

By email

28 June 2021

Rules Committee

For: Sebastian Hartley

Tēnā koutou

Submission on further consultation with the legal profession and wider community about improving access to civil justice

1. This submission follows my 1 September 2020 submission in respect of the Rules Committee's work on improving access to civil justice.
2. I broadly support the initiatives set out in the 14 May 2021 further consultation paper. However, I add, as stated in my first submission:
 - a. Lawyers typically leave the resolution of a dispute to the last minute possible. The Committee canvasses the reasons for this (maximalism and fear of negligence suits) in its further consultation paper. The Committee has the power to help shift this attitude by introducing a requirement that parties attempt to resolve disputes before issuing proceedings, like in the United Kingdom.¹ It would be a missed opportunity to not consider requiring parties to attempt resolution before filing proceedings.
 - b. The role of technology remains unexplored in the further consultation paper. The exploration of technological solutions to access to justice issues has been taking place for some time overseas and particularly as a result of the pandemic. It would also be a missed opportunity to not explore how technology might alleviate access issues.
3. Thank you for the opportunity to contribute to this discussion. Should you have any questions, or if I can assist further in any way, please do not hesitate to contact me.

Nāku, nā



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¹ See the Pre-Action Conduct and Protocols Practice Direction in the United Kingdom: https://www.justice.gov.uk/courts/procedure-rules/civil/rules/pd_pre-action_conduct. I was involved in a trans-national matter where we were able to swiftly and cost-effectively resolve a dispute that engaged this Practice Direction.