



DIFC Courts' Rules Sub-Committee

MEETING MINUTES

14 MARCH 2016 at 3pm

DIFC Courts, Library Meeting Room

Attendees:

Adrian Chadwick, Hadeef & Partners

Philip Punwar, Baker Botts

Zeeshan Dhar, Al Tamimi & Company on behalf of Rita Jaballah

Teresa Starr, Fichte & Co Legal Consulting

Mark Beer, DIFC Courts

Natasha Bakirci, DIFC Courts

Mahika Hart, DIFC Courts

Clifford Lewis, Academy of Law

Cheryl Fernandes (Committee Secretary), DIFC Courts

Apologies:

Ghada Qaisi Audi, Ahmed Seddiqi & Sons

Graham Lovett, Gibson Dunn

Patrick Bourke, Norton Rose

Sheila Shadmand, Jones Day



1. **Welcome** : Phillip Punwar chaired the meeting and welcomed all members in the absence of the chairman Patrick Bourke.
2. The minutes of the meeting held on 23 November 2015 were approved.
3. **Progress on Leave to Appeal amendments** – This is currently with the Chief Justice for further review (the idea being that all requests for leave to appeal should first be considered by the trial judge as discussed in earlier RSC meetings), following which the amended rules shall go into consultation for a period of 1 month, as required.
4. **Update on Printed RDC looseleaf hardcopy** – Clifford Lewis from the Academy of Law presented an update on the draft proof of the RDC looseleaf hardcopy (being published in conjunction with Lexis Nexis), and feedback was provided by the members. Clifford to do a final run on the rules comparing them to the ones on the website and making amendments based on the feedback received from members before it goes for printing next month.
5. **Possibility of introduction of fast track schemes & shorter trial schemes** – Natasha Bakirci raised this suggestion based on the 2 year pilot scheme recently introduced in the English courts, as lauded by the Lord Chief Justice of England & Wales in his February 2016 lecture. It was decided that we do not need to adopt this at the moment, in any event our judges retain a significant degree of case management discretion and our disclosure rules are akin to the IBA rules which are the most notable introduction in the pilot schemes being tested in England now.
6. **Dubai Legal Affairs Department Bylaws on Registration of Visiting Legal Consultants** – Natasha Bakirci informed members that she would circulate the Legal Affairs Department bylaw which at Article 15 sets out the requirement that visiting legal consultants acquire authorisation from the Government of Dubai Legal Affairs Department (LAD) permitting the practice of the Profession in the Emirate, by providing “the Department with confirmation of instruction issued by the entity from which he will provide Legal Services, including but not limited to: DIFC Dispute Resolution Authority...”. Natasha Bakirci will contact the LAD to seek further clarification on this Article and update members.
7. **Service on Dubai Government bodies via Dubai Legal Affairs Department** – Natasha Bakirci informed the RSC that the LAD was waiting for the outcome of a test case brought in the Dubai Courts on this subject,



before sending us their final legal opinion on the issue of service on Dubai government bodies.

8. **Comparison of procedural rules around the world and suggested changes to the DIFC Court Rules** - Mahika Hart provided members with a comparison of various procedural rules from around the world and suggested changes to the DIFC Court Rules. Discussed was a comparison of five regimes of procedural rules. The comparison mainly found that the rules were substantively the same across the board but she spent some time presenting the differences between the DIFC Courts Rules and the Abu Dhabi Global Market (ADGM) Courts Rules as issued thus far. Mahika Hart paid particular attention to ADGM Courts jurisdiction, appointment of judges and enforcement of foreign judgments. No follow up on Rules comparison was required.

Mahika Hart also touched upon her draft Litigation Funding Practice Direction. She discussed provisions of the proposed practice direction, including special attention to disclosure requirements and provisions for adverse costs. A few changes will be made to the draft based on feedback from committee members and then circulated to the judges for their feedback.

9. Meeting closed at 4.30pm.

Next Meeting Date – Thursday, 15 December 2016 4.00pm to 5.00pm