



Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

OFFICIAL REPORT
(Hansard)

**Departmental Briefing on Redrawing the
Map: a Consultation on Court
Boundaries in Northern Ireland**

27 May 2010

NORTHERN IRELAND ASSEMBLY

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Departmental Briefing on Redrawing the Map: a Consultation on Court Boundaries in Northern Ireland

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Members present for all or part of the proceedings:

Lord Morrow (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Jonathan Bell
Mr Conall McDevitt
Ms Carál Ní Chuilín
Mr Alastair Ross

Witnesses:

Ms Jacqui Durkin)
Ms Geraldine Fee) Northern Ireland Courts and Tribunals Service
Mr Peter Luney)

The Chairperson (Lord Morrow):

The Committee will receive a briefing on the consultation to redraw the map for court boundaries in Northern Ireland. The witnesses are Geraldine Fee, who is head of the criminal policy and legislation division in the Northern Ireland Courts and Tribunals Service; Ms Jacqui Durkin, who is head of the business development and services division; and Peter Luney, who is head of the business development group. We welcome you, folks. I remind you that the session is being recorded by Hansard and that the transcript will be published on the Committee's website. Geraldine, I invite you to make your presentation.

Ms Geraldine Fee (Northern Ireland Courts and Tribunals Service):

Mr Chairman, I will not be making the presentation. My colleague Peter will do so. However, as I explained at last week's meeting, I am responsible for co-ordinating Courts and

Tribunals Service aspects that will, hopefully, be included in the proposed justice miscellaneous provisions Bill.

Although I introduced myself to the Committee last week, I will recap. As you said, I am head of the criminal policy and legislation division, and have been division since 2004. Prior to that, I practised at the Bar of Northern Ireland.

This will be the first of two presentations to the Committee on the Courts and Tribunals Service's public consultations, which were launched with a view to the possible inclusion of proposals in the forthcoming justice Bill.

Mr David Luney (Northern Ireland Courts and Tribunals Service):

I am head of the Northern Ireland Courts and Tribunals Service's business development group. I have worked for the service for almost 20 years. I started off working in various court offices delivering front line services to court users. I then moved into policy and spent most of my time in criminal policy. My role as head of the business development group allows me to bring together my policy and operational experience. I am responsible for delivering the organisation's modernisation agenda, from which the current consultation on court boundaries flows. Before I begin the presentation, I will let Jacqui introduced herself.

Ms Jacqui Durkin (Northern Ireland Courts and Tribunals Service):

I am head of the business development and services division in the Northern Ireland Courts and Tribunals Service, and have been since 2005. Previously, I was head of the court operations division until January 2010. I joined the service in 1984. One of my key responsibilities is the delivery of the business modernisation and customer service strategy, of which the redrawing the map consultation and court boundary reform proposals are part.

Mr Luney:

As the Committee will be aware, our consultation document seeks views on proposals to reform the current statutory geographical court boundaries for County Courts and Magistrate's Courts in Northern Ireland. At present, the distribution of County Courts and Magistrate's Courts' business in Northern Ireland is primarily determined by County Court divisions, petty sessions or Magistrate's Court districts, which are enshrined in statute and based on the boundaries of local government districts.

When proposals to restructure local government from 26 to 11 districts were published as part of the review of public administration (RPA), we recognised that it would have a direct

impact on court boundaries. Therefore, we established a working group to consider available options.

The first and most obvious option is a conventional realignment of court boundaries to take account of the proposed new local government districts. That would be relatively easy to achieve through secondary legislation, but it would leave us with the same type of rigid statutory framework that constrains our ability to manage the distribution of court business, take account of the needs of victims and witnesses and ensure the most efficient use of judicial and court resources.

There is some limited scope in the current model to transfer business within and between divisions. However, the working group wanted to consider whether it would be feasible to develop an alternative model to provide sufficient certainty for court users on the normal arrangements for court listing, while providing additional flexibility to facilitate the more effective disposal of court business for the benefit of users. Therefore, we developed a second reform option of removing the current statutory boundaries to establish a single territorial jurisdiction for County Courts and Magistrate's Courts in Northern Ireland, which would be similar to the one that exists for the Crown Court and the Coroners Service.

Access to justice is a key consideration for us. Therefore, we have proposed that the single territorial jurisdiction must be underpinned by an administrative framework, which would establish administrative court divisions and ensure that court users continue to be provided with access to justice at a convenient court location. The framework would be agreed between the Justice Minister and the Lord Chief Justice, and would describe the administrative court divisions, set out the rules governing the distribution of court business in those courts — referred to as the guiding principle — and specify the circumstances in which the guiding principle could be departed from.

The purpose of the guiding principle is to ensure that there is a consistent approach to listing court cases, so that court users would generally know at which venue their case would be listed, and it is proposed that the guiding principle should be broadly drafted in the same terms as the current legislative provisions, which govern jurisdiction. For example, criminal offences would continue to be prosecuted in the court area where the offence occurred or where the offender resides, and family proceedings would continue to be listed before the Family Proceedings Court or the family care centre with jurisdiction. However, unlike the current statutory arrangements, the framework would set out the circumstances in which cases could be listed in or transferred to another court division. The additional flexibility afforded

by those proposals would allow us to better meet the needs of victims and witnesses by allowing a case to be listed at a more convenient venue, for example. Cases requiring special measures, specific information and communication technology (ICT) support or victim and witness facilities could more readily be listed at the venues that best suit the needs of particular cases.

In addition to allowing us to deliver a more responsive service in individual cases, the proposals would also enhance our ability to manage the distribution of court business, give us the flexibility to better manage peaks and troughs and to make better use of court accommodation to facilitate the more efficient disposal of business and help to reduce unnecessary delay. Wherever it is practicable, the views of individuals will be taken into account before a decision is made to transfer a case to another court division. In addition to the flexibility to distribute business according to customer needs and available capacity, a single jurisdiction model will assist future court estate planning by eliminating the restrictions that are currently faced under the multi-jurisdictional model.

In our consultation paper, we outlined a number of potential future developments that could flow from the current reforms and suggested that there may be scope to develop different administrative arrangements for different types of business. We consider that adopting an incremental approach to the reforms would deliver the benefits without causing any significant inconvenience or confusion to court users.

Prior to publishing the consultation paper, we met the Human Rights Commission to discuss the proposals, and it expressed no concerns. The consultation exercise began on 1 March and sought the views of court users and other stakeholders on the reform options. It is due to conclude on 28 May 2010, which is tomorrow. To date, we have received 12 responses that have been broadly supportive of the principle of a single jurisdiction. However, a number of themes have emerged, and a number of the respondents emphasised the importance of having adequate safeguards to ensure that the needs of individuals are prioritised over administrative convenience and that the principle of access to justice is protected. Under the proposals, any decision to depart from the guiding principle would be taken only by the Lord Chief Justice or the local judiciary. It is anticipated that, in the majority of cases, the judiciary would consider the impact on individual parties of any decision to depart from the guiding principle.

Some consultees suggested that, in addition to the administrative framework, it may be helpful to set out and define the practical steps that would be considered before a case is

transferred. That would include giving the affected party the right to make representations and setting out specific grounds on which they could object to a move. We see merit in that suggestion and are considering how it could be taken forward. It should be noted, however, that there will be times when it is simply not practicable to facilitate representations; for example, if all court business is moved because a venue has become unavailable.

Some respondents queried our conclusion that the proposals would not adversely affect any of the section 75 groups or have significant implications for equality of opportunity. The proposals seek to strike a balance between providing sufficient assurance for court users about the day-to-day listing of court business and providing a degree of additional flexibility to facilitate the more effective disposal of business for the benefit of those users.

The intention behind the policy is that the current listing arrangements would be broadly maintained but would have some additional flexibility. As I outlined, we think that there will be sufficient safeguards in place to ensure that the needs of individuals are considered before cases are moved.

Some consultees expressed concern that the proposals could lead to court closures. The proposed reforms are about giving additional flexibility to provide a more responsive service to court users and to help dispose of business more effectively. The proposals will not reduce the number of court venues in Northern Ireland, nor will they impact on the venues where they currently sit.

We have acknowledged that the proposals could influence future estate planning by eliminating the restrictions currently faced under the multi-jurisdictional model. The redrawing the map proposals would give us additional flexibility to maximise benefits from any future investment in the court estate. However, any such proposals would be subject to a full consultation process.

Finally, it may be helpful to explain the relationship between our proposals and the RPA. We initiated our review because of the proposals that were set out in the review of public administration, but the two are not interdependent. We believe that the flexibility that the proposals would afford would be just as desirable and beneficial under an administrative model based on the current court structure. We are in the process of analysing the various responses that we received and are considering how the proposals may be adapted to reflect those comments as well as any comments that the Committee has.

The Chairperson:

Thank you, Mr Luney. The Committee's papers state that there have been 10 responses, although you said that there have now been 12. Do you count that as high or low?

Mr Luney:

In comparison with other consultation exercises that I have been involved in, it is slightly better than average.

Mr McDevitt:

What are the financial implications of the change?

Mr Luney:

The primary motivation behind the change is to deliver a more responsive service to users by ensuring that, where possible, we can provide a better quality to defendants, parties, victims and witnesses. If we can use those provisions to put business through the courts more efficiently, we would hopefully be able to see efficiencies.

I cannot see any significant additional costs. There may be some additional costs in travelling, because some people may have to travel further to reach a court location if a case is moved, but, conversely, other people may have to travel a shorter distance. Any net increase in costs would be offset by the better quality service that we would be able to provide.

Mr McDevitt:

Surely there will be some resource savings through the reduction of so many administrative layers into one single layer.

Mr Luney:

We are looking at what is essentially an enabling framework. The benefits that are delivered will largely depend on how often the provisions are used. The decision will essentially be for the judiciary, and if it is used considerably, I would hope to see some streamlining of processes. Again, that depends on the amount of usage of the provisions. It may be possible to move business to another court where it can be more efficiently and speedily dealt with. That may have implications for the number of additional sittings during the year, but we would have to set up a system to monitor the benefits. It is difficult to quantify at this stage.

Mr McDevitt:

Do you have any idea of whether it will cost or save the system money?

Mr Luney:

We do not expect costs to the system. The only potential cost issues will be travel costs associated with legal aid. Some people may have to travel further, but others may not have to travel as far. I do not envisage significant extra costs, and requests to move should be processed quite easily.

Mr McDevitt:

It strikes me that, if the RPA had not started, we would probably not be having this conversation. If what we are hearing in the media is true, and the meeting that is taking place as we sit here is going to plan, we know what could happen with the RPA.

Mr Luney:

I do not think that that is the case. We acknowledge that the process started because of the RPA, and we could have taken the option just to redefine the statutory boundaries, in which case, yes, the delay in the RPA would, in effect, put the proposals on ice. However, when the working group started to look at the situation, it saw that there would be benefits in having a more flexible system. The rigidity of the present statutory boundaries is not always helpful, so having a more flexible administrative system will deliver benefits to court users. Consequently, the proposals are not related purely to the RPA.

Mr McDevitt:

How will you measure the benefits that the change is meant to bring to the system? As you suggested, the benefits will not be financial, so, if we go ahead with the changes, in one, two or three years' time, how will we know that they have been positive? Specifically, how will you measure that?

Mr Luney:

We will work closely with the Office of the Lord Chief Justice to develop a monitoring system. However, as you said, the benefits will be primarily qualitative, so, to demonstrate that the changes have been beneficial, we will need to develop a system whereby we get feedback from parties that have been involved in affected cases. In doing so, we are likely to take an approach similar to the one that we experienced through carrying out court-user surveys.

The Chairperson:

Mr Luney, are you saying that, irrespective of Mr McDevitt's point about what has appeared in the press today concerning the RPA, you would change nothing in your report?

Mr Luney:

Yes. The consultation paper contained a draft of the administrative framework, at the back of which we set out two descriptions of what the administrative boundaries might look like. One was our vision of how they would look if the RPA reforms were to be implemented and the other was essentially a description of the present boundaries with seven divisions. In other words, a slightly different description of what we have now. Flexibility is the essence of what we are trying to achieve. We want to be able to move cases more readily in order to benefit court users. From that point of view, the thrust of the proposals is still the same.

The Chairperson:

What organisations have responded to the consultation process?

Mr Luney:

We received responses from the Committee on the Administration of Justice, Sinn Féin, the Commercial Bar Association, Disability Action, the Probation Board, Victim Support, the Public Prosecution Service (PPS), the PSNI, the Office of the Lord Chief Justice, the Law Society and the Children's Law Centre. The Bar Council has yet to respond.

Mr McCartney:

You said that responses have been broadly supportive. In which areas were there reservations?

Mr Luney:

There were reservations in the areas that I outlined at the end of my presentation. Some people raised issues about our conclusions on equality screening, and some expressed the importance of having safeguards to ensure that access to justice and the rights of individuals are given priority over the administrative convenience of the organisation. There was also an issue about the court estate, and the view that the proposals would simply pave the way for court closures.

Mr McCartney:

In your presentation, you stated that there will not be court closures.

Mr Luney:

The presentation stated that the purpose of the proposals was not to diminish the number of courts in Northern Ireland, but it acknowledged that it could influence future court estate planning.

The Chairperson:

There do not seem to be any more questions. I ask that the Committee be provided with a summary of the responses that were received and the key issues that have been raised. I understand that the consultation period ends today, is that correct?

Mr Luney:

It ends tomorrow.

The Chairperson:

Perhaps you will let us have a copy of that. Thank you very much.