**TECBAR REP’S NOTE**

**TCC Users Group Meeting**

**Judge’s Lounge, 4th Floor, Rolls Building**

**26 January 2017**

On behalf of TECBAR I attended the TCC Users’ Group meeting on 26 Jan 2017.

**CE filing**

This becomes mandatory from **25 April 2017**. If there are issues with the computer system (as is accepted may happen) there will be a member of staff in the Rolls Building (ground floor) to assist. There will also be a temporary option for paper filing if the e-filing system is down, and scanners will be available. However this is a ‘safety net’ and is not to be relied upon going forwards. The firms that use this paper filing after the mandatory date will be logged and the firms will receive a notification if the failure to file electronically is repeated.

There is no current plan for e-bundles for hearings – unless the judge asks for this. Paper bundles for hearings should be provided in the normal way.

**New pre-action protocol**

There has been some confusion over the ‘effective date’. This is **14 November 2016**. Any claims made before that date will proceed under ‘old protocol’. Any claims started after this date will use the new protocol.

NB: The TCC website still does not include the new protocol – but it is considered to be in force. This will be rectified as soon as possible.

**Public Procurement Guidance Note**

This does not have the same force as the pre-action protocol, but will be a guide (from barristers and solicitors in this field) as to how procurement claims should be conducted. It will hopefully be launched around Easter time at the Rolls Building (by means of an event similar to the event for the new protocol launch). It is already being used as an informal guide.

**Skeleton arguments**

A strongly worded plea from the judges (most strongly put by Mrs Justice Carr “it can never be too early”): the times for provision of skeletons in current TCC Guide were only ever a ‘latest date’. Due to non-compliance and compliance but unrealistic demands on time of judges (particularly for pre-reading) the following rule should be adopted:

Unless the reading time is no more than 30mins, skeletons should be lodged (with hard copies of auths and bundles) **one whole clear working day before the date of the hearing – so by Wed 4pm** **for any hearings at any time on Friday**. The requirement for ‘one clear day’ should be taken to mean one whole clear day, not timed from start time for hearing. If the matter is particularly heavy then the skeleton, auths and bundle should be provided earlier than this.

If there is continued non-compliance the judges have threatened to use such options as: adjourning hearing and disallowing costs of skeleton. This is needed to assist the presiding judge with case allocation and to ensure the judges are able to have done the pre-reading requested.

**Delivery of documents to judges**

The judges have asked for a return to the ‘old system’ of hard copy docs (skel/auths) being physically handed to their clerks by barristers’ clerks **in addition to electronic copies of skeleton.** Only if a judge has not been allocated already can the hard copy be left with Rolls Building staff at the ground floor counter.

**Reading time**

Allowance for reading time should be in addition to trial time estimate. This should be addressed at CCMC and PTR stages.

**CCMC and cost budgeting**

The rule change means Costs Budgets should be exchanged 21d before the CCMC date, however the letter accompanying the notice of the CCMC is still referring to the old rule which provided for exchange 7 days before. This will be rectified as soon as possible, but the correct time for exchange is 21days before.

If the time estimate (usually 0.5-1h) appears to be inadequate and an additional 30mins or so is needed, the judges ask that their clerks be informed and this will be accommodated if it can be.

**AOB**

The late arrival of last meeting’s minute was explained by problems with the recording of the last meeting.

Coulson J commented on the size of the TCC Users’ group, and indicated that this should be no more than 12-14 members for the regular meetings to ensure it was a workable size, with a larger annual meeting. Two reps from TECBAR and TecSA was suggested, but only one from other organisations.

A query was raised over whether procurement pleadings are to be treated as private or not. Coulson J confirmed that although unaware of any actual policy to that effect that was the general approach. On occasion a judge will direct that this be the case, and this will be easier for parties to request once the CE filing is mandated.

TecSA’s enquiry into the costs of e-suppliers services was still of interest and will proceed.

Coulson J mentioned that there was a proposed software programme to make costs budgeting easier, developed by Costs Judge Peter Hirst and Edwin Glasgow QC, which the TCC may be asked to pilot, though it cannot endorse any product.

Carr J mentioned an appeal in *Merrix v Heart of England NHS Foundation* due to be heard at Birmingham County Court in mid-February 2017 concerning the interaction of costs budgeting and detailed assessment. It was likely to proceed thereafter to the Court of Appeal.

Siân Mirchandani

9th February 2017.