
Proposals for the Creation of County Court Civil Hearing Centres in Northern Ireland

Consultation Response

Introduction

1. The Bar Council is the regulatory and representative body of the Bar of Northern Ireland. Members of the Bar specialise in the provision of expert independent legal advice and courtroom advocacy. Access to training, experience, continual professional development, research technology and modern facilities within the Bar Library enhance the expertise of individual barristers and ensure the highest quality of service to clients and the court. The Bar Council is continually expanding the range of services offered to the community through negotiation, tribunal advocacy and alternative dispute resolution.
2. The Bar welcomes the opportunity to comment on the paper prepared by the Presiding County Court Judge and the Assigned Civil County Court Judge on proposals for the creation of County Court Civil Hearing Centres in Northern Ireland. Members of the Personal Injury Bar Association and Commercial Bar Association have provided their views on the proposals contained in the paper which have also informed this submission.

Q1. Do you agree with the proposal in Lord Justice Gillen's Civil Justice Report that county court civil business should be consolidated into hearing centres? Please give reasons for your answer.

3. The Bar remains open to the proposal for County Court civil business to be consolidated into four hearing centres across Northern Ireland. In response to the public consultation on the Civil Justice Review in late 2016, members highlighted problems around mixed lists with civil business often being listed alongside other ongoing business and resulting in criminal cases involving juries or family cases taking precedence. Significant concerns were highlighted about the priority assigned to civil cases given that they are often not reached or can be adjourned for several weeks, particularly in the County Courts outside Belfast. Meanwhile parties involved in these cases are forced to compete for space with those involved in criminal and family cases in court venues with limited space and consultation facilities. Members believe that the establishment of four properly resourced hearing centres for County Court civil business could help to address these issues and bring a renewed focus to the more efficient listing and disposal of civil cases.
4. We note that the introduction states that the consultation does not impact on the listing of family business at this stage yet the Gillen Review recommendations focused on the hearing centres as providing a venue for both civil and family

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proceedings. Paragraph 21 highlights that the “proposals for civil business should complement the Family Care Centre business and hopefully have a positive effect with the removal of County Court Judge civil business to a different Hearing Centre on specified dates, freeing up both time and space”. Whilst we responded to the Recorder of Belfast’s consultation on proposals for the reorganisation of Family Care Centre business in May 2018, it is unclear from this document as to whether family business could still be incorporated within the hearing centres model at some point in the future. Furthermore, the Review of Family Justice appeared to align the establishment of such centres with the creation of a single-family court which the Bar is opposed to given that little evidence exists to suggest that such a move would be appropriate for this jurisdiction.

Q2. If you have experience of the operation of the Armagh hearing centre, do you wish to comment on its effectiveness?

5. The Bar notes that since 2017 the Armagh Hearing Centre has operated with two county court judges sitting one week a month, dealing exclusively with civil business. Meanwhile County Court Practice Direction 01/18 (LCJ Direction 07/18) extended the work of the Armagh Hearing Centre to include all equity proceedings with effect from 01 December 2018. Feedback from members generally indicates that the Armagh Hearing Centre is operating successfully and is resulting in the more efficient listing and disposal of civil business across the Newry, Armagh, Craigavon and Dungannon areas. One drawback was highlighted in relation to the impact of the current arrangement on Laganside as during an Armagh week additional pressure on this court means that the civil work is often put into a mixed civil and family list.
6. However, queries have been raised by members around how equity business will be dealt with under the new model. Equity proceedings have only been included in the Armagh hearing centre for six months and we note that the figures in both table 1 and table 2 relate to ordinary civil bills and no equivalent data is provided in relation to equity civil bills. It would be useful to provide this to consultees in considering any implications for the volume of business anticipated for each of the proposed hearing centres given that the proposals include dealing with all equity business along the same lines as civil bills, as referenced in paragraph 25.
7. Meanwhile Paragraph 17 states that the hearing centres will facilitate the “listing of equity cases before a smaller number of judges who will become more ‘specialist’ in such cases as a result, leading to more expeditious hearings”. This suggests that judges will be expected to develop an expertise in this complex area

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of work and those who do not have a background in property law may find it difficult to prioritise this work under the new hearing centres model. Consequently, if equity work is to be disposed of in the County Court then judges must be supported to develop their knowledge and expertise in this area which may require the deployment of additional specialist resources and training.

8. Queries have also been raised around the management of multi-day hearings which are rare in ordinary civil work but are a common feature in equity matters. We would welcome clarity on whether it is envisaged that a four-day case listed on a Monday will then continue for the rest of the judge's week at the hearing centre or whether it will only get a single day as at present with further days to be found. If it is the latter, we would query whether there will be scope for special days to be arranged at the hearing centre to enable longer cases to be heard without impacting on the general progress of other business.

Q3. Do you agree that the hearing centres should be at Belfast, Armagh, Omagh and Coleraine? Please give reasons for your answer.

Q4. Do you agree with the suggested catchment areas for each proposed hearing centre? Please give reasons for your answer.

Q5. Are there any points you would wish to raise about the location of the hearing centres, or catchment areas, which would present significant general or specific difficulties for parties, witnesses or members of the profession?

9. The Bar notes the suggestion that the four hearing centres should be located in Belfast, Armagh, Omagh and Coleraine. By its nature, the Bar is a mobile profession and when instructed to represent, our members will appear before a court regardless of the physical locality. However, we welcome the recognition at paragraph 30 that having less than three centres outside of Belfast would create a potential burden on some parties, witnesses and members of the profession.

10. In considering the suggested catchment areas for the centres, it is helpful to note that the proposals have taken account of travel distances and the availability of public transport although these are not explored in detail in the paper. It is evident that these changes may result in anomalies or difficulties for individuals living or practising towards the limits of the geographic areas as mentioned in paragraph 22. It is likely that court users in the three main areas outlined in paragraph 23 of Larne, Downpatrick and Londonderry may experience some increased travel costs and inconvenience under these proposals.

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11. The removal of civil cases from Londonderry to Coleraine raises concerns amongst practitioners around access to justice for court users given that the travel time by private vehicle is almost an hour with public transport options taking longer. The Bar takes the view that the concept of access to justice equates to the physical accessibility of services and the centralisation of civil business could adversely impact on the visibility and locality of justice for court users, particularly in the Londonderry area. Previous proposed reforms involving the removal of a critical mass of cases from Londonderry Courthouse, such as the suggestion in relation to the Family Care Centre in the Western HSC Trust area contained in the May 2018 consultation by the Recorder of Belfast, have been opposed by members due to concerns around the implications for vulnerable clients being forced to travel significant distances.
12. However, we acknowledge that Londonderry Courthouse remains under significant pressure in dealing with criminal and family cases. The figures in tables 1 and 2 of 104 and 99 ordinary civil bill cases with Certificates of Readiness received in 2017 and 2018 respectively indicate the likely volume of business that the proposed change would impact on in this area. The centralisation of business in Coleraine could potentially free up judicial time in dealing with sensitive family proceedings and criminal cases whilst also increasing space in the public areas in Londonderry Courthouse. The reference to LCJ Direction 05/16 in paragraph 22 provides for the transfer of business to different court venues should the need arise which may mitigate access to justice difficulties in certain circumstances and provide some degree of flexibility.

Q6. Are the courthouses at Laganside in Belfast, Armagh, Omagh and Coleraine adequate for the proposed usage outlined in Table 2? Please give reasons for your answer.

Q7. Are there any deficiencies in the courthouses with regard to courtrooms, waiting areas, consultation areas, parking, accessibility that you would wish to raise?

13. Members have raised no specific concerns in relation to the courthouses in Armagh, Omagh and Coleraine based on the proposed usage outline contained in table 2. Laganside will see the largest increase in civil bill cases based on the figures provided, dealing with 71% and 69% of the total case-load in 2017 and 2018 respectively under the current proposals. Practitioners in the civil, family and criminal courts have previously raised concerns in relation to a lack of consultation rooms and insufficient facilities at Laganside to allow for confidential discussions with clients in accordance with the Bar's Code of Conduct. It is possible that the increase in the number of civil cases could place additional

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pressure on the court facilities and create the potential for a greater concentration of people in this location.

14. Furthermore, we note the reference to the new Commercial Hub Practice Direction issued in April 2019. This Direction highlights that the Commercial Hub may sit throughout Northern Ireland, where there is a suitable venue available. Members raised concerns during the consultation exercise on this Practice Direction in January 2019, highlighting that court venues across NI are already under pressure for time and space with existing lists. The cost of the Hub sitting in a courthouse outside Belfast alongside travel for practitioners and professional witnesses, plus the court itself, could prove prohibitive. Paragraph 10 of this consultation document acknowledges that uncertainty remains as to how this will operate in practice and we would welcome clarity on whether the business of the Commercial Hub may eventually impact on listing arrangements within the proposed civil hearing centres.

Q8. Are the suggested judicial resources set out in Table 3 sufficient? Please give reasons for your answer.

15. The judicial resources outlined in table 3 appear to be sufficient. However, it will be important that the judicial allocation is evaluated after the first two monthly cycle and regularly thereafter to allow for any adjustments that may be appropriate. See also our comments in response to question 2 in relation to judicial resources for equity proceedings.

Q9. Are there any other issues that you wish to raise on this topic?

16. Whilst this consultation does not deal with the issue of the County Court civil jurisdiction, it is worth pointing out that the Bar remains opposed to the Civil Justice Review's recommendation to increase this to £60,000. The County Courts (Financial Limits) Order (Northern Ireland) 2013 made significant changes to the profiles of cases passing through the system and further statistical analysis is required to properly determine how the County Court is functioning under its current workload and assist in clarifying possible additional pressure which an increase in jurisdiction would place on the system. It is worth reiterating that one of the recognised benefits of the County Court is the straightforward and uncomplicated procedure employed; it is easily accessible, inexpensive and does not require detailed pleadings. This system is specifically designed to deal with

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smaller value proceedings and cannot presently accommodate lengthy cases, complex pleadings and the use of expert evidence.

17. During the consultation exercise in late 2016, we highlighted that any increase should not be contemplated without a guarantee that no less than three Civil (and Family) Centres would be set up and given over exclusively to the hearing of civil bill and equity cases with no fewer than five county court judges to be assigned to these Centres for three-year periods. There is no reference in the document as to whether a change to the jurisdiction might be explored in the future if the proposed new centres are established. However, it is worth reiterating that new centres alone will not suffice in demonstrating the need for an increase in the jurisdiction. Further consideration would also need to be given to a specific effort to address adequate provision for the increased duration of trials, the approach to pleading and the greater usage of expert evidence before the County Court. We remain of the view that additional research exploring these matters and more, particularly around the potential impact on the public and consumers, would be essential in demonstrating an adequate evidential basis for any future steps being taken to raise the County Court civil jurisdiction.