

# THE ONLINE SOLUTIONS COURT

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“Simple, low-value civil disputes resolved without lawyers”

- The *Briggs* Committee

# The Problem – *Demand exceeds Supply*

[Popyt przewyższa podaż]

- Family disputes and property claims worth up to £350,000 [PLN c.£1,734,580] are dealt with in **the County Court**.
- The majority of disputes (90%) heard in the County Court are **worth less than £50,000** [PLN 248,000] and are heard by **District Judges**.
- The cost of issuing a claim in the County Court is now **5% of the value of the claim**; and the availability of **Legal Aid** (state funding for low-income litigants) has reduced by half.
- **70% of all disputes** now heard in the County Court feature one or both sides who cannot afford legal representation.
- Trials involving one or more unrepresented litigants **take up 50% more court time**.

# The Solution –

- Build more courtrooms, and repair existing courts?
- Increase the number of judges available to hear cases?
- “Ring-fence” court fees, so each court can repair buildings or hire staff?

***Nie***

## The Answer?

- Court buildings are expensive: *close them down*
- Judges are expensive: *get more work done by the (cheaper) District Judges*
- Unrepresented litigants take more time in court: *keep them out of court*

“The Civil Courts Structure Review”

## Lord Justice Briggs:-

THE ONLINE SOLUTIONS COURT *“provides the opportunity to use modern IT to create for the first time a court which will enable civil disputes of modest value and complexity to be justly resolved without incurring the disproportionate cost of legal representation.*

*“In my view it offers the best available prospect of providing access to justice for people and small businesses of ordinary financial resources.”*

- August 2016



# *“Not the mere digitisation of the court system...”*

- “The first court ever to be designed in the United Kingdom, from start to finish, **for use by litigants without lawyers.**”
- A **separate court** with **separate rules** designed to insulate the OC “*from all the [lawyer’s traditions] and purely adversarial aspects of the culture of the civil courts.*”
- At first, **small money claims only**: *excluding* Family, Landlord & Tenant, Personal Injury, Intellectual Property.
- Claims limit of **£25,000** [PLN 124,000]
- Complex disputes can be transferred to the regional or National courts.

# *The “virtual” Court – Where?*

- Fewer than 50% of the UK population has access to a laptop or desktop computer.

*However –*

- 71% of the UK population owns a smartphone (*Ofcom* market statistics, 2016) with personal access to the Internet.

*Therefore –*

This proposal is for a software model aimed predominantly at smartphone users: the *Online Solutions Court* is intended to be operated via an ‘App’ downloaded from a Ministry of Justice-approved homepage.



## *The “virtual” court – How?*

- Stage 1: ***Triage*** of the proposed claim; and **Filing** of the case materials online
- Stage 2: **Conciliation & Case Management**  
(by *Case Officers*: civil servants trained in the IT; not legally-qualified; but always under supervision of District Judges)
- Stage 3: **Resolution** *without* a “day in court”

### Stage 1:     ***Triage*** and **Filing**

An online automated process –

- Litigants are assisted by good User Interface graphics to identify and explain their claim (or defence) in terms sufficiently well-ordered as to be understood by their opponents and resolved by the court;
- Litigants are then required to upload the documents and other evidence which the court will need for the purpose of resolution.

### Stage 2:     **Conciliation & Case Management**

Conducted mainly by a Case Officer partly online, partly by telephone; but probably *not* face-to-face. Rulings of a Case Officer can be appealed to the District Judge.

### Stage 3:     **Dispute Resolution** *without* a “day in court”

Final disposal by District Judges either on the documents alone; on the telephone; by secure “chat-room”; video-link; or at face-to-face hearings – but there being *no default assumption* that there must be a traditional trial held in a courtroom.



# The Good Things –

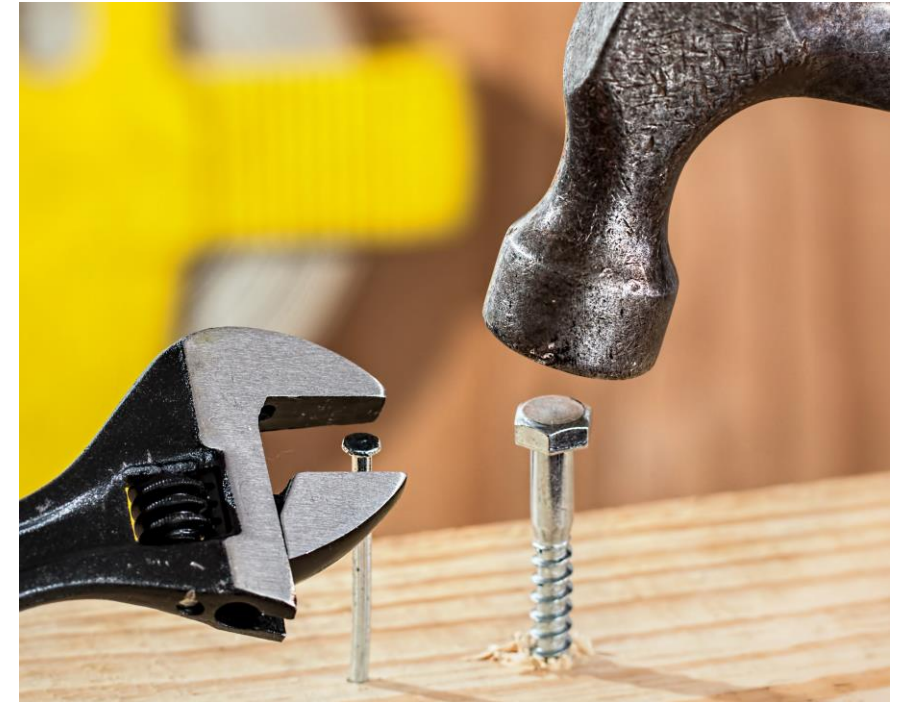


- When compared to traditional “paper-only” legal disputes, larger numbers of cases can be processed more quickly and more cost-efficiently by use of software interface.
- *Stage 2* provides more numerous opportunities for Case Officers to introduce conciliation services (perhaps by telephone conference) and thus reduce the number of disputes which require full resolution.
- There ought to be significant cost-savings for successive national governments with no political mandate for a fully-funded “public service” judicial system.
- By adopting standardised “window-filling” input (eg the litigant selects from predefined options rather than having to type what s/he wants), many unwanted judicial prejudices against unrepresented litigants – particularly those less able to express themselves with sufficient clarity – might be reduced.

# The Bad Things –

The Online Solutions Court **will** be **expensive to develop, set up and maintain**, at least at first:-

- Cannot get started without an approved and tested fully-functioning software app (the UK government has a very poor record for sourcing and delivering IT) – ***No current contenders!***
- Cannot get started without a telephone **Help-line**, a call centre staffed by properly trained operators.
- Cannot get started without appointing and training ***Case Officers***; an administrative role which is a completely new concept in the UK.



# The Bad Things (continued...)

- Filing documents by smartphone will involve **taking photographs** or using third-party **scanning software**, and then **uploading large files** over the litigant's personal mobile broadband account.

How expensive for the litigant will this be?

Which scanning app is to be chosen? Will it form part of the OSC app?

If not, who will pay for this; and what are the security implications?

- **The OSC cannot prevent the involvement of lawyers –**

Most money claims under £25k issued by large corporations suing for private debt, *eg* Utilities (gas/water/electricity) and credit-card companies; hire-purchase lenders; and *mobile telephone* service suppliers.

These claims are run by in-house legal departments, or farmed out to **law firms on retainer** – Hence the statistical majority of cases in the OSC will ***still*** feature lawyers.

# Is the “Online Solutions Court” going to happen in the UK?

- The Ministry of Justice declared (in Spring 2016) that it had allocated funds for development of proprietary software and the implementation of a pilot scheme for small claims.

***BUT*** no formal tender has been published and no development contract awarded.

- The pilot scheme will provide for a (limited) Helpline Centre and the appointment and training of Case Officers.

***BUT*** there will be no hiring and training without the existence of the “App”.

- The pilot scheme will need Parliamentary time set aside to amend the laws governing the jurisdiction and operation of County Court.

***BUT.... BREXIT !!!*** Parliament will have no spare time, or money, for *years*.

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“A good idea, plagued by significant challenges in design, funding and function – and with little practical chance (thanks to *Brexit*) of the UK Parliament having the time to introduce the amended laws needed to introduce it for the foreseeable future.”

*David Dabbs*, Barrister