

**Kennedys**  
Legal advice in black and white

**Civil justice reforms**

Mark Burton & Joanne Kelly  
11 July 2016

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**Online dispute resolution (ODR)**

- ODR = use of technology to resolve disputes
- ODR Advisory Group report Feb 2015
  - ODR pilot scheme for low-value civil claims
  - Launch online court during 2017

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**Online dispute resolution (ODR)**

- 3 stages of online court
  - *Online evaluation* - help users understand their legal rights & options via free of charge online information & diagnostics (like online pro bono)
  - *Online facilitation* - non-binding help from trained third party for low fee; supported by automated negotiation (like online mediation)
  - *Online judges* - binding & enforceable decision for higher fee

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### ODR: for & against

- For
  - More affordable for users (no/low fees)
  - More affordable for Government
  - More accessible & convenient
  - Less intimidating
  - Reflects societal changes & wider adoption of online services

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### ODR: for & against

- Against
  - Less accessible to non internet users
  - Impersonal
  - Perceived poorer quality
  - Automated processes offer less scope for creative solutions
  - May encourage litigiousness

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### ODR examples

- eBay
- Nominet
- Canada
- Netherlands

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## ODR examples

- Cybersettle
  - Double blind bidding
  - In U.S. processed 250,000 cases & £2bn settlements
  - Case study: City of New York
    - 66% settlement rate within 30 days
    - \$11.6m savings in litigation costs
    - Litigation volumes reduced from 11,000 to 4,500 pa

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## Civil Courts Structure Review



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## Civil Courts Structure Review

- Interim report December 2015
- Recommends online court for low value civil claims
- Briggs since consulted > 60 stakeholders
- Final report to be delivered to MoJ mid-July for publication soon afterwards
- No further consultation; move to implementation

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### Civil Courts Structure Review

- Should personal injury be exempted?
- For
  - Unequal playing field LiP vs insurer
  - MoJ portal already in operation
- Against
  - Disproportionate costs
- Possible compromise
  - Include all personal injury small claims
  - Anyone else can opt-in

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### Impact on insurance claims market

- ODR already in use here & abroad
- Government pressure to adopt
- Similar to existing services, e.g. MoJ portal, Colossus
- Operational gains, e.g. increases settlement rates, reduces life cycles, saves costs

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