

# [The case to the court which affected the](https://assignbuster.com/the-case-to-the-court-which-affected-the/)

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The civiljustice system in UK contributed in handling civil disputes.

Unfortunately, reportsshowed that civil process was ineffective as they were not able to resolve severeissues rising in most countries because of unsystematic development in thecivil legal system. In recent years changes have been made in civil justicesystem to solve three crucial problems of cost, complexity, and delay. It was inthis background of criticism the Conservative Government appointed Lord Woolfto undertake another broad-extending review civil process. The civillegal system being mostly adversarial resulted in unchallenging pre-trialprocedures in civil courts.

As amount of public money spent on justice systemincreased, delay and high cost in solving disputes became a political issue. Tominimize the length of time and trial when cases reach courts, reforms ofpre-trial procedures were initiated from the early 1950’s. Introductionof some further reforms such as Civil Justice Review of 1986 mentioned to improve the machinery ofcivil justice in England and Wales through introducing reforms to reduce cost, complexity, and delay. 1Costs were unbalanced to amount of claim.

There was delay in bringing an actionand getting the case to the court which affected the evidence and thewitnesses. Compensation were too delayed which reduced public confidence injustice. In relation to complexity too many cases were tried at the high court. The solution was seen in balancing the cost and efficiency of the courts and inimproving the management of courts which were made in the Courts and LegalServices Act. 2 The above reforms had little impact on legal system; therefore, in 1994 Lord Woolf was ordered to eliminate the defects in civiljustice system.

According to him the courts should encourage dynamic caseadministration. The utilization of alternative methods of acquiring justice, through meditation, was to be empowered and the exchange of witness statementsbetween both parties was to be preferred. His proposals were afterward made aportion of civil system under the New Civil Procedure Rules3with the aim of making civil disputes simple, quick and less adversarial. CPRsare Litigation rule book which provide rules to the processes and proceduresthat must be followed. Lord Woolf, while starting his examination of the Civil law process recognized mixed issues. His interim report of June 1995 stated some of the main issues which were cost, delay and, complexity. Lack of legal control made the litigation process appearas a battle field where no rules apply which resulted in unbalanced cost and unforeseeabledelays. 4According to him litigation should be dodged wherever conceivable.

Other crucialreforms that had immediate impact on cost and delay were Pre-action protocols, case management and ADR. Pre-action protocols encouraged early settlementswhich should be followed by parties before making a claim for judicial review. Theaim is to enable the parties to promote co-operation by knowing everything beforehandand avoiding litigation process. 5Case management was critical feature consisting of three tracks; each determiningwhich court will deal with claim depending on its cost value and the subjectmatter. AlternativeDispute Resolution is a less costly method of resolving disputes between twoparties who avoid going to the courts. ADR leads to agreed solutions betweenthe parties and promotes early settlements. As of the compulsion on the parties, individuals are less willing to try ADR.

There is a need of request formediation, particularly in the cases where the claim is a result of a breakdownin a relationship. In Cowl v Plymouth City Council, 6the case was heard by Lord Woolf where he held that ADR options such asmediation must be preferred by the courts especially where public money isinvolved. To resolve the issues concerning hesitance of claimants in utilizingAlternative Dispute Resolution, changes are required in civil justice system. 7One importantcriticism of Woolf reforms is the introduction of proportionality through an overridingobjective into Civil Procedure Rules where courts can deal with cases justly. Whichmeans making sure that the parties are on an equal footing, saving expenses andensuring that case is dealt fairly.

8Introduced bythe Courts and Legal Services Act 1990 and Access to Justice Act 1999, ConditionalFee Arrangements refers to ‘ no win, no fee’ contract between solicitor andprivate client. Here, private client on winning agrees to pay success fee tothe solicitor which will be paid by the losing team. The losing party will haveto pay success fee with litigation fee, which is 95% of the total legal fees. Thewhole aim was to empower the deprived people to pursue litigation. MGN Ltd v UK 9heldthat success fees were disproportionate to the claim brought. It was arguedthat Woolf reforms increased the costs by introducing CFA’s instead of makinglitigation more cost effective.

Therefore, Lord Jackson was asked to conductreview of civil litigation costs. His view was that cost should beproportionate to the value of case. One of his key recommendations was to avoid using CFAs. 10Though Woolf’sReforms were accepted by many, there were also who criticized them as unsuccessful. One of the major criticisms was made by Michael Zander.

He argued that once thecase begins, there is a massive pressure on the parties to enter settlement. Healso added that pre-trial hearing will not reduce delay and cost. 11Furthermore, according to Rand report case management increased the work forlawyers also the cost as it adds to front loading. There were many others whobelieved that Woolf’s reforms have not contributed towards success especiallywhen it comes to cost.

In conclusion, comment will be that Woolf reforms have succeeded in promoting settlement andavoiding litigation which is great advantage for litigants who can now avoidhigh costs and everlasting court procedures. But the main aim of reforms was toreduce the cost, which is not completely achieved. Since advantages supersedes thedisadvantages, Woolf’s reforms still have a long way to go and can beconsidered as a great incentive for the future.