

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

**Consultation by the Presiding County Court Judge and
Assigned Civil County Court Judge**

Issued 29th March 2019

Closing Date for Responses
5pm on Friday 10th May 2019

Introduction

The purpose of this consultation is to seek views on proposals to establish Civil Hearing Centres that will be given over exclusively to hearing county court civil bill business (including equity business) before a smaller number of county court judges on specified dates in Northern Ireland. It does not impact on the listing of family business at this stage, nor civil county court proceedings to be heard before district judges.

Allocation of a general civil business to the county courts jurisdiction is in accordance with the provisions of the County Courts (Northern Ireland) Order 1980. Allocation of such appropriately placed business (i.e. listing) is for the judiciary. Section 12(1B)(d) of the Justice (NI) Act 2002 bestows on the Lord Chief Justice (LCJ) responsibility for *“the maintenance of appropriate arrangements for the deployment of the judiciary of Northern Ireland and the allocation of work within courts.”* Section 13 of the Justice (NI) Act 2002 permits the LCJ to *“delegate any of his functions relating to the county courts to the Presiding county court judge.”*

Background

1. Section 1 of the Justice Act (NI) 2015, created a single legal jurisdiction for county courts and magistrates' courts in Northern Ireland. Prior to implementation, Northern Ireland was divided into seven County Court Divisions, and civil business was dealt with in each of those Divisions. The LCJ issued Practice Direction 5/16 on 31st October 2016 governing the distribution and transfer of business into three new Administrative Divisions, setting out how court business would be allocated. The guiding principle set out in that Direction, was to ensure the accessibility of local justice and a consistent approach which broadly preserved the previous practice in allocating and distributing civil business (with some exceptions).

2. In 2017, the LCJ assigned His Honour Judge Devlin as a civil judge, giving him responsibility for co-ordinating civil business throughout the province. Following a successful pilot scheme led by Judge Devlin, the Presiding County Court Judge issued Practice Direction 02/17 (LCJ Direction 05/17) on 20th November 2017 setting in place the establishment of the Armagh Hearing Centre to deal with civil bill cases previously heard in the venues at Craigavon, Newry, Armagh and Dungannon.
3. The Armagh Hearing Centre continues to operate with two county court judges sitting one week a month, dealing exclusively with civil business and all reports received relating to its operation are positive. By County Court Practice Direction 01/18 (LCJ Direction 07/18), the work of the Armagh Hearing Centre was extended to include all equity proceedings with effect from 1st December 2018. The extended use of the Armagh courthouse has resulted in additional hearings at a courthouse which at one stage was earmarked for closure.
4. The proposals in this consultation look at extending the Hearing Centre concept across the remainder of the jurisdiction.

Lord Justice Gillen’s Review of Civil and Family Justice in Northern Ireland

5. The Review Group published its [Report on Civil Justice](#) (the “Report”) in September 2017. The discussion on Hearing Centres is set out in Chapter 16, with emerging themes¹ including:
 - **mixed lists** of criminal, family and civil cases often result in civil cases not being reached or, if reached, are not concluded on the day and are adjourned, perhaps for several weeks;
 - the level of **equity business** disposed of in the county court is disappointingly low; Both equity and licensing cases have proved difficult to efficiently timetable;

¹ Paragraph 16.38 of the Civil Justice Report (CJR)

- It seems that under the current arrangements, where **priority** is understandably given to the overwhelming bulk of mixed lists being made up of **criminal cases** sitting with juries, this situation is unlikely to change;
 - a perception amongst the professions that personal injury claims in the county court attract lower awards of damages than if pursued in the High Court albeit the number of successful appeals on quantum to the High Court is not discerned to be high; There is a strong argument that provided ... there is sufficient resource to indicate a proven capacity to handle civil and equity claims in a timely and efficient manner, there is **no logical reason why the county court should not handle substantially larger claims**, and
 - several of the courthouses have inadequate consultation facilities, with consultations often occurring in crowded, cramped conditions in **close proximity to persons awaiting their criminal cases** to be called.
6. The Report discusses how these issues might be addressed with **key points arising** in paragraphs 16.42 – 16.50 summarised below:
- First, there must be a **fresh priority** to civil and family cases;
 - The only way to change the present thoroughly unsatisfactory position is to establish perhaps **at least three Civil (and Family) Centres** that will be given over exclusively to the hearing of such cases on given dates;
 - There is a strong incentive to **maintain a local assigned judicial presence** to maintain the tradition of an assigned judge, to maintain consistency in approach and to facilitate local discussion and solutions to problems;
 - There is **no reason** why the allocation of criminal, civil and family business needs **to follow identical geographic patterns**;
 - The suggested structure for the **civil cadre could be five/six judges**. Three would be permanently based in Belfast. Assignments to such posts might perhaps be for an **18-month/three-year period initially**. *[16.90 the suggested period of three years for a county court judge to be committed to civil work should not be at the expense of condemning other county court judges to a diet solely driven by criminal cases. There would need to be flexibility of work and commitment];*
 - **One judge** would take responsibility for overseeing and managing the overall equity list and, if it proved necessary, another would take overall responsibility for overseeing and managing the other civil lists;

- We must always be conscious of access to justice and remember that, outside of greater Belfast, **public transport is not always very good**;
 - There would, therefore, be **two cadres of judges**, one dealing with criminal (Crown and Petty Sessions appeals), the other dealing with civil (civil bills, equity, licensing and family);
 - There is general agreement that the **county court works extremely well**. Judges are highly experienced and extremely skilled in what they do;
 - Provided there is proven capacity, there is **no reason why the civil jurisdiction should not be increased**, and
 - Most of the objectors were open to the concept of specialist civil and family centres and that even if the jurisdiction is not lifted, the **opportunity to create such specialist civil and family centres should not be wasted**.
7. The proposals within this consultation consider the rolling out of the Armagh Hearing Centre concept across Northern Ireland in line with **recommendations** of the Gillen Review:
- Not less than three Civil (and Family) Centres to be set up given over exclusively to the hearing of civil bill and equity cases, provided sufficient judges are made available. [CJ137]
 - Not fewer than five county court judges to be assigned for 18 months/three year periods to deal exclusively with civil and equity matters in these centres, provided adequate funding and resources are made available. [CJ138]
8. Although the Gillen Review considered that the Hearing Centres could provide a venue for both civil and family proceedings, this consultation document only relates to civil proceedings. It is also worth noting that Recommendation **CJ139** to increase the jurisdiction of the county court is **predicated on the successful implementation of the two recommendations noted above**.

Existing business

9. The structure of county court business has generally followed local government boundaries. Local government in Northern Ireland was reorganised on 1st April 2015 with the creation of eleven new councils. After the implementation of the new single jurisdiction on 31st October 2016, three administrative divisions were created, although the county court assigned divisions were retained on an interim basis. The alteration of the local government boundaries and the creation of the three administrative court divisions did throw up some anomalies. For example, with the old Limavady District Council becoming part of the Causeway Coast and Glens District Council, it fell into the North-East administrative division based in Belfast. In accordance with the Practice Direction 5/16 mentioned above business in Limavady continued to be dealt with in Londonderry Courthouse.

10. County Court Civil business is normally issued and dealt with in the area where a defendant resides, or being a company has its registered office, or where it carries on business, or where the cause of action arises. When a choice is available it is for the plaintiff to make that choice. It is therefore possible that the venue for a civil case may have little connection with where a plaintiff resides or where witnesses reside. All High Court Civil business is currently dealt with in Belfast regardless of residence or location of cause of action, although the recent Commercial Hub Practice Direction (01/2019), to come into operation on 29th April 2019, anticipates that the Commercial Hub may sit at any venue throughout Northern Ireland. There is uncertainty as to how this will operate in practice; however the establishment of Civil Hearing Centres for county court civil business may facilitate the High Court Commercial Hub in listing business outside Belfast.

11. The initiating process in the county court is the civil bill. A civil bill is issued when presented to any court office with payment of the appropriate fee. The civil bill is then 'stamped' as fee paid, and can be served on the defendant(s). If a defendant intends to defend the case, a Notice of Intention to Defend (NID) is issued, and lodged with a copy of the civil bill, with the court office having responsibility for the 'Division' in which the case is to be heard. When the case is ready for hearing, either party may lodge a Certificate of Readiness (COR), and the court office will list the case for hearing at the appropriate venue. If a COR is not lodged within a period of six months, the court office will list the case for review before the judge.

12. The current venues for the hearing of civil bills are Belfast, Newtownards, Downpatrick, Lisburn, Armagh (which now covers Newry, Armagh, Craigavon and Dungannon), Enniskillen, Omagh, Strabane, Londonderry, Coleraine, Ballymena and Antrim. The business in Belfast is dealt with by His Honour Judge Devlin, the assigned civil judge. He, and an additional judge, also deal with the business in Armagh. The other business is dealt with by the assigned judges responsible for the various venues, either by themselves, or as they direct from any additional peripatetic county court judge available to the assigned judge.

13. The main criticism of the current system outside Belfast and Armagh were highlighted in the Gillen Review. The assigned county court judges have various demands on their time. The level of civil business is such that it may not justify a single day and will therefore be incorporated into what is a 'mixed' list competing with other cases falling within the county court judges jurisdiction such as criminal and family. County court judges endeavour to give civil business an equal priority but sometimes pressures arise when this is not possible, with criminal and family business requiring more urgent attention.

14. The data compiled by the NICTS in relation to current processing offices is set out in Table 1 below. There is an element of uncertainty about the total accuracy of these figures as they relate to processing office as opposed to hearing venue, but there is a general acceptance of the broad level of accuracy as to the amount of business being generated and dealt with. Table 1 sets out the figures showing the processing office, and the corresponding number of civil bills with CORs received in 2017 and 2018. It does not include equity civil bills, and does not include district judge business (claims under £10,000), but would include civil bills heard by a district judge sitting as a deputy county court judge.

Table 1

Number of ordinary civil bill cases with CORs received, County Court Judge (CCJ) only

Processing Office	2017	2018
Laganside	1538	1443
Newtownards	173	125
Downpatrick	5	81
Craigavon	87	99
Armagh	17	27
Omagh	195	193
Strabane	0	2
Antrim	6	7
Londonderry	104	99
Enniskillen	1	1
Coleraine	149	150
Newry	160	155
Limavady	0	1
Magherafelt	1	6
Ballymena	1	24
Lisburn	62	70
Dungannon	5	4
Civil Processing Centre	3	4
Total	2507	2491

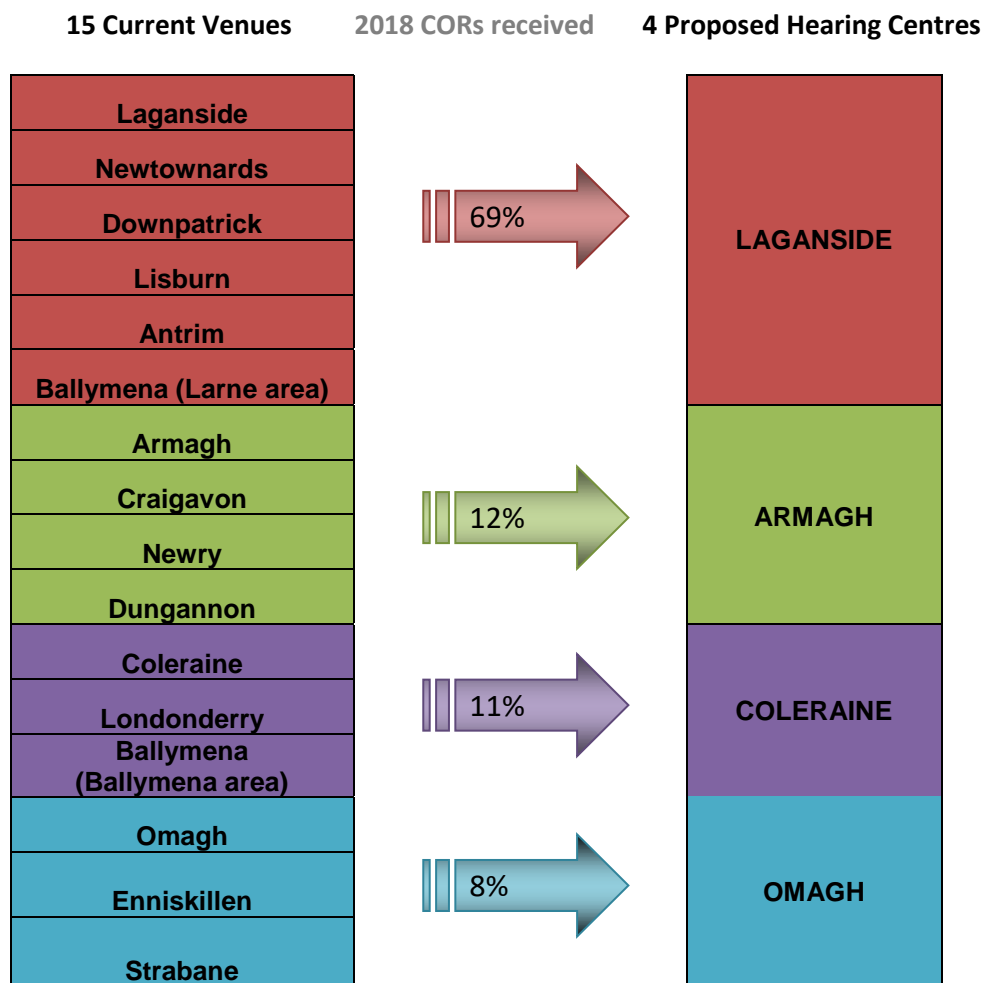
Proposals

15. The county court judiciary acknowledge the benefit of listing civil business in fewer venues before a number of judges assigned to give focus to this work. This has been recognised and recommended by the Gillen Report, which also acknowledged that there is no reason why the allocation of criminal, civil and family business needs to follow identical geographic patterns.
16. The Armagh Civil Hearing Centre has been a resounding success, and is now resulting in the more efficient listing and disposal of civil bill business in its area. There have been no adverse comments received from the judiciary, the profession, the public or from court staff. It has also resulted in the additional use of a building which had been earmarked for closure.
17. The **advantages of creating a number of Hearing Centres** are that:
 - a greater volume of civil bill business can be brought together for more efficient listing and disposal;
 - a small pool of dedicated civil Judicial resources can be deployed, and potentially move between all Hearing Centres, allowing for more than one judge to be available in most instances, and provide greater consistency in outcomes;
 - the availability of two judges simultaneously in the same Hearing Centre will always assist in the more efficient listing of business, as business levels can be adjusted and contested cases can be transferred if necessary in accordance with levels of going case before each Judge on the day;
 - it facilitates 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;

- it avoids the problem of mixed lists when civil business is listed with other ongoing business such as criminal or family, and gives a focus to civil cases;
- it maximises the use of available accommodation and minimises the instances of civil parties competing for space with parties in criminal or family cases.

18. The county court judiciary have carried out preliminary discussions within its tier and with court staff, and it is considered viable to attempt to expand the civil hearing centre concept.

19. The proposals being considered are the establishment of **four hearing centres** – Belfast, Armagh, Coleraine, and Omagh.



20. It is felt that having less than three centres outside Belfast would create a potential burden on some parties, witnesses and members of the profession, so four are now proposed as follows:

1. **Laganside** Hearing Centre in Belfast would be the largest, and would include the areas of Newtownards, Lisburn, Antrim, Larne and Downpatrick;
2. **Armagh** Hearing Centre would continue with its existing catchment including Craigavon, Newry and Dungannon ;
3. **Coleraine** Hearing Centre would include cases currently being dealt with in Londonderry and Ballymena; and
4. **Omagh** Hearing Centre would include the cases currently being dealt with in Enniskillen and Strabane.

21. We have taken into account how the allocation of business in the Family Care Centres (FCC) has worked out in practice. No major issue has been raised concerning the travel requirements for witnesses and practitioners to the four FCCs which sit in Belfast, Craigavon, Dungannon (which sometimes sits in Omagh) and Londonderry. The proposals for civil business should complement the FCC 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.

22. In considering these proposals travel distances, and availability of public transport have been taken into account. Changes of this type will always throw up anomalies and difficulties presented to individuals living or practising towards the limits of the geographic areas mentioned. LCJ Direction 05/16 does, in any event, provide for the transfer of business to different court venues should the need arise (paragraphs 27 - 32).

23. Three main areas have been identified where the retention of civil business with the local government districts or Administrative Division require such re-consideration:

- It is considered that the former **Larne** Council area of what is now Mid and East Antrim Council, is an area which may more easily relate to Belfast as opposed to Coleraine. Transport links, particularly public transport, are more orientated towards Belfast and it is proposed that cases from the Larne area would use **Belfast** as a Hearing Centre;
- Similarly **Downpatrick**, while within the South-Eastern Administrative Division, and the Local Government District of Newry & Mourne, has better transport links with Belfast than Armagh, and it is proposed that cases from the Downpatrick area would use **Belfast** as a Hearing Centre; and
- **Londonderry** is almost the same distance between Omagh and Coleraine, and it is accepted that travel by public transport to either is not ideal. However, it is simply not possible to centralise all of the civil business within the Western Administrative Division to a Hearing Centre at Londonderry as the Courthouse is already under extreme pressure dealing with criminal and family business which is more reliant on other organisations or agencies based centrally. To leave the civil business from Londonderry outside a Hearing Centre would mean those cases would not avail of the advantages to be gained from the efficiencies of centralised civil hearings with specialist judges sitting simultaneously; and it is not feasible to allocate a second civil judge to sit in Londonderry with both hearing nothing but civil cases, which means the issue of mixed lists cannot be resolved. By the very nature of civil business, cases do not require regular input from other justice or health organisations, or the same level support from the voluntary sector, and there is built-in flexibility in most cases to choose into which venue a case may be listed. It is also felt that moving the civil business from Londonderry will have a

positive impact on the remaining criminal and family business by freeing up some more judicial time and space in the busy accommodation and public areas. Therefore, while it sits in the Western Administrative Division, it is proposed that the Londonderry civil business can be best accommodated within the **Coleraine** Hearing Centre.

24. Building on the success of the Armagh Hearing Centre pilot, it is the intention, where possible, to list cases from each processing office together on a specific day or days within each Hearing Centre eg Craigavon or Newry days within Armagh. This approach has the benefit of grouping the work of local solicitors' practices together and minimising the need for them to travel on repeated days within the civil week, and maximising their time spent at the Hearing Centre. Flexibility is retained as additional days or time within another list can be allocated to an area where workload dictates without having to unduly delay cases to the following month.

25. **Table 2** shows how the court offices covering the relevant areas have been incorporated to reflect the volume of business anticipated for each of the proposed hearing centres as outlined above. The tables have only shown the civil bills with CORs received, as it is considered that this best reflects the level of business when the court office and judiciary become actively involved in the listing of the civil business. Similar analysis has been carried out looking at levels of cases dealt with and outstanding for the venues and Hearing Centres which confirm that these figures remain reasonably consistent across all three approaches. The analysis does not attempt to reflect the proposal that Larne business should be dealt with in Belfast, as volumes are not available. All business currently processed through the Ballymena office is therefore incorporated into the Coleraine figure, and are not expected to have any significant impact on either Hearing Centre. The figures available do not include equity business, although the proposals do include dealing with all equity business along the same lines.

Table 2: Number of ordinary civil bill cases with CORs received, CCJ only

Processing Office	CURRENT				Hearing Centre	PROPOSED			
	2017	% total case-load	2018	% total case-load		2017	% total case-load	2018	% total case-load
Laganside	1538	61%	1443	58%	Laganside	1784	71%	1726	69%
Newtownards	173	7%	125	5%					
Downpatrick	5	0%	81	3%					
Lisburn	62	2%	70	3%					
Antrim	6	0%	7	0%					
Armagh	17	11%	285	11%	Armagh	269	12%	285	11%
Craigavon	87	3%		0%					
Newry	160	6%		0%					
Dungannon	5	0%		0%					
Coleraine	149	6%	150	6%	Coleraine	255	11%	280	11%
Londonderry	104	4%	99	4%					
Ballymena	1	0%	24	1%					
Limavady	0	0%	1	0%					
Magherafelt	1	0%	6	0%					
Omagh	195	8%	193	8%	Omagh	196	8%	196	8%
Enniskillen	1	0%	1	0%					
Strabane	0	0%	2	0%					
Total	2504	100%	2487		12 to 4	2504		2487	

26. Given the anticipated levels of business, it is likely that the following levels of judicial allocation could be made on a two monthly cycle –

Table 3

	Belfast	Armagh	Omagh	Coleraine
Week 1	2 Judges			
Week 2	2 Judges			2 Judges
Week 3	2 Judges		1 or 2 Judges	
Week 4	2 Judges	2 Judges		
Week 5	2 Judges			
Week 6	2 Judges			2 Judges
Week 7	2 Judges		1 Judge	
Week 8	2 Judges	2 Judges		

Targeted Consultation

27. The allocation of business is a judicial decision, but given the significance of the proposals a consultation is desirable so engage with the professions and other interested parties concerning the advantages and disadvantages that may apply. At this stage it is a targeted consultation, but consideration will be given to widening the process if necessary. The targeted consultees are –

- Law Society of Northern Ireland
- Local Solicitors' Associations throughout Northern Ireland
- Bar Council
- Professional legal associations for practitioners specialising in civil practice

- Council of HM County Court Judges in Northern Ireland
- Association of District Judges in Northern Ireland
- Crown Solicitor's Office
- Shadow Civil Justice Council
- Advisory Group to the shadow Civil Justice Council
- Shadow Family Justice Board
- Advisory Group to the shadow Family Justice Board
- Northern Ireland Courts and Tribunal Service
- Department for Justice of Northern Ireland
- Legal Services Agency for Northern Ireland

Responding to the consultation

28. You are invited to comment on the proposals outlined in this paper. The consultation includes a number of questions on which we would particularly welcome your views. You are also welcome to submit any other comments you might have on the content of the consultation.

29. The presiding County Court Judge encourages you to respond using the online survey via <https://consultations.nidirect.gov.uk/ni-courts-and-tribunal-service/9fb59fb6>. Alternatively, you can complete the Consultation Response Template at Annex A and send it by email to JudicialConsultations@judiciaryni.uk or by post for the attention of The Judicial Consultation Co-ordinator, Office of the Lord Chief Justice, Royal Courts of Justice, Chichester Street, Belfast. Please clearly indicate whether you are responding as an individual or on behalf of an organisation.

30. The consultation will be open for 6 weeks. The **closing date** for receipt of responses is **5pm on Friday 10th May 2019**.

Respondent Information Form

Please note that this form must be completed and returned with your response.

Responses will be analysed and taken into consideration in finalising the proposed way forward. Respondents, including organisations, may be published or referred to in any further documentation issued in developing these proposals. The names of individuals will only be published if they provide their express consent by ticking the box below. All information will be handled in accordance with the Data Protection Act 2018 and General Data Protection Regulation.

Are you responding as an individual or an organisation?

Individual

Organisation

Full Name or Name of Organisation	
Address	
Postcode	
Telephone Number	
Email address	

If you are responding as an individual, please tick here if you consent to your name appearing in documents relating to this consultation which may later be published, including on the Judiciaryni website. If you wish to withdraw your consent, please contact The Judicial Consultation Co-ordinator, by email at JudicialConsultations@judiciaryni.uk or by post c/o Office of the Lord Chief Justice, Royal Courts of Justice, Chichester Street, Belfast BT1 3JF.

<p>Please provide details of who your organisation represents and, where applicable, how the views of members were assembled.</p>

The key questions for consideration during the consultation process are -

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.

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

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?

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?

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

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

Thank you for your response. Please ensure your response is returned to **JudicialConsultations@judiciaryni.uk** or by post for the attention of The Judicial Consultation Co-ordinator, Office of the Lord Chief Justice, Royal Courts of Justice, Chichester Street, Belfast BT1 3JF by 5pm on **Friday 10th May 2019**.