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Origins of the online court

The Civil Justice Council (CJC) is an advisory body established under the Civil Procedure Act 1997 to keep the civil justice system under review and advise on how it should be improved. In April 2014, the CJC set up an advisory group to explore the potential of using online dispute resolution for civil claims worth less than £25,000. The advisory group was chaired by Professor Richard Susskind, IT adviser to the lord chief justice and the leading expert in legal information technology. Its recommendations¹ were published in April 2015.²

The report called for radical change. Its main recommendation was that HMCTS should establish a new, internet-based court service, to be known as HM Online Court. This would have three tiers. Tier 1 would help users to evaluate their grievances and perhaps enable disputes to be resolved by the parties themselves. Tier 2 would involve online facilitators who could help the parties by mediating, advising or encouraging them to negotiate. Tier 3 would bring in full-time or part-time members of the judiciary to resolve disputes on the basis of documents submitted to them electronically – though it was expected that most cases would never reach that stage.

“Online dispute resolution is not science fiction,” Professor Susskind insisted. He thought the new court could be launched as early as 2017. This seemed utterly implausible at the time but turned out to be accurate, given that he had recommended the court should be developed in stages.³

Online dispute resolution was also recommended by the legal reform group Justice a couple of months later. In a report called *Delivering Justice in an Age of Austerity*,⁴ a committee chaired by the retired appeal judge Sir Stanley Burnton suggested the creation of a primary dispute resolution officer – to be called a registrar – who would review all cases in which defence was lodged. The registrar could:

- strike out the case; or
- undertake early neutral evaluation (of the prospects of success); or

- undertake mediation; or
- refer the case to a judge.

Most cases would be resolved by telephone or online.

These parallel proposals were warmly welcomed by senior members of the judiciary⁵ and by the lord chancellor. If anything, though, they didn't go far enough. Instead, they paved the way for the most authoritative report of all, the recommendations of a highly-regarded appeal judge following a year-long review of the civil courts.

References

1. <https://www.judiciary.gov.uk/wp-content/uploads/2015/02/Online-Dispute-Resolution-Final-Web-Version1.pdf>

2. See <https://www.judiciary.gov.uk/reviews/online-dispute-resolution/> for additional resources.

3. <https://www.judiciary.gov.uk/wp-content/uploads/2016/04/cjc-odr-advisory-group-response-to-lj-briggs-report.pdf> paragraph 5.

4. <http://2bquk8cdew6192tsu41lay8t.wpengine.netdna-cdn.com/wp-content/uploads/2015/04/JUSTICE-working-party-report-Delivering-Justice-in-an-Age-of-Austerity.pdf>

5. Lord Dyson MR was at the Susskind launch and Lord Thomas of Cwmgiedd CJ was at the Justice launch.