the same time, 200 miles north of London in Preston, Michael was nearing completion of a bundle of documents he needed for the hearing of his security for costs application in the High Court sitting in Preston – it had to be filed by close of business that day. At last, it was complete! He suddenly realised the time. How was he going to get the documents to the court now? His first thought was to email them – but, unfortunately, e-working had not yet arrived in Preston, and for the sake of a simple email, Michael faced the prospect of an application to adjourn, with a costs order and a dissatisfied client who would not understand that the courts in our country did not have business processes which had been adopted by most of the rest of the world years ago.

At present, this is the bleak reality of working with the civil courts in England and Wales. The banks, our insurers, and even the NHS have all adapted their working processes to the technology we still call 'new', with consequent saving of time and money, but more importantly, convenience. E-working – the ability to file documents online at court and then see the court file, in much the same way as you would see your bank account online – is only a reality for a tiny minority of practitioners in the exclusive preserves of the Technology and Construction Court in London, and the Commercial Court. Is this changing? Nigel Kelly's article makes clear that it is – but for a limited number of practitioners in certain divisions of the High Court based in London.

For the present, practitioners have to make do with very limited email as a channel of communication with the courts, meanwhile relying on wry humour to explain the gap between clients' expectations of their courts and the grim reality of a system which Sir Henry Brooke recently described as close to collapse through under-investment.

After the disappointing dawns of the ring-fenced investment of £100m, and then the holistic roll-out (price tag – £60m), the new approach described by Nigel is working. If the momentum can be sustained, it would mean that a way of providing e-working that works in the courts has been found, and will need to be embraced by the profession.

Lord Justice Jackson has recently taken an interest in the possibilities of IT reducing the cost of the civil justice system, following submissions made by the Commercial Litigation Association (CLAN), of which I am chairman. This has led to a further project, led by CLAN but involving Nigel's team and practitioners from a wide range of backgrounds, to put together the basic ingredients of what a viable e-working specification should include. Following this work, it would seem likely that Lord Justice Jackson's review of costs, when the final report publishes at the end of the year, will include a section on IT and the benefits it can bring in terms of speeding up working practices, making court papers more secure, and reducing the cost of civil justice to the taxpayer. Will it be implemented? That is more difficult to say, but pressure from practitioners, through groups like CLAN, the Law Society and others, can only help to ensure the continuous roll-out of these new systems.

When those systems do arrive, they will probably arrive with new procedural rules requiring practitioners to file case statements and other document electronically. This, in turn, will require the introduction of new systems and software into solicitors' offices. On top of every other challenge facing the profession at present, this may seem like the last thing we need, but the changes need not be enormous or expensive. The kind of basic access that is being provided will be both user-friendly, and vital, if we are to ensure our clients' needs continue to be best served by the courts (and ourselves) as we move further into the 21st century.

A conference is to be held in early 2010 explaining the new ways of working. The curious and the keen alike can register their interest by emailing info@guisesolicitors.co.uk. The time to prepare is now. Good luck!

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