

**Department of Justice for Northern Ireland
Rationalisation of the court estate**



**A response by the Association of Personal Injury Lawyers
March 2015**

The Association of Personal Injury Lawyers (APIL) was formed by plaintiff 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 plaintiffs. APIL currently has around 3,800 members in the UK and abroad who represent hundreds of thousands of injured people a year many of whom use the court system.

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.

Any enquiries in respect of this response should be addressed, in the first instance, to:

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Introduction

APIL's long-standing position is that there should be full and fair access to justice. We believe the proposals, if implemented, could prevent access to justice, particularly for those in more rural areas. If the injured person does not have access to satisfactory court facilities local to them, then their access to justice is ultimately limited. APIL understands that the Department of Justice for Northern Ireland is facing financial challenges, but we do not believe that closing up to 40 per cent of the courthouses is the correct approach. The effect of the proposals, coupled with on-going attacks on legal aid, will be a further disconnect between local people and access to justice.

APIL is against the Department of Justice's proposals because:

- The process of going to court is already extremely stressful and daunting for injured people. Increased travelling times and the requirement to attend a court somewhere unfamiliar is likely to increase stress and may put an injured person off from bringing a claim entirely.
- Witnesses may be less likely to attend court if they are required to travel a great distance, or travel is difficult. Unavailable witnesses will lead to delays in hearing the case, further causing stress to the injured person. Again, this may even lead to the case being under settled before reaching court, or no longer being pursued at all.
- The proposed savings for the Department of Justice are eclipsed by the impact that the closures will have on vulnerable people. We also query what will happen to the closed court houses. If they are kept by the DOJNI, the costs of maintenance will also need to be taken into account, reducing savings further.
- We struggle to see how the remaining courts will be able to cope with the increased workload. This is especially so in light of the change to the County Court jurisdiction which took place in 2013, which has led to an increase in cases being heard in the County Court rather than the High Court.

General comments

Limiting access to justice

The proposed closures will likely only affect an injured person when they are required to go to trial. The process of going to court is already extremely stressful and daunting for the injured person – who is most likely a one-time user of the system. Having to travel a long distance to an unfamiliar town or city will surely increase the stressfulness of the

event. As a result of this daunting prospect, plaintiffs may be at risk of under-compensation as they choose to accept a lower offer for compensation than they deserve, rather than taking the case to court. Someone who has suffered an accident and is injured through no fault of their own has the right to be able to access the court and obtain the correct amount of compensation that they deserve to put their life back, as closely as possible, to the way it was before the accident. Minors and vulnerable adults will be particularly affected by the proposals, and faced with having to attend court in an unfamiliar place, may decide to no longer pursue their case.

In order to get to the court house currently favoured by them, practitioners and members of the public may already have to travel, and these proposals necessitate in some cases much further travel. The “ruralness” of some parts of Northern Ireland could present a real problem – see below for specific examples. The estimated travel times outlined in the proposals do not take into account what travel the members of the public would have been expected to undertake in the first instance to get to the current hearing centre/court house that they use. It only considers what travel will have to be done from the current court to the new court, and in some instances this is already estimated at up to an hour.

Further, the extra cost of having to travel further will be extremely burdensome for injured people who have perhaps had to take time off work due to their injuries. This will be another factor potentially leading to the plaintiff deciding to settle their case before court.

Unavailable witnesses

A further issue is that there may be increased instances of unavailable witnesses, as those attending to give evidence (already daunted by the prospect of having to do so) are less likely to travel further to get to court, and may simply fail to attend. This will cause delays as trials have to be postponed, or may result in a case being dropped altogether. This, again, will cause unnecessary stress and strain for the injured person and could be a factor in them deciding to under-settle instead of taking the case to court, thus being denied full and proper compensation for their injuries.

Delays

The proposals in this paper do not indicate that there has been a substantial reduction in the use of the courthouses which are to be closed, or that there has been a significant

reduction in cases. The workload will not be reduced, therefore, but simply transferred to another location. Once workloads begin to transfer, there are likely to be increased delays and the repeat of further problems which have been encountered before. Further, since the increase in county court jurisdiction from £15,000 to £30,000, some members have reported that the county courts are already struggling to cope. Members report that cases are regularly not being reached in the list, and clients are being sent away until a later date. It is nonsensical to increase the volume of cases going through the county court and then severely reduce the amount of county courthouses. Delays will be rife, and this will further increase the stress on the injured person.

Proposed savings are small

In light of the above likely impacts, the proposed savings to the Department of Justice, of around £1m, are small. The savings must also be viewed in the context of the impact that the closures will have on the surrounding economy. Local cafes etc relying on passing users of the court will be hit financially, and the closures of the courts may therefore result in job losses and thus a greater strain on the social security budget. We also query what will happen to the closed courthouses. If the Department of Justice keeps them, the cost of maintaining them will be high. A number of courthouses are listed buildings, which will limit the options for further development or sale.

Level of service must not suffer

If some court houses are closed, there needs to be adequate provision of services in the remaining courts to deal with the increased workloads that are expected, which includes an adequate level of staff required to deal with the influx of new cases.

In any amalgamation of court facilities such as those proposed in the consultation, it is expected that the court facilities will be shared amongst a larger number of court users. Members of the public using the courts should have access to reasonable facilities, especially when the time they will be required at court is for trial which could be quite a stressful time for them already. In terms of reasonable facilities, claimants would require, and practitioners would expect to see, private consultation rooms where there is opportunity to speak to counsel and solicitors and refreshments may be made available. 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 Department of Justice 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.

Comments on specific courts

As above, we believe that the extended travel times resulting from the closure of the courthouses are unacceptable. In most cases, the travel time will be around an hour on public transport.

Transfer of business from Lisburn and Newtownards to Belfast

We find it unacceptable that Lisburn, a city with a population of over 70,000 will no longer have a courthouse. Access to justice needs to be maintained on a local level, and it is difficult to see how confidence can be maintained in the justice system if the third largest city in Northern Ireland does not have a court.

Transfer of business from Limavady to Coleraine

For the sake of, as the DOJNI admits, modest savings, we believe that the closure of Limavady courthouse will have adverse effects on the community. As above, people will be daunted by having to leave their local community and travel to an unfamiliar place, which will cause further stress and upset at a time when the injured person is already vulnerable and unsure. Instead of a short walk or bus ride, the injured person without a car would now face 45 minutes on public transport to get to the court. Again, it is hard to see how local confidence can be maintained in the justice system if these changes go ahead.

Transfer of business from Enniskillen and Strabane to Omagh

The amalgamation of the courts in the west of the province will result in there being no county court in the whole of Fermanagh, and only two courts in Tyrone. This court division is currently the largest in Northern Ireland, as evident from the diagram on page 32 of the consultation paper. Plaintiffs will have to travel extensively in order to attend court. Additionally, this area is not served well by public transport - there being no railway networks in the region – and there is no motorway in Tyrone beyond

Dungannon. Commuting to court will, therefore, be extremely difficult and expensive, especially for those on a low income who rely on public transport. As above, this will cause unnecessary stress to the injured person, who will already be anxious.

Specialisation of Craigavon as the main Civil, Family, Youth and Tribunals Centre for the South Eastern Court Division

We believe that specialist courts could work in some instances, but are not a one-size fits all approach. At present, personal injury cases are often bumped down the list in favour of other work types. Whilst the Northern Irish jurisdiction is perhaps too small to implement a system like the one in Scotland – where there will be one specialist personal injury court to hear all cases, one suggestion would be to have only personal injury cases listed on certain days of the week, and these will be heard by specialist judges. Currently, judges hearing cases are not always familiar with quantum and liability issues.

Other suggestions to improve efficiency

We appreciate that the DOJNI is under tremendous financial pressure, but maintain that the closure of up to 40 per cent of the court houses will save little when compared with the negative impacts that such proposals will have on the community. We suggest that greater use of email and the approval of applications ex parte would improve the efficiency of the court system and help to reduce costs. Greater care could be taken when listing cases too, and this could even be done on a firm by firm basis to help save time.

- Ends -

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