



Press Notice

Civil Justice Council publishes final recommendations to improve access to justice for consumers and small businesses in collective claims

12th December 2008

The Civil Justice Council (CJC) today published its final recommendations aimed at improving access to justice for consumers and small business bringing collective claims for compensation.

The paper entitled "*Improving Access through collective actions – Developing a more effective and efficient procedure for collective actions*" calls for reform of existing multi party mechanisms to provide for actions to be brought on behalf of classes of consumers or businesses.

The Council's recommendations included:

- increasing the types of representative bodies that can bring claims
- making the judiciary the gatekeeper of the procedure
- permitting claims to be brought on an opt-out basis where it is in the best interests of justice
- changing the law to permit the award of aggregate damages

Launching the paper, CJC Chief Executive, Robert Musgrove said:

"The Council's recommendations have the clear potential to improve access to justice for both consumers and small business. Research has shown that individual consumers find it difficult to exercise their rights, and obtain access to the courts, and are often put off by cost and complexity.

Developing a procedure that will allow them to act collectively, or to allow legitimate bodies to represent identified classes of consumers, should bring benefits not only to the consumers themselves, but also have a much wider beneficial effect on the market economy. Defendants may also see the benefits of certainty and finality against the potential of having to defend many individual actions over years in the courts.

The paper is the result of two and a half years of extensive consultation and research. It is

not a licence to lawyers or funders to drum up litigation for personal profit, but an improvement in access to justice to allow legitimate claims to be brought. The Council also recommends a series of stringent judicial controls that will protect defendants, from the often expressed fears of speculative litigation. It is important that no case should proceed unless the responsible judge ascertains there is clear merit, and a reasonable expectation that the claimant will recover a substantial element of their loss. Funding arrangements will be tested, rigorous case management applied, and there will be judicial authority over any class settlement". The recommendations also recognise the essential role of effective regulatory redress, and cases should only proceed where a court-based process is a superior to any regulatory alternative."

The paper is submitted to the Lord Chancellor and Secretary of State for Justice as formal advice.

The paper is available on The Civil Justice Council website www.civiljusticecouncil.gov.uk

Notes for Editors:

1. The Civil Justice Council is an advisory non-departmental public body established under the Civil Procedure Act 1997 and is chaired by the Master of the Rolls, Sir Anthony Clarke. The CJC is required to: keep the civil justice system under review; consider how to make the civil justice system more accessible, fair and efficient; advise the Lord Chancellor and the judiciary on the development of the civil justice system; refer proposals for changes in the civil justice system to the Lord Chancellor and the Civil Procedure Rule Committee, and make proposals for research. Its membership includes senior judges, lawyers, consumer and commercial representatives, legal advisers and academics. Further information about the Council can be obtained from the Secretariat on 020 7947 6670 or email cjc@judiciary.gsi.gov.uk.
2. See also, Press Release "[Civil Justice Council publishes research into the need to improve consumer redress - Is there a need to improve consumer redress?](#)" (8 February 08) and [Civil Justice Council Publishes Recommendations to improve access to justice for consumers and small businesses in collective claims](#) (5th August 2008)
3. Further information about the Civil Justice Council can be found at www.civiljusticecouncil.gov.uk

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