

Ministry of Justice

**Fit for the future: Transforming the court and tribunal
estate**

**Proposal on the future of Wandsworth County Court and
Blackfriars Crown Court**



A response by the Association of Personal Injury Lawyers

March 2018

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation with a history of over 25 years of working to help injured people gain access to justice they need and deserve. We have over 3,400 members committed to supporting the association's aims and all of which sign up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives and academics.

APIL has a long history of liaison with other stakeholders, consumer representatives, governments and devolved assemblies across the UK with a view to achieving the association's aims, which 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;
- To provide a communication network for members.

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

Alice Taylor

Legal Policy Officer

APIL

3, Alder Court, Rennie Hogg Road, Nottingham, NG2 1RX

Tel: 0115 9435428; Fax: 0115 958 0885

e-mail: alice.taylor@apil.org.uk

Introduction

There should be full and fair access to justice for all. It is important that the strategy for court closures does not restrict access to justice, particularly for people in rural areas or those who are vulnerable. There must be careful consideration of the capacity of the remaining courts to take on the work load, and transition plans in place ahead of any closures so that parties are not left uncertain of what is happening. Attending court can already be an extremely stressful process, and it should not be made even more so due to uncertainties in where the case might be heard or a risk that the hearing might be cancelled at the last minute.

Along with general comments on the court closure strategy, we also provide comments from APIL members on the proposed closure of Wandsworth County Court.

Q1 What is your view of our proposed benchmark that nearly all users should be able to attend a hearing on time and return within a day, by public transport if necessary?

Paragraph 4.18 of the consultation document acknowledges that different court users will have different needs. We agree that setting a specific target travel time on an arbitrary basis will not ensure access to justice, and that the aim of users being able to attend a hearing on time and return within a day, by public transport if necessary, will allow for greater consideration of the needs of different court users. It must be considered whether someone with a severe disability, for example, could complete the proposed journey in one day, on public transport, when taking into account the tiredness experienced after a contested day in court. There must also be an assessment of the impact of any proposed closures on vulnerable groups in society, such as those on low incomes who will be more likely to rely on public transport to get to and from the court.

The future strategy for assessing the impact of closures must also consider aspects other than the journey time of the user. It must also be borne in mind that the most common reason for an injured person to attend court is for an infant approval hearing. Most of those affected by any future closures, from a person injury perspective, will therefore be children.

In any assessment of proposed court closures, there must be consideration given to the fact that the process of going to court is already extremely stressful and daunting for injured people, who are already vulnerable and likely a one-time user of the system. Increased travel times and the requirement to attend a court somewhere unfamiliar is likely to increase stress and may even put an injured person off from bringing a claim entirely. Any assessment of travel times must also take into account that increased distances will mean increased costs for the injured person who may have had to take time off work due to their accident.

Q2 What is your view of the delivery of court or tribunal services away from traditional court and tribunal buildings? Do you have a view on the methods we are intending to adopt and are there other steps we could take to improve the accessibility of our services?

Use of video technology

In relation to personal injury and the need for a hearing venue, different considerations might apply depending on whether the hearing is needed with respect to liability or to assess the amount of damages. For liability hearings there may be numerous witnesses who have to give live evidence and matters of impression may make it more important that they appear before a judge. Assessment of damages would be more suitable for video-link evidence, with medical experts, for example, being able to give evidence from a place convenient to them, meaning that the process is much more cost effective than if they were required to attend court in person.

In cases of very serious personal injury, it may be beneficial for claimants to give evidence from their own surroundings, as this might be highly material to the assessment process.

Where evidence can be given remotely, it is imperative that HMCTS becomes skilled in accommodating the different forms of transmission that are available (Facetime, Skype, video calling). Many members of the public are now very adept at using these forms of media themselves and so choices as to how to interact with the court system must be offered. The biggest hurdle will be overcoming security and identity concerns, but that should not be insurmountable. Sufficient investment must be made to ensure that where video and other remote technologies are used in place of attendance in person, there is sufficient investment in the resources to ensure that these links work correctly. Difficulties in the operation of video technology in the court is a well-known source of frustration amongst the judiciary and court users, at present.

Other hearing venues

Suitable estate venues may not necessarily be in a city or town centre. The crucial factors, as recognised in the consultation, are the availability of public transport to the venue and parking. Injured and disabled people need to be able to have close access to a building if they are being brought by car. For those reasons, out of town venues with transport links might be appropriate, for example large shopping centres with suitable accommodation, and sports stadia. These tend to have parking and space for disabled access, broadband and IT equipment, rest facilities and will likely have suitable conference space.

As mentioned in response to question 1, the process of going to court will already be extremely stressful and daunting for the injured person, who is likely to be a one-time user of the system. To take account of the worries and vulnerabilities of injured and disabled people, much better information must be provided to users in advance about the court building they will be attending, its facilities and any particular matters of importance. For example, the security checks which might be carried out if any and how long this might take, lifts, toilet and changing facilities, parking and public transport routes.

HMCTS must also take the opportunity to use social media in its various forms to engage with users of the court system in relation to information such as court listings. Provision must always be made, however, for those who are unfamiliar with using the internet.

Q4 Do you agree that these are the right criteria against which to assess capacity? Are there any others we should consider?

It is vital that there is the right capacity within the court estate to achieve full and fair justice for all, and we agree with the criteria to assess capacity. In any assessment of whether courts should close, care must be taken to ensure that the remaining courts can provide an efficient and well run service to meet the needs of all of their users. There must be adequate resources in the remaining courts to deal with the increased workloads that are expected, including sufficient staffing levels required to deal with the influx of new cases. A further criterion should be that the capacity is sufficient to ensure that the quality of service provided does not suffer and that there is efficient administration of justice.

There must also be consideration of what transitional provisions need to be in place to ensure that there is as little disruption to cases as possible. If courts close before the scheduled date of a hearing or inquest, the parties stand to lose their date and venue and will be pushed to the back of the queue at the new venue. The date of the hearing may have been scheduled months in advance, and being told that it now will not be going ahead as planned will cause distress to the injured person or bereaved family.

Q5 What is your view on the proposed principles and approach to improving the design of our court and tribunal buildings? Do you have any further suggestions for improvement?

Where attendance at a venue is necessary, it must be taken into account that both physical disability and tiredness are likely to be factors affecting injured people. Court buildings must be able to accommodate these people in terms of access to the venue but also in terms of having suitable facilities for breaks. Although there has already been a recognition of, for example, the need for child care, far more needs to be done in providing facilities to accommodate carers and children in the case of users who have to accompany or be accompanied. This need is recognised by the Equality Act 2010.

Many existing venues are sorely lacking in suitable conference facilities. This is a serious impediment to users and representatives, when trying, for example, to conduct sensitive, complex and detailed discussions in a busy, noisy and very public environment. In addition, many venues lack even basic refreshment and catering facilities. This can be a major issue for users who have had to travel the furthest and who, in some cases, may be there for much of a day. If they are physically disabled it might be very difficult for them to leave the venue in the time available to take refreshments and that is also not conducive to the interests of justice.

In personal injury cases, given current government policy, it is likely that there will be many more litigants in person. Facilities will need to be built in to make provision, for example, for confidential access to advice agencies or appropriate court staff on site. There should be public access to research materials which might be necessary to assist a litigant on the day.

Comments on proposed closure of Wandsworth County Court

While members agreed that Wandsworth County Court is not currently fit for purpose, there were a number of concerns about the proposals to transfer the workload to either Kingston or Clerkenwell and Shoreditch. Members suggested that the travel times set out in the consultation document were unrealistic, and that the difficulties of travelling through London should not be under-estimated. Travelling further and making more complex journeys is always likely to be more problematic for injured people, not just bearing in mind physical injuries but also mental health problems that may arise from injury, such as anxiety and depression.

There were also concerns from members that those courts that are proposed to take on the workload from Wandsworth do not have the capacity to do so. The closure of Bow County Court has led to many cases being diverted to Clerkenwell and Shoreditch for some time. Members are concerned that the court will not have the time to take cases from Wandsworth as well. One member detailed the problems that they already experience at Clerkenwell and Shoreditch, which demonstrates that it is already pushed to capacity. The member issued an application in August 2017, did not receive any confirmation for several weeks, so attempted to telephone the court nine times, without an answer. Emails were ignored, as was a formal letter of complaint. It transpired that the court had lost the file. The hearing was then scheduled for 3 January. When the solicitor arrived at court on 3 January, they found that the case had not been listed. This suggests that there are not enough resources to cope with even the current case load, and directing the Wandsworth case load to this court would likely have disastrous consequences for the efficient administration of justice.

Members have provided similar complaints about Kingston being understaffed, with existing staff being overworked. Members have reported that it is extremely difficult to get through to the court on the telephone. This indicates that Kingston will be unlikely to be able to cope with any extra cases.

- Ends -

Association of Personal Injury Lawyers

▶ 3 Alder Court, Rennie Hogg Road, Nottingham, NG2 1RX

● T: 0115 943 5400 ● W: www.apil.org.uk ● E: mail@apil.org.uk