

Civil Procedure Notes

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Key Themes of Civil Procedure

Civil Procedure is **ALL** about balancing competing objectives. Some of the key areas where objectives of civil procedure clash are:

- 1. The tension between efficiency (cost and delay reduction) and justice/procedural fairness.**
 - See *AON v ANU, Queensland v JL Holdings, ERA v Armstrong, UBS v Tyne*.
 - It takes time and money to explore evidence so increases in efficiency can threaten justice.
- 2. Access to Justice and the role of litigation in society.**
 - Does society benefit more from careful but expensive justice which sets good precedents for society to follow or from quick and cheap justice which is accessible to disputants but not their successors?
 - **Hazel Genn, Judging Civil Justice, Hamlyn Lectures, 2008, Cambridge University Press, Chapter 1**
- 3. Open justice vs the right to privacy.**
 - Open justice is key for judicial accountability and faith in our justice system but it is also a significant invasion of privacy which can make it a barrier to accessing justice.
 - Litigation can involve vulnerable parties such as children and the disabled who require protection.
 - How can justice be closed?