

Oral Statement on Access to Justice: 13 September

Mr Deputy Speaker,

The devolution of justice powers offers Northern Ireland many benefits and opportunities. Among these are the opportunities to identify local solutions to local needs, to look afresh and adopt different approaches that will serve our community better. Ultimately, it gives us the opportunity to reshape our justice system to fit the needs of Northern Ireland.

With that in mind, and as Members of this Assembly will know, I indicated on 7 June my intention to commission a fundamental review to help develop our thinking on how best to ensure access to justice for the least well off in our society. At that time I undertook to set out my plans for that review to the Assembly, and this statement is intended to fulfil that commitment.

I want to build a system of justice in Northern Ireland that will meet the needs of everyone. In criminal cases we need, and deserve, a system that works for all – victims, witnesses and defendants, and which gives everyone confidence that the system works. I welcome the announcement by the Lord Chief Justice last week that he wants to hear what people think about sentencing for certain types of crimes, and I support his initiative. We also need and deserve a civil justice system that provides an effective and accessible way of resolving many different kinds of legal disputes - and of course both criminal and civil cases need to proceed without delay.

Members will be aware that work is already underway to address the urgent need to align legal aid expenditure with the available budget, and in the coming weeks I intend to commence public consultation on proposals to achieve that. I am grateful to both the Bar Council and the Law Society for the degree of engagement that they have entered into on that issue, engagement which has helped us to develop proposals that are “home grown” and provide a best fit for Northern Ireland. I hope that that consultation exercise will provide an opportunity to achieve the best possible degree of agreement on how to secure the reduction in expenditure that is required. I also welcome the Bar Council’s initiative to encourage its members to undertake cases under the existing arrangements, thereby avoiding any disruption in the Courts.

But the review that I am announcing today is more fundamental than an exercise in cost control. Rather, it is an exercise to examine how we can best help people secure access to justice.

Fair and effective access to justice is an essential element of getting justice right, critical to building confidence and an important part of our vision for a future justice system. Our present system is built around providing financial assistance to those who could not otherwise find the money to pay for legal representation. But there may be other approaches, and there may be better ways of using the funds available.

Deputy Speaker, the Terms of Reference that I have set for the Review are as follows: To review legal aid provision in Northern Ireland and to develop proposals to improve access to justice which will:

- ensure that defendants have adequate representation to secure the right to a fair trial in criminal cases ;
- in civil cases provide adequate, appropriate, efficient and cost-effective mechanisms for resolving legal disputes, whether by action in the courts or otherwise;
- examine previous review work to determine what recommendations and proposals remain relevant;
- examine what scope there is for alternative approaches and structures, as set out in my 7 June speech;
- make proposals for an efficient and cost-effective system of administration to develop policy and support access to justice;
- make proposals to achieve value for money in the use of public funds within the available budget, including identification of possible future savings to reduce the legal aid budget.

I am pleased to inform the Assembly that the review will commence today, and that it will be carried out by Mr Jim Daniell, who is standing down from the position of Chairman of the Legal Services Commission to lead the review. As members of the Assembly will be aware, Mr Daniell previously chaired the Review of Criminal Justice in Northern Ireland which flowed from the Good Friday Agreement. That, and his more recent experience of chairing the Northern Ireland Legal Services Commission, makes him the ideal person to carry out this review. While I have set the terms of reference for the review, his review will be independent.

I have asked for a preliminary report by the end of February 2011, with a final report by the end of May 2011.

I particularly want the review to consider new ideas; new ways of doing things, thinking that is radical and innovative. I want to look at how we help people solve problems and disputes without necessarily bringing those disputes into the courts, and how we can support people through the justice process. While we must ensure that access to legal representation will always be available to those who need it, I believe that we should try to find ways of avoiding the costly, adversarial and often stressful experience of a court hearing, in favour of alternative methods of resolving disputes.

I want the review to consider ideas and proposals – and constructive criticism – from as many people, groups and organisations as possible. I know that the voluntary sector will have an important contribution to make to this review, as will the legal profession and the statutory agencies involved in the justice system. But I want everyone to have their say, because everyone should have a voice in how the justice system works.

Deputy Speaker, the Review of Access to Justice will play an important part in developing our vision for justice in Northern Ireland, and in securing justice for all. I look forward to bringing its conclusions to the Assembly in due course.