

NOTE TO ALL PRACTITIONERS FROM JUDGE STEPHEN STEWART QC DESIGNATED CIVIL JUDGE GREATER MANCHESTER

Now that the Statutory Instrument containing the Jackson reform Rule changes has been published, may I bring to your attention two points of major importance which come into force on 1st April?

- 1 Not only has Rule 3.9 been amended, so has the Overriding Objective. Both now emphasise the importance of complying with Court Orders, the Civil Procedure Rules and Practice Directions. Speaking about the proposed new Rule 3.9 (1), Jackson LJ said in *Fred Perry v Brands Plaza Trading* [2012] 6 Costs L.R. 1007: “After [1 April 2013] litigants who substantially disregard court orders or the requirements of the CPR will receive significantly less indulgence than hitherto.” This follows the fifth Implementation Lecture (November 2011) where Jackson LJ said¹

“2. THE SINGAPORE EXPERIENCE

2.1 The position in 1990. By 1990 there was a substantial backlog of cases in Singapore and litigants faced a lengthy wait before trial. An inefficient court system plainly did not inspire investor confidence and it impeded Singapore’s remarkable development programme. In 1990 Lee Kuan Yew, the Prime Minister, observed in an address to the Singapore Academy of Law: “If we want to be a top financial centre, we must have lawyers and courts to match.”⁸

2.2 The reforms of the 1990s. In 1990 a new Chief Justice was appointed, Yong Pung How CJ. Under his leadership a policy of robust case management was introduced. Court orders were strictly enforced. The courts started to list “pre-trial conferences” of their own motion in order to monitor progress. If parties were in default, they frequently had their claims or defences struck out. In 1996 the rules of civil procedure in the Singapore Supreme Court⁹ were aligned with those of the subordinate courts – as happened in England and Wales in 1999. In 2000 the Singapore courts introduced an Electronic Filing System, which enables all documents in civil litigation to be filed and accessed electronically.¹⁰

2.3 The consequences of these reforms. The effect of the new approach to case management was electric. In the early period there was much discontent within the profession. However, once parties had adapted to the new regime, it was generally recognised that the long term effect of these reforms was highly beneficial. The work of the profession increased. The enhanced efficiencies in court administration and case management played no small part in helping Singapore position itself as a major financial centre and a leading dispute resolution centre within the Asia-Pacific region.

2.4 Sources of information. For a much fuller account of the case management reforms in Singapore and the culture change achieved, see: “Judiciary-Led Reforms

¹ The full text can be found at <http://www.judiciary.gov.uk/Resources/JCO/Documents/Speeches/lj-jackson-speech-achieving-culture-change-case-management.pdf>

in Singapore” (W. Malik) published by the World Bank in 2007; “Case Management – drawing from the Singapore experience” (L.Leo) (2011) CJC 143 – 162.

2.5 Information from practitioners and judges. It is also enlightening to talk to Singapore practitioners and judges who lived through the reforms of the 1990s. They tell me that the shock tactics of that period, though necessary at the time, have been somewhat softened in recent years. Despite that slight softening by the courts, the culture change achieved in the 1990s is now firmly embedded in the Singapore approach to case management.

2.6 Lesson for England and Wales. I hope that a similar change of culture can be achieved in England when the Costs Review reforms are introduced. It would be an added benefit if, as a result of co-operation with the Law Society and Bar Council, there is a culture change that does not take the profession by surprise and gathers widespread support. Hopefully there will be fewer casualties of the process than there were in Singapore.

2.7 Singapore practitioners and judges have made the point to me that there was insufficient forewarning of the profession and insufficient dialogue with the profession about what lay in store. Hopefully we can avoid that mistake in England and Wales. The present series of lectures, delivered well in advance of implementation, is intended to contribute to this process.”

- 2 The Costs Budgeting Direction amending the new CPR 3.12 (1), issued by the President of the Queen’s Bench Division and the Chancellor of the High Court on 18th February 2013 is attached. Please note in particular the statement:
Subject to the limited exceptions which will be dealt with in the direction, it is envisaged that costs management orders would be made in all cases except where there is good reason not to do so.