



IT News

Introduction

With the use of evidence in electronic form becoming more and more normal barristers in private practice are expected not only to keep up but in many cases we have to actually take the lead when the hardware necessary to make things work is not provided.

The CBA and Bar Council have been extremely busy and have been heavily involved behind the scenes to try to ensure that whatever systems are put in place they are not only fit for their purposes but are usable with a minimum of inconvenience to members of the Bar.

We have not always been successful, but most of the horror stories reported to the CBA turn out, on investigation, to be the result of quaint local practices by either courts or the CPS. The national bodies, that is to say HMCTS and the CPS, have assured us they will take action to correct these practices – see the information about Clickshare and other issues below.

This bulletin is the first in an occasional series to try to keep CBA members informed about what is going on and provide you with useful information.

Please do not contact the CBA for advice about your own laptop or a bug that you can't resolve with specific files or software because we are unable to provide IT support on an individual basis.

Clickshare

There have been multiple reports of Clickshare not working with Mac laptops. Court staff routinely state that “this is a problem with Macs” and therefore it is our fault: this is simply wrong.

In every courtroom there’s a Clickshare control box that connects the dongles to the Clickshare system. The dongles themselves have the software on them for both Macs and PCs so you should be able to just plug them into your laptop and away you go.

In the past when Apple updated their operating system [this took place a long time ago with the release of OS 10.13, or Sierra], Clickshare had to update their software so it would still work but of course that new software had to make its way to the control boxes and then to the dongles. If the court did not update their boxes any Mac using the latest operating system could not access Clickshare.

Many courts failed to get their control box software updated; this was because the staff did not know how to or simply did not do it, so suddenly your Mac didn’t work. Even if the control box was updated [this can be done remotely by Vodafone] the updaters assumed the court staff would then update the dongles: some did, some didn’t.

I have repeatedly reported this matter to HMCTS central and have been assured that all Courts have been informed what to do and how to do it; however it is clear that many courts have still not done so.

So this is what counsel should do.

Firstly, if you are a Mac user, stand your ground. It is the Court’s responsibility and their fault if it does not work. Clickshare works perfectly with all Macs running the latest High Sierra operating system [OS 10.13.2] and do not let anyone tell you it does not.

Secondly, tell them to get the control box updated.

Thirdly tell them to get the dongles updated. This is done by plugging them into the USB port on the control box.

I have told HMCTS that this is the CBA policy and this is their reply: -

“I’d appreciate it if you can encourage this. If there are certain sites who are either still unaware or giving out the wrong message we need to be able to identify and contact them to resolve the issue.”

Data Security

The worrying level of data insecurity amongst criminal barristers continues – and I’m not talking about their fear of new technology. I refer of course to the ongoing cavalier attitude towards storing and transporting sensitive personal data.

Firstly, the term ‘sensitive personal data’ (SPD) is widely misunderstood; most people think it refers to sordid sexual secrets or financial information. It does include that but it also includes a lot of the routine stuff we work with, such as witness statements, custody records and proofs of evidence. So widely construed is the term that the CPS sensibly decided to treat all case papers as SPD so their staff would not have to make an individual judgement about every document. So lesson one: your case papers are sensitive.

This means that whether they are in digital form or on paper they must be stored and carried so that no one else can access them. The Data Protection Commissioner [DPC] says that this means if your papers are at home - on a computer or in a room – it should be one to which only you have access. If away from home they must either be securely carried and in your possession at all times or, if digital, encrypted. Prosecution counsel, in furtherance of their ongoing disclosure duties and so often doing the CPS’ job for them often distribute unencrypted DVDs or USB drives. This is strictly speaking unlawful and would render them liable for heavy fines by the DPC. If you email material downloaded from the DCS and do not use secure email you are in breach of the terms of use and liable to be banned from the DCS – which means you can’t practise.

I know most barristers think this is all unnecessary and a real inconvenience, but those are the rules.

Here is a link to the Bar Council’s helpful guidance.

https://www.barcouncil.org.uk/media/591105/gdpr_bc_guide_for_barristers_and_chambers_121017.pdf

Mac Issues

I recently received a crie de coeur from the northeast via the Bar Council about problems with the service of multi-media material. It included phrases such as

“The difficulty arises when the CPS and HMCTS then buy technology that is not Mac compatible. This is proving to be a serious issue in section 28 cases where very often the discs simply will not play on counsel’s machines. The response of the CPS locally has been very unhelpful - the suggestion being made is that the advocate should buy new equipment to play discs”

The short answer is that this should not be happening.

I asked the CPS their official position and this was the reply I got from their Head of Change who is the lead on all matters digital; -

“In relation to the issue with Macs, I would be interested to know what software is being used that is not compatible with Macs. I have the lead for all multimedia evidence projects, and have ensured through development that all are compatible with Macs. If further details could be provided I will ensure that are investigated.”

If you have any similar experience, let the CBA know, providing the case name, URN, CPS office and lawyer concerned and we will try to investigate.

Paul Keleher QC
8 February 2018