Response of the London Solicitors Litigation Association

to the UKSC and JCPC informal consultation on word limits for written cases

1. The London Solicitors Litigation Association (LSLA) was formed in 1952 and currently represents the interests of a wide range of civil litigators in London. It has almost 4,000 members throughout London among all the major litigation practices, ranging from the sole practitioner to major international firms. Members of the LSLA Committee sit on the Civil Justice Council, the Chancery Court Users Committee, the Rolls Building Users Committee, the Law Society Civil Litigation Committee and the Commercial Court Users Committee to name but a few. As a consequence, the LSLA has become the first port of call for consultation on issues affecting civil and commercial litigation in London, and it has on many occasions been at the forefront of the process of change.

2. Thank you for the opportunity to comment on the proposed amendment to the Court's Practice Directions concerning the length of written cases. In this short response, we draw on the experience of the LSLA's corporate member firms, which themselves are diverse and therefore have a broad range of perspectives.

3. The LSLA broadly supports the proposed change, although the view is not universal across our membership. The written case is a critical document in any claim before the Court and, as such, where parties, solicitors and counsel believe that more than 50 pages (or 30 pages under the proposals) are required, applications for extensions should be heard willingly, and determined promptly, by the Court.

4. We understand the Court's observation that the current limit may be treated by some as a target. However, in practice our members are aware of numerous examples of written cases that are shorter than the current 50-page limit. Where the 50-page limit is reached (or exceeded) there are often good and important reasons for this. We agree that concise written advocacy is generally of greater assistance to the Court and the parties. We recognise, however, that some parties may regard compliance with Practice Direction 5.9 as satisfied where a written case does not exceed 50 pages, without separately considering whether further brevity is possible. That said, where a written case approaches the 50-page limit, it will often already have been substantially reduced from much longer initial drafts. We also understand the desirability of having a word limit alongside a page limit, both to encourage brevity and to ensure consistency in the presentation of written cases, rather than leaving scope for variations in font size, spacing, margins or other formatting parameters to comply with a page limit. Reverting to a word limit alone, would address this concern.

5. If a page limit is to be retained, a default limit of a set number of pages and word count (related to that page limit) therefore appears reasonable in principle, provided that (as with the current position) there remains sufficient flexibility, acknowledging that there will (and potentially often) be cases in which the page limit may prove unreasonably restrictive notwithstanding the efforts of the parties, their solicitors and counsel to present their submissions concisely. These may include, for example, cases where the factual or procedural history is complex, detailed and necessarily material to the legal issues before the Court; cases concerning particularly complex statutory schemes or multiple areas of relevant law; cases involving numerous parties with materially different positions; and appeals and cross-appeals raising distinct legal issues and/or an unusually large number of grounds. If the proposals are proceeded with, we would suggest

that the limits are kept under review, particularly if the Court faces a significant increase in the volume of applications for permission to exceed the proposed limit, including consideration of the impact on the time of the Court and the costs involved. Some members have also raised concerns that where parties perceive that limits on the length of their written case have not enabled full submissions to be made in writing, this may well lead to expansion of oral submissions.

6. It may also be helpful to consider, now or in the future, whether the amended Practice Direction could identify, on a non-exhaustive basis, circumstances which may justify additional length. This would give parties, solicitors and counsel greater certainty when longer written cases may be permitted and should encourage applications to be made at an appropriate stage.

7. Consideration might also be given to whether the existing requirement that an application for additional length be made not less than 14 days before the written case is due should remain an absolute expectation. For example, for respondents, there may be cases in which the need for a greater page and word count only becomes apparent following receipt and consideration of the appellant's case. Some flexibility in those circumstances would be helpful.

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