Ministry of Justice

Proposals on the Provision of Court Services in England and Wales

Consultation Papers:

HMCS CP01/10
HMCS CP02/10
HMCS CP03/10
HMCS CP04/10
HMCS CP05/10
HMCS CP06/10
HMCS CP07/10
HMCS CP08/10
HMCS CP09/10
HMCS CP10/10
HMCS CP11/10
HMCS CP12/10
HMCS CP13/10
HMCS CP14/10
HMCS CP15/10
HMCS CP16/10

A response by the Association of Personal Injury Lawyers

15 September 2010

The Association of Personal Injury Lawyers (APIL) was formed by claimant lawyers with a view to representing the interests of personal injury victims. The association is dedicated to campaigning for improvements in the law to enable injured people to gain full access to justice, and promote their interests in all relevant political issues. Our members comprise principally practitioners who specialise in personal injury litigation and whose interests are predominantly on behalf of injured claimants. APIL currently has around 4,400 members in the UK and abroad who represent hundreds of thousands of injured people a year.

The aims of the Association of Personal Injury Lawyers (APIL) are:

- to promote full and just compensation for all types of personal injury;
- to promote and develop expertise in the practice of personal injury law;
- to promote wider redress for personal injury in the legal system;
- to campaign for improvements in personal injury law;
- to promote safety and alert the public to hazards wherever they arise; and
- to provide a communication network for members.

Given the experience of our members, we have sought comment from our full membership. APIL would like to particularly acknowledge the assistance of the following members in preparing this response:

Cenric Clement-Evans – APIL Executive Committee Member;
Brian Dawson – APIL Wales Regional Group Co-ordinator;
Theo Huckle – APIL member and Wales Regional Group Secretary;
Michael Imperato – APIL Executive Committee Member;
Stephen Lawson – APIL Secretary;
Victoria Mortimer-Harvey – APIL Executive Committee Member; and
Jonathan Wheeler – APIL Executive Committee Member.

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Introduction

APIL's long-standing position is that there should be full and fair access to justice. We believe some of the proposals, if implemented, could prevent this. If the injured person does not have access to decent court facilities, then their access to justice is ultimately limited.

In order to respond to these consultations, we have consulted our membership and composed one response to all of the papers listed on the cover of this document.

Executive Summary

APIL welcomes the opportunity to respond to the Ministry of Justice's (MoJ's) consultation regarding the proposals on the provision of court services in England and Wales. Our remit only extends to personal injury cases. Throughout this response, APIL makes the following points and suggestions regarding the proposed court closures:

- We recognise that some of the courts proposed to close or merge could do so with little effect on access to justice.
- We ask for reassurances that the newly proposed courts can cope with the expected increased workload; that efficient staff and judges are not lost through the transition; and that members of the public have access to reasonable court facilities.

- We remain concerned that as work is shifted from one court to another there will be increased delays and the repeat of further problems which have been encountered before.
- Closing courts and moving staff could result in cases being dealt with inefficiently by staff.
- We propose that the MoJ should include a paragraph in the Civil Courts Charter[1] that specifies that no one should have to wait more than 20 working days from issue of preliminary application to the date their case is heard.
- There seems to have been little regard to the "ruralness" of some areas. Some of the suggested closures will result in members of the public having to travel substantial distances to have their case heard. APIL is concerned that under the proposals there are no trial centres in the heart of Wales. This means that claimants living in the centre of Wales already, and will continue to, struggle to access a local county court, which in turn could affect access to justice.

Our Response

In personal injury law, the only time at which a relocation of the county court would affect the injured person is at trial as intermediary hearings are now largely conducted by their legal representative over the telephone. We recognise the need for efficiency in the court system but we remain concerned that some of the proposals could inhibit access to justice. We believe that should these proposals go ahead, reassurances should be put in place. We seek reassurances that:

- the proposed courts can cope with the expected increased workload;
- efficient staff and judges are not lost through the transition;
- the location of the claimant is taken into consideration; and
- members of the public have access to reasonable court facilities.

[1] *Courts Charter – The Civil Courts,* Her Majesty's Courts Service, document AJ20.

The recommendations suggested in these papers do not indicate that there has been a substantial reduction in court use or that the courts proposed for closure have seen a significant reduction in cases. Therefore, the workload will be not be reduced, but simply shifted to another location and that once workloads begin to shift, there will be increased delays and the repeat of further problems which have been encountered before. For example, members have given details of telephone hearings where the practitioner has sat waiting for over an hour for a judge to dial in and the telephone hearing to begin. The practitioner may then be told that the judge is no longer available, and the hearing is postponed to a later date. If there are to be court closures, there needs to be adequate provision of services in the court to deal with these increased workloads that are expected, which includes an adequate level of staff required to deal with the influx of new cases.

Following recent changes by HMCS in Cambridgeshire, Essex, Norfolk and Suffolk county courts whereby the administrative process in the east of England will be handled from a centralised business centre in Hayward's Heath, as part of a national HMCS project from September 2010, we have received some comments from APIL members regarding these changes. Members have reported of slower services from the courts, not being able to speak to someone at their local court, inefficiencies in paper handling such as receiving allocation questionnaires with no copy of the defence and case files appear to be "in transit" for too long. APIL is concerned that delays and inefficiencies like these will continue, and progress, if courts move towards outsourcing or if staff members are not adequately able to deal with the workload.

We are concerned at the proposed closure of Mayor's and City Court in London in consultation paper HMCS CP12/10. It is assumed that the majority of work which would normally go to Mayor's & City Court will now go to the Central London or Clerkenwell & Shoreditch Courts. We understand that a lot of the administrative work at Clerkenwell & Shoreditch is outsourced and our members have questioned if this has worked better for the court. We are also concerned that closing courts and moving staff could result in cases being dealt with inefficiently by staff. We believe that there is support for Mayor's & City

Court in London, both in terms of the building's historical importance and the level of service received by the staff here. It is thought that of the three courts mentioned: Mayor's & City; Clerkenwell & Shoreditch; and Central London the Mayor's & City is the most efficient. We are also concerned that there may be a loss of efficient staff and judges during the transition. We feel that there is clear support for the District Judges and Circuit Judges at Mayor's & City Court from APIL members as they feel they are able to efficiently deal with personal injury cases.

One proposal we would submit to the MoJ is, to include a paragraph in the Civil Courts Charter[2] that specifies that no one should have to wait more than 20 working days from issue of preliminary application to the date their case is heard. This would assure practitioners and members of the public that the courts will be dealing with their cases efficiently.

The proposals outlined in consultation paper HMCS CP15/10 are to close the county courts in Aberdare; Pontypool; and Chepstow and then to relocate Rhyl and Llangefni county courts to premises within the same jurisdictional boundaries[3]. The proposals in the paper are justified by the Ministry of Justice by the location of the proposed new court and the current workload of the court proposed to be closed.

Whilst the injured person is only likely to attend court for trial of their case it is essential that the injured person has access to a court. What seems to have been forgotten when drafting these proposals is that in order to get to the county court currently favoured by them, practitioners and members of the public may already have to travel, and with the proposals made they will be expected to travel, in some cases, much further. For example, the "ruralness" of some parts of England and Wales could present a real problem. The location section of the proposals in these consultation papers does not take into account what travel the members of the public would have been expected to do in the first

[2] *Courts Charter – The Civil Courts,* Her Majesty's Courts Service, document AJ20.
[3] *Proposal on the provision of court services in Wales,* Ministry of Justice Consultation Paper CP 15/10, Page 40.

instance to get to the current court they use. It only considers what travel will have to be done from the current court to the new court. APIL is concerned that under the proposals there are no trial centres in the heart of Wales. This means that claimants living in the centre of Wales already, and will continue to, struggle to access a local county court, which in turn could affect access to justice. This can affect access to justice as it impacts on whether the injured person will be able to be present at court during trial. We would also anticipate that any further travel expected of the legal representative and their client will increase any accrued travel expenses. These expenses are recoverable from the unsuccessful party and therefore we would expect that there will be increased costs in these cases than there has been previously.

We also submit that members of the public using courts should have access to reasonable facilities at the court, especially when the time they will be required at court is for trial which could be quite a distressful time for them already. In terms of reasonable facilities, claimants would require, and practitioners would expect to see, consultation rooms where refreshments are available and there is opportunity to speak to counsel and solicitors. A concern here is that rooms like this are often taken for court mediation services, which leaves little opportunity for a solicitor or counsel to consult with their client who is waiting for a trial to begin.

Whilst we understand that the MoJ has made these proposals in order to cut down on costs and expenses, the level of quality of services provided by the courts service must not be compromised in any way.

- Ends -

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