

The pull of London is strong. The virtues of regional justice sometimes go unsung.

Practitioners know that my aim as Chancery Supervising Judge is to ensure that litigants in the Chancery Division (and, so far as it is within my remit, in the other specialist Mercantile and TCC Courts also) should receive at least the same standard of service in the North as they would receive in The Rolls Building in London. In this I have the full backing of The Chancellor. On his visit to Liverpool and Manchester in January, he re-stated his view that there is no case too big to be tried in a Chancery District Registry.

The Chancery District Registries are part of the Chancery Division, not some local franchise: just as those barristers and solicitors who practice in them are “the real thing”, not a pale imitation of their London colleagues.

The standard of local service should be “at least” the same as The Rolls Building because it is capable of being *better*. District Registries are much more agile than The Rolls Building can be. There is a more closely-knit legal community capable of more co-operative working. There is a tighter cadre of judges in closer contact with the Court users and able to be more responsive both to the demands of individual cases and to emerging trends, generally without the need for formal “pilot schemes”. Often what is developed in the regions becomes adopted in London. A good example is the fixed trial, with a known start date (not a window) and a set end date. Routine in the regions, but a revolution in The Rolls.

Sometimes The Rolls Building publishes changes in practice or establishes “pilot schemes”, and I am asked: what is their effect in the regions?

The fundamental point to recognise is that these changes or experiments will generally be grounded in the needs of The Rolls Building as the largest concentration of business courts in the world. They *may* address matters of interest to specialist courts generally: but they might equally well address issues of no relevance to a regional centre.

The Practice Note on Masters’ Orders was directed specifically at the way Chancery Masters dealt with Chancery Orders at The Rolls Building: but it had some features that could be usefully adopted in the regions and thereby promote nationwide consistency. A practitioner asked whether it applied in District Registries. So I issued Guidance to the District Judges and Practitioners.

The more recently launched “pilot schemes” (“The Shorter and Flexible Trials Pilots” in the Chancery Division and the “Shorter Trials Scheme” before the Bankruptcy Registrars) are likewise directed at an issue arising in The Rolls Building: long lead times for listing. Because there is significant delay in the listing of cases in London there is a business need to shorten cases (shorter cases being listed earlier). The pilot schemes are a re-packaging of existing products to encourage the shortening of cases and thereby meet this business need. This is simply not an issue for regional centres like Manchester, Liverpool, Leeds or Newcastle. At the end of January 2016 in the North it was possible to fix a one day hearing before a judge in the High Court one week ahead, a two day hearing 3 weeks ahead and a trial of over 5 days only 11 weeks ahead. These short lead times for trials are unheard of in London.

So the regions have no need of these “pilot schemes”. No sensible litigator would think of utilising the London pilot schemes if the result was a slower hearing in London than could be obtained locally in the usual way. No sensible litigator would issue in The Rolls Building to obtain directions for trial according to a timetable that is already routine in the regions.

But (as with the Masters’ Orders) we have something to learn. The District Judges and case-managing Specialist Judges already have all of the case-management powers that are re-packaged and deployed in The Rolls Building pilot schemes. But sometimes they and those who appear before them prefer to stick to the familiar paths. The Shorter Trials pilot is a reminder that bracing timescales can be set. The Flexible Trials pilot is a good reminder to all that case management directions can be shaped to meet the needs of a particular case. After all, each case has to be conducted to achieve an outcome “justly and at proportionate cost”.

Before resorting to the familiar template it is worth asking the sort of questions one would ask if each case was an individual project to be managed towards the desired outcome. “Given that we have corresponded extensively, could we have a trial without pleadings? Could we not just go to a statement of issues for determination?” “Do we really need standard disclosure? Can we not proceed immediately to an agreed bundle of the documents that each side relies upon and then make applications for specific disclosure?” “Can we think about limiting the number of witnesses on each side? And the issues they address? Ought there to be an order that the witness statements shall not provide a commentary on the documents and shall be subject to a limit of 10 A4 pages?” “Can we limit the size of the bundles of documents?” “Can we ask the experts to meet and produce a joint report, and only to produce separate reports on matters on which they are not agreed?”

I would encourage practitioners to seek (and would support District Judges who promote) much more flexible case management in cases where the value at risk is modest. After all, active case management always involves considering whether the likely benefits of a taking a particular step justify the cost of taking it: CPR 1.4(2)(h). We do not need a pilot to achieve this.

Nor should regional litigators be disadvantaged as regards cost-management. Those adopting the pilot schemes in The Rolls Building can avail themselves of a different costs management regime (because the Practice Direction so provides). For my own part I do not see why a litigant in a District Registry who seeks a package of orders such as has been put together in the Shorter Trials template should not put into that package the same provisions as to costs management as apply in the pilot schemes. Whilst it must be for the judge making the case management order to exercise independent judgment in the particular case, for my own part I think it would require compelling argument to persuade me to the conclusion that an order that would be regarded as appropriate in London is not appropriate in a regional centre.

So I encourage you to think creatively and to be willing to consider adopting these order templates in the regions.