

## The Jackson Reforms - a robust approach on complying with the new rules

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The second-most senior judge in England and Wales, Lord Dyson, Master of the Rolls, has sent a clear message that the senior judiciary intend to enforce the new approach to civil justice introduced by the Jackson reforms in April 2013.

In a judgment dismissing both appeals by Andrew Mitchell MP in his defamation claim against News Group Newspapers, Lord Dyson ruled that if a costs budget was filed late and without good reason, then the appropriate sanction was an order that the party could recover only court fees if successful, and no legal costs. It was not appropriate to grant relief from that sanction as the failure to file on time was caused by oversight, pressure of work or inadequate resourcing by his solicitors.

Lord Dyson explained that the new rules mean that if a party fails to comply with a court order, rule or practice direction, then the court will consider all the circumstances of the case but must give priority to the efficient and proportionate conduct of the case, and the need to enforce compliance.

In practice, the court should only grant relief from the sanction for failure if an application for relief is made promptly, and the failure is trivial or, if not, a good reason for it is shown. That good reason should be an external factor, beyond the party's control, rather than simply oversight or well-intentioned incompetence.

In the past, the court usually took account of the prejudice caused to each party by the granting or refusing of relief. Often a costs sanction would be imposed as the price of relief and as compensation to the other party for the delay or inconvenience. Striking out a claim for missing a deadline was generally considered too harsh if the case could still be fairly tried.

Now, according to Lord Dyson, the court should not limit its considerations to the effect on the parties before it. The court must have regard to the needs and interests of all court users when case managing an individual case, not simply achieving justice between the parties. Court and judicial resources are limited and parties cannot expect indulgence if they fail to comply with procedural requirements.

With such a robust approach being recommended by the Court of Appeal, parties must now be careful to ensure that realistic time tables are agreed and that any potential problem with meeting deadlines is addressed well before time expires.

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