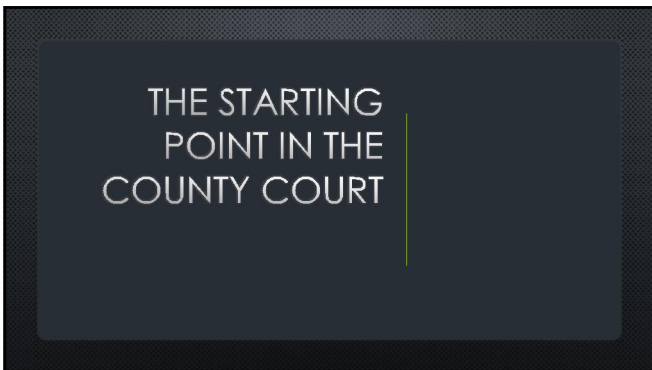
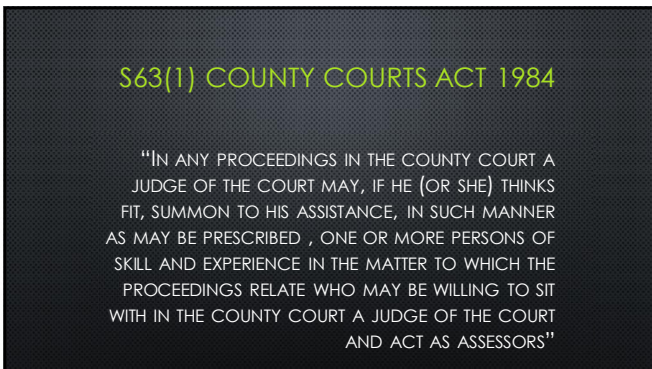




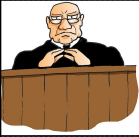
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THE EQUALITY ACT ITSELF

SECTION 113(1)
SECTION 114

THE POWER TO APPOINT ASSESSORS MUST BE EXERCISED
UNLESS THE JUDGE IS SATISFIED THAT THERE ARE GOOD
REASONS NOT TO DO SO

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SECTION 15 EQUALITY ACT 2006

MUST TAKE INTO ACCOUNT THE STATUTORY GUIDANCE

THE SERVICES, PUBLIC FUNCTIONS AND ASSOCIATIONS
STATUTORY CODE OF PRACTICE 14.15

"It would not be a good reason that the court believes itself
capable of hearing the issues in the case without an assessor
or that having an assessor would lengthen the proceedings"

5

PROCEDURE CPR 35.15 PD 35

INCLUDES:

1. PREPARING A REPORT
2. ATTEND TO ADVISE THE COURT
3. REMUNERATION ASSESSED BY THE COURT
4. PD - ONUS ON THE COURT

6

CASE LAW:

CARY V COMMISSIONER OF POLICE OF THE METROPOLIS

[2014]EWCA Civ 987

7

MATTERS ARISING OUT OF THE LEGISLATION, GUIDANCE AND CASE LAW:

THE FIRST POINT:

- THE GENERAL RULE IS THAT A JUDGE MAY "SUMMON TO HIS (OR HER) ASSISTANCE "ONE OR MORE ASSESSORS IN ANY CASE.

8

THE SECOND POINT:

- IN EQUALITY ACT CASES, THE POWER UNDER THE GENERAL RULE MUST BE EXERCISED BY THE JUDGE IN FAVOUR OF AN ASSESSOR UNLESS THERE IS GOOD REASON NOT TO

9

THE THIRD POINT:

- THE COURT MUST TAKE INTO ACCOUNT THE GUIDANCE IN THE ACT – PLEASE SEE THE SERVICES,PUBLIC FUNCTIONS AND ASSOCIATIONS STATUTORY CODE OF PRACTICE

10

THE FOURTH POINT:

CPR 35.15 AND PD 35 SET OUT THE ASSESSOR'S DUTIES AND PROCEDURE

IT IS FOR THE COURT TO DETERMINE [INCLUDING PAYMENT OF FEES AND AMOUNT]

11

THE FIFTH POINT

- FOLLOWING CARY, THE TEST IS "WHETHER THE PERSON IS A PERSON OF SKILL AND EXPERIENCE"
- WHETHER THAT IS IN THE MATTER TO WHICH THE PROCEEDINGS RELATE
- NOT THE SPECIFIC EXPERTISE IN RELATION TO THE TYPE OF DISCRIMINATION AT ISSUE

12

THE SIXTH POINT

THE COURT MUST FIRST IDENTIFY "THE MATTER" AND THEN DETERMINE WHETHER THE ASSESSOR HAS THE NECESSARY SKILL AND EXPERTISE

13

THE SEVENTH (AND PERHAPS THE MOST IMPORTANT)

- DON'T LEAVE APPOINTMENT OR REQUEST FOR AN ASSESSOR TO THE LAST MINUTE
- ONUS AND RESPONSIBILITY IS ON THE COURT BUT, IN PRACTICAL TERMS, IT SHOULD BE DEALT WITH AS EARLY AS POSSIBLE
- SEEK EARLY DIRECTIONS

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PRACTICAL PROBLEMS

DISCUSS!!

15

THAT'S ALL FOLKS!!

- THANK YOU VERY MUCH!!!

HHJ DAVID SAUNDERS
OCTOBER 2019
