The disputes. although lord woolf had deployed

Government

The government faced dissatisfaction from the people of the civil justice system and was specifically highlighted in the survey conducted in 1944 that 3 of 4 people who were involved in serious legal disputes had thought the system to be unfair1. The next course of action for the government was to appoint Lord Woolf to review the civil justice system, and he saw that there was a need for reform. The key aspects focused on where the cost of litigation, the delay from cases being brought to court, and the complexity of the process of litigation. Lord Woolf was successful to an extent in addressing the 3 main aspects causing dissatisfaction, through the use of ADR (Alternative dispute resolution) as an alternative and CPR (Civil procedure rules) as a deterrent to both the judge and party, the reforms stated and numerous other reforms, act mediums to encourage early settlements in civil disputes. Although Lord Woolf had deployed numerous strategies help lower the cost of litigation, its effectiveness was very limited, as expressed by the critic to the reforms Professor Hazel Genn. One key aspect of the reform was to simplify the litigation process, through encouraging Judges, and legal bodies to provide advice to the parties present on whether litigation would be needed before starting the court process, giving them a fair notice of what options the individuals have. Judges are advised to offer the use of ADR, as this method has reduced complexity as it is more informal than court procedures, especially through the absences of rules of evidence2. Ultimately the process would become less intimidating for the parties and less stressful.

Intimidation is a key aspect as to why the civil justice system is unfair as big businesses have an advantage of resources at their disposal, as well as

access to experience and expensive legal representation, which in turn would be costly for a client who does not have such resources at disposal. 3 The increased use of ADR would combat scenarios in which take an adversarial approach between parties, to a more cooperative approach, as both parties arrive at a mutually acceptable solution, which saves judicial resource and money. 4Professor Hazel Genn However has highlighted the ulterior motive behind diverting a litigation case to an ADR case for profit. This is explained through the cases transition from the state to the private sector, could mean that courts would take a greater interest in gaining more profit from a large commercial dispute between businesses, ignoring smaller cases5. The Part 36 reform enables the claimant and defendant to make an offer to settle at any time before the claim is issued or during proceedings. This method allows claims to be resolved fast; at any given time, drastically reduce the time each case would go on for. This aspect also addresses how to reduce the cost of litigation, can be done by reducing the delay of cases within the civil court system.

Waiting for a case to come to court increases the overall cost of the litigation6. Research carried out by Professor Hazel Genn that there was a high success rate in mediation cases being solved, as opposed to waiting for a litigation case. Expertise is another aspect in which reduces delay. Those who manage ADR scheme are equipped with specialist knowledge, and skills to help promote a fairer and quicker settlement, overall reducing the potential cost of waiting for a case to come to court.

7 There is, however, some drawbacks which limit the effectiveness of the reforms, such as the lack of enforcement when resolving disputes with the

use of ADR. To enforce a mediation settlement it is stated that a party may need to go to court to obtain a judgment which can be enforced, doing this would further increase the cost of the process, maybe even greater than a litigation case. Another drawback is that the expertise of those with specialist knowledge in ADR is that when dealing with difficult points of law, they may lack the legal expertise to judge, especially with the lack of the doctrine of precedent in cases dealt by ADR. Alternatively, the introduction of Summary Assessment of costs has been viewed by many critics as a success. Through the introduction of the CPR, This applies more pressure on the judges which would result in the judge having to assess the costs of a hearing immediately. 8 CPR 44. 5 framework states that it is able to apply a cost order if a party had failed to use ADR where it might be appropriate, this applies pressure on the party to seek the best decision for the outcome in order to avoid any sanctions being handed, which in fact encourages money to be saved.

The use of CPR would not be able to stop all the problems that contribute to delay, but a statistic shows that the amount of claims issue has dropped “ the courts more time to deal with those that do come before them. “ In the Queen’s Bench Division, the number of proceedings issued fell 19. 6% in 2001 compared with 2000″10 this statement from an Article conveys the effectiveness of CPR although not fully effective, an impact had been made for cases needing to be brought into court. This drop could also indicate the rise in the use of alternatives to litigation such as ADR and the effectiveness of the other reforms, which could indicate a correlation between the claims and the issue of the reforms being successful. In review, the Woolf reforms

could perhaps be successful in attempting to address the high costs created through litigation and had encouraged parties and judges, especially through CPR to consider their options and offer alternatives to litigation. Most reforms stated had drawbacks which some, in fact, would increase the cost of litigation, as well as add excess cost, and ultimately fairness depends on the power of the party.

1 Garry Slapper and David Kelly , English legal system (10thedn, 2009/2010) 3282 Allen and Overy,'The impact of the woolf reforms in the U. K'(Allen & Overy, 19 February 2009) < www. allenovery. com/publications/en-gb/Pages/The-Impact-of-the-Woolf-Reforms-in-the-U-K-. aspx> accessed 11 January 2018 3 Allen and Overy,'The impact of the woolf reforms in the U. K'(Allen & Overy, 19 February 2009) < www. allenovery. com/publications/en-gb/Pages/The-Impact-of-the-Woolf-Reforms-in-the-U-K-. aspx> accessed 11 January 2018 4 Paul Fenn, Neil Rickman, Dev vencappa, ' The impact of the woolf reforms on costs and delay' (2009) PL 35 Joshua Rozenburg, ' Dame Hazel Genn warns of ' downgrading' of civil justice' The Law Society Gazette (London, 18 December 2008) 1 6 Catherine Elliot & Frances Quinn, English legal system(18edn, 2017/2018) 6367 Catherine Elliot & Frances Quinn, English legal system(18edn, 2017/2018) 637