

4. Pre-action Conduct

4.1 There should be consultation with court users, practitioners and judges, in order to ascertain whether there is support for: either (a) an IP pre-action protocol; or (b) the Guide to give guidance regarding pre-action conduct.

5. Conclusions

5.1 It is notable that Jackson LJ was commissioned in 2008 by the then Master of the Rolls rather than by the Ministry of Justice (MoJ). Accordingly, it remains to be seen how many of Jackson LJ's recommendations will be implemented.

5.2 Further, given that there will be a general election this year, it would seem unlikely that any reforms requiring primary legislation would be made in the near future, since political attention and will may be focused on more obviously vote-winning topics.

5.3 Nevertheless, it is evident that the issue of costs of IP litigation in the UK is attracting considerable scrutiny. Even without any significant rule changes or new legislation or procedures, courts will be stronger in exercising the case management powers they possess already.

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