

serving
the community
through the
administration
of justice

Northern Ireland Court Service
“Redrawing the Map” - A Consultation on
Court Boundaries in Northern Ireland

March 2010

Should you require any further information about the Court Service please visit our website at www.courtsni.gov.uk or alternatively contact us at our Communications Group.

The report will be made available in a wide range of alternative formats. Requests for alternative formats should be made to the Communications Group.

Northern Ireland Court Service
Communications Group
Laganside House
23-27 Oxford Street
Belfast BT1 3LA

Telephone 028 9032 8594
Facsimile 028 9072 8942
Textphone 028 9041 2920
Email
communicationsgroup@courtsni.gov.uk
www.courtsni.gov.uk

Contents

	<u>Page</u>
1. Introduction	2
2. Background	4
3. Why a single jurisdiction?	11
4. The administrative framework	15
5. Questions for Consultation	18
6. Consultation	19
7. How to respond	21
Annex A Current Divisions and Key Business Volumes	24
Proposed Court Divisions and Key Business Volumes	25
Annex B Single jurisdiction – Ancillary issues	30
Annex C Draft Direction governing the distribution of court business (<i>“The administrative framework”</i>)	32
Annex D Screening of Policies	41
Screening Form	54
Annex E List of Consultees	64

1.0 Introduction

- 1.1 This consultation document seeks views on proposals to reform the current statutory geographical court boundaries for County Courts and Magistrates' Courts in Northern Ireland.
- 1.2 Historically, Northern Ireland has been divided into County Court Divisions and Petty Sessions (i.e. Magistrates' Courts) districts based on the boundaries for Local Government Districts (LGDs). The Review of Public Administration (RPA) has proposed a major restructuring of LGDs from 26 to 11 districts.
- 1.3 In light of these proposals, the Northern Ireland Court Service (the Court Service) established a Working Group to consider the options for redesigning court boundaries in Northern Ireland. The Group considered two main options –
 - Option 1 – a conventional realignment of court boundaries to take account of the new LGDs; and
 - Option 2 – a fundamental redesign which would remove the current statutory boundaries to establish a single territorial jurisdiction for County Courts and Magistrates' Courts in Northern Ireland. This single 'Northern Ireland' jurisdiction for County Courts and Magistrates' Courts⁽¹⁾ would be underpinned by an administrative framework governing the distribution of court business in these courts.
- 1.4 The Court Service considers that there are strong arguments for Option 2 (i.e. a single Northern Ireland jurisdiction). We believe that the proposals contained in this document strike an appropriate balance between providing sufficient assurance for court users about the day to day listing of court business while affording a degree of additional flexibility to facilitate more effective management of court business.
- 1.5 The Court Service is seeking the views of individuals and organisations with a particular interest in this policy, and a copy of the document is also available on the Northern Ireland Court Service website (www.courtsni.gov.uk)
- 1.6 Several questions are posed in section 5 of the consultation document and we would be particularly grateful for views on these.
- 1.7. Please respond by 23 April 2010 to –

E-mail : communicationsgroup@courtsni.gov.uk

⁽¹⁾ The Crown Court and the Coroners Service already operate on the basis of a single Northern Ireland jurisdiction.

Post : Consultation Co-ordinator
'Redrawing the Map' Consultation
Northern Ireland Court Service
Communications Group
Laganside House
23 – 27 Oxford Street
BELFAST
BT1 3LA

Phone: 028 9041 2386

Textphone: 028 9041 2920

Fax: 028 9072 8942

2.0 Background

(i) Current court boundaries

2.1 The Magistrates' Courts (Northern Ireland) Order 1981 ("the 1981 Order") and the County Courts (Northern Ireland) Order 1980 ("the 1980 Order") both confer power on the Lord Chancellor to prescribe the jurisdictional boundaries of courts in Northern Ireland by order –

- Article 11(2) of the 1981 Order provides that "the Lord Chancellor, after consultation with the Lord Chief Justice, may by order specify the petty sessions districts into which Northern Ireland shall be divided" [Each petty sessions district is made up of one or more Local Government Districts];
- Article 3(1) of the 1980 Order provides that "For the purposes of this Order, Northern Ireland shall be divided into such divisions as the Lord Chancellor may, after consultation with the Lord Chief Justice, by order specify" [Each county court division is made up of one or more petty sessions districts.]

2.2 The Lord Chancellor most recently exercised these powers in 1995 and the current court divisional structure is set out in Table 1.

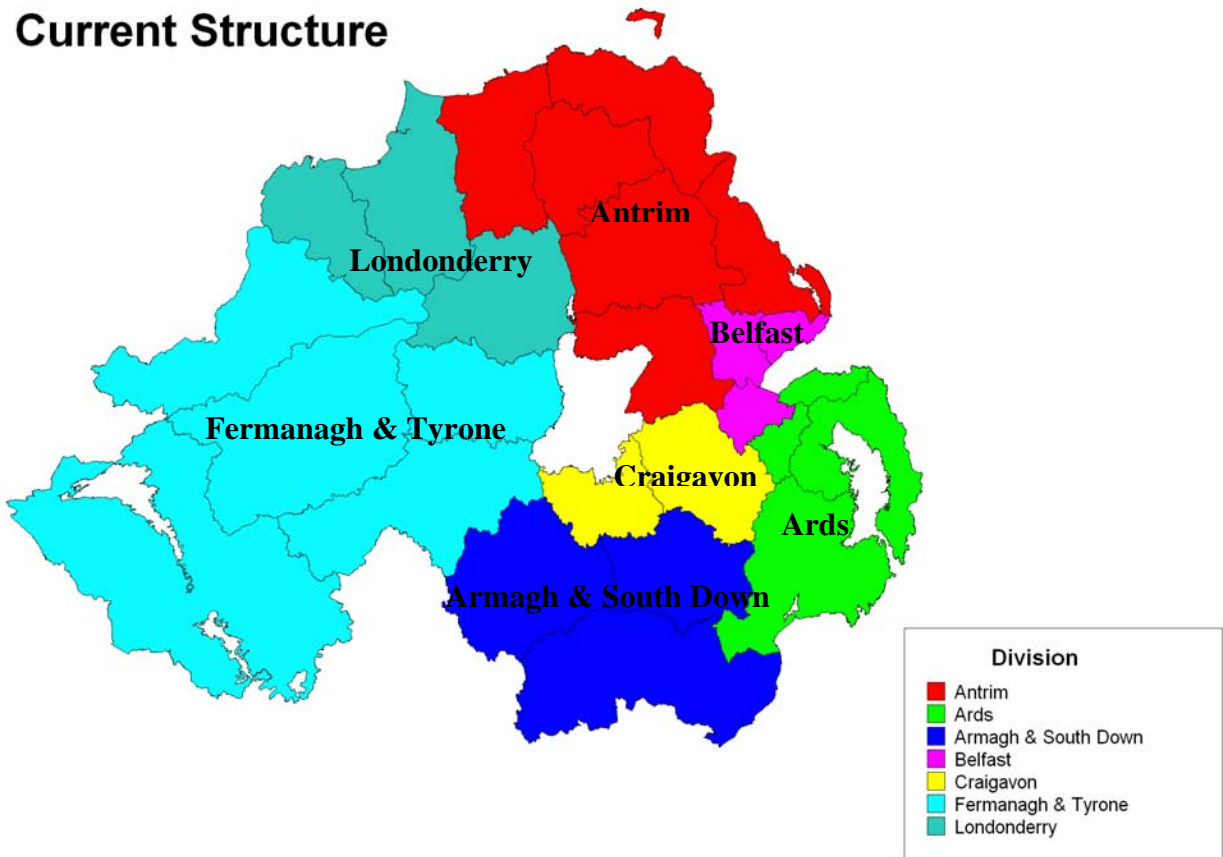
Table 1:

County Court Division	Petty Sessions Districts	Local Government Districts	Courthouses
Antrim	North Antrim	Coleraine Ballymoney Moyle	Coleraine
	Ballymena	Ballymena	Ballymena
	Antrim	Antrim	Antrim
	Larne	Larne	Larne
Ards	Down	Down	Downpatrick
	Castlereagh	Castlereagh	
	Ards	Ards	Newtownards
	North Down	North Down	Bangor
Armagh and South Down	Armagh	Armagh	Armagh
	Newry and Mourne	Newry and Mourne	Newry
	Banbridge	Banbridge	Banbridge
Belfast	Belfast and Newtownabbey	Belfast Newtownabbey Carrickfergus	RCJ Laganside Old Townhall
Craigavon	Craigavon	Craigavon	Craigavon
	Lisburn	Lisburn	Lisburn
Fermanagh and Tyrone	East Tyrone	Cookstown Dungannon	Dungannon
	Omagh	Omagh	Omagh
	Strabane	Strabane	Strabane
	Fermanagh	Fermanagh	Enniskillen
Londonderry	Londonderry	Derry	Londonderry
	Limavady	Limavady	Limavady
	Magherafelt	Magherafelt	Magherafelt

2.3 Map 1 shows the current County Court Divisions (and LGD boundaries which currently comprise each Division).

Map 1:

Current Structure



2.4 Charts 1 to 3 indicate the population density, and provide a summary of Crown Court and magistrates' courts criminal defendants dealt with, by county court division.

Chart 1: Population (Mid Year Estimate 2008) by County Court Division

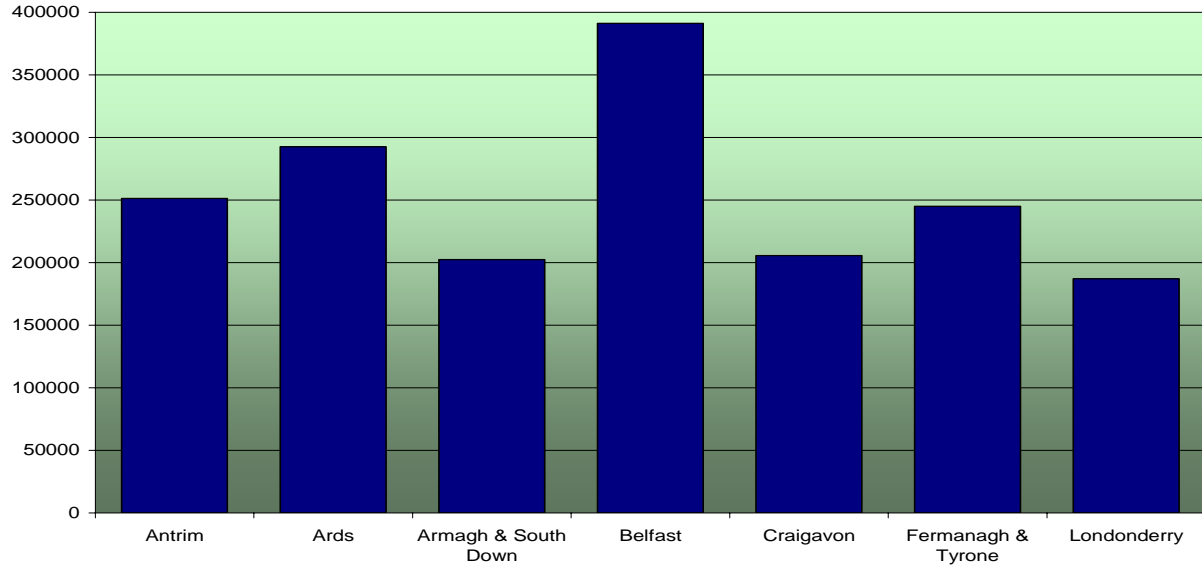


Chart 2: Crown Court defendants disposed of by County Court Division (2008)

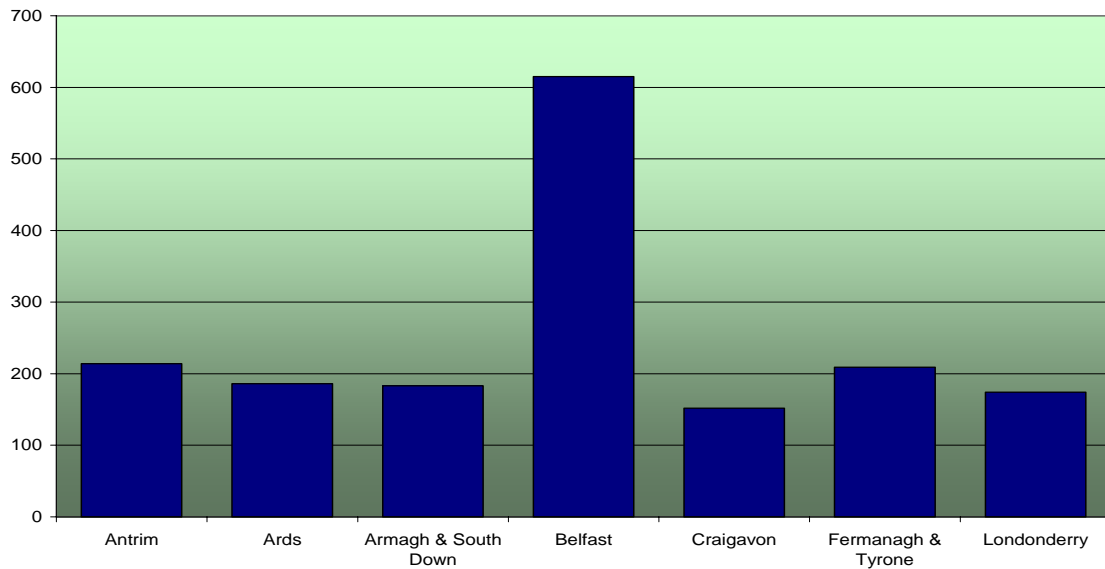
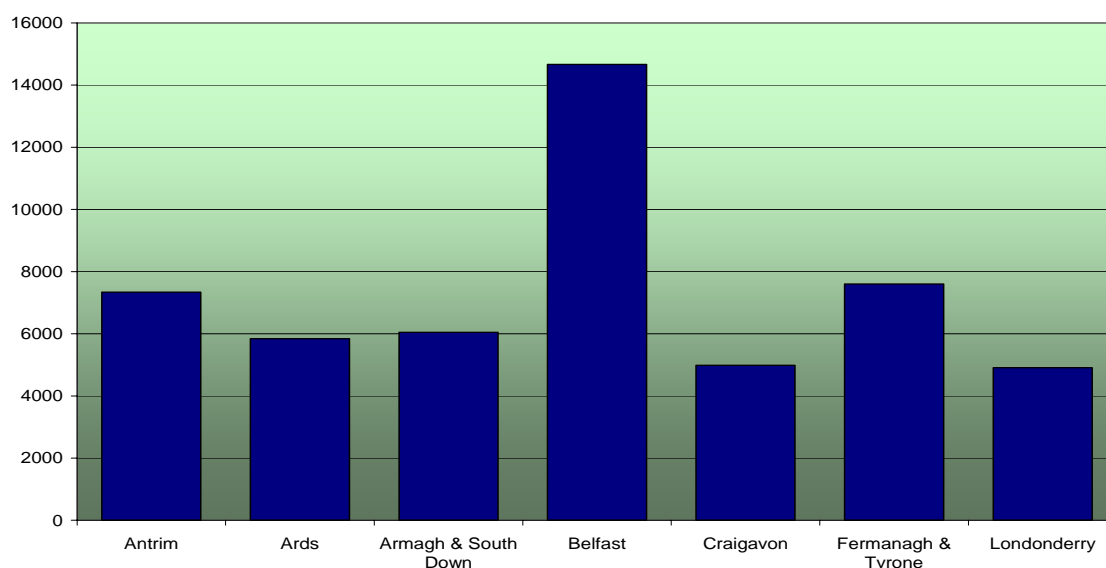


Chart 3: Adult Magistrates defendants disposed of by County Court Division (2008)



2.5 A more detailed breakdown of key data in relation to the most recent available business volumes is attached at **Part 1 of Annex A**.

(ii) Review of Public Administration

2.6 The Local Government (Boundaries) Act (Northern Ireland) 2008 will provide for the rationalisation of the current 26 Local Government Districts in Northern Ireland to create 11 new districts in advance of the 2011 council elections.

2.7 On 17th September 2008, the Local Government Boundaries Commissioner made provisional recommendations for the new council boundaries. The proposed boundaries of the new local government districts are broadly based on the amalgamation of the existing councils as outlined in Table 2.

Table 2:

Proposed Local Government District	Existing Local Government Districts
Belfast City	Belfast
Derry City and Strabane	Derry Strabane
Armagh City and Bann	Armagh Banbridge Craigavon
Lisburn City and Castlereagh	Lisburn Castlereagh
Newry City and Down	Newry and Mourne Down
Antrim and Newtownabbey	Antrim Newtownabbey
Ards and North Down	Ards North Down
Causeway Coast	Ballymoney Coleraine Limavady Moyle
Fermanagh and Omagh	Fermanagh Omagh
Mid Antrim	Ballymena Carrickfergus Larne
Mid Ulster	Cookstown Dungannon (and South Tyrone) Magherafelt

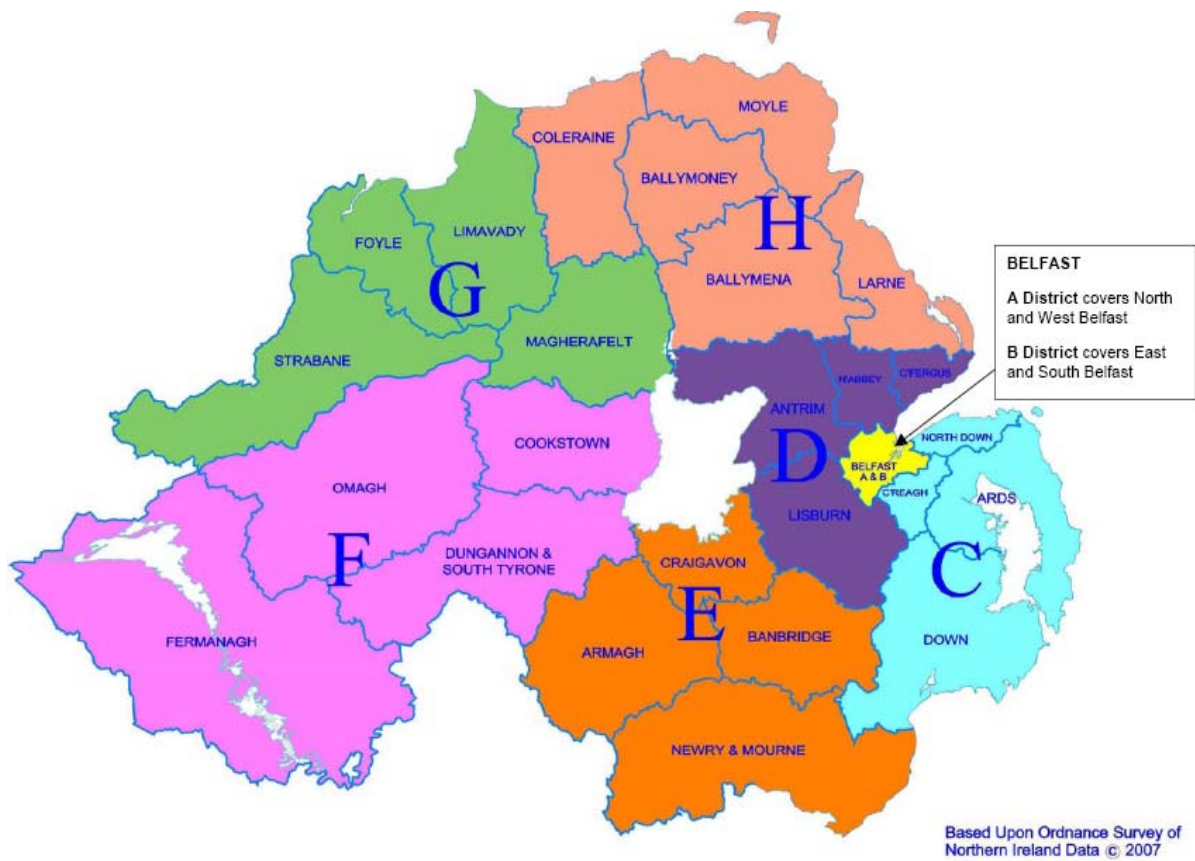
2.8 However the recommendations of the Local Government Boundaries Commissioner are not a straightforward amalgamation in all cases. For example, the Belfast boundaries will be revised to reflect the expansion of the city (and will subsume a number of areas which currently fall within Lisburn e.g. Twinbrook, Poleglass, Dunmurry etc). There are also some minor boundary changes in the current Down and Banbridge Districts.

2.9 Map 2 illustrates the 11 proposed local government districts which will come into existence in 2011.

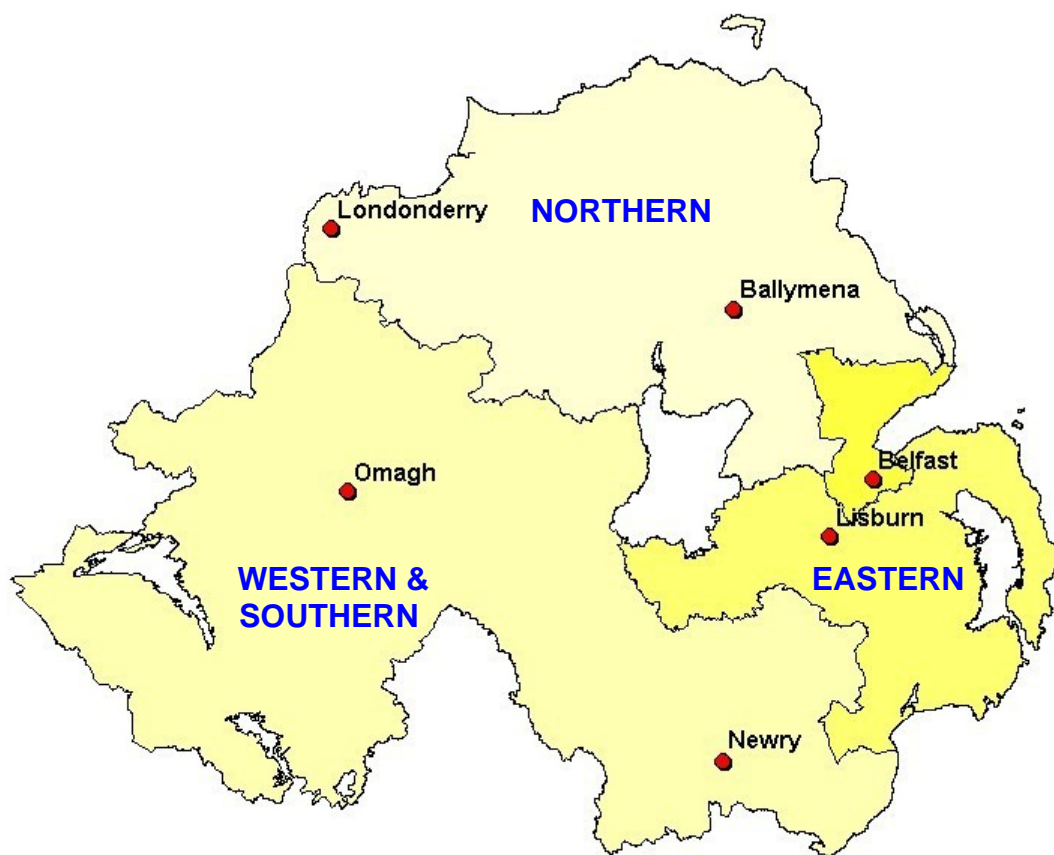
3.0 Why a single jurisdiction?

- 3.1 Under the current court boundaries model there are limitations on our ability to manage the distribution of court business to ensure the most efficient use of judicial time and court resources. The requirement that proceedings must be listed in a particular county court division means that it is not always possible to reallocate work to take account of peaks and troughs in court business.
- 3.2 Although there is some limited scope within the current model to transfer cases within and between Divisions, we consider that the additional flexibility which would be afforded by the proposals contained in this document would enhance the judiciary's listing function and facilitate the more effective disposal of court business for the benefit of all court users.
- 3.3 Providing customers with access to justice at a convenient court location will always be a significant consideration when listing court business. We are satisfied that nothing contained in these proposals will detract from the access to justice principle. The proposed administrative framework (which is discussed in greater detail in section 4 of this document) will provide that a decision to list a case at an alternative court venue would only be taken under certain prescribed circumstances and with the agreement of the Lord Chief Justice or local judiciary.
- 3.4 A further potential benefit of a single jurisdiction underpinned by administrative boundaries would be the ability to develop different administrative arrangements for listing particular types of case.
- 3.5 In criminal cases, for example, the flexibility to introduce administrative arrangements which reflect the PSNI District Command boundaries or the Public Prosecution Service Circuits (see below) may allow us to work more closely with our criminal justice partners at a local level. Co-terminosity between the various criminal justice agencies remains a longer term objective, and the flexibility contained within these proposals would allow us to adapt to any future proposals in this regard.

PSNI Map of District Command Units

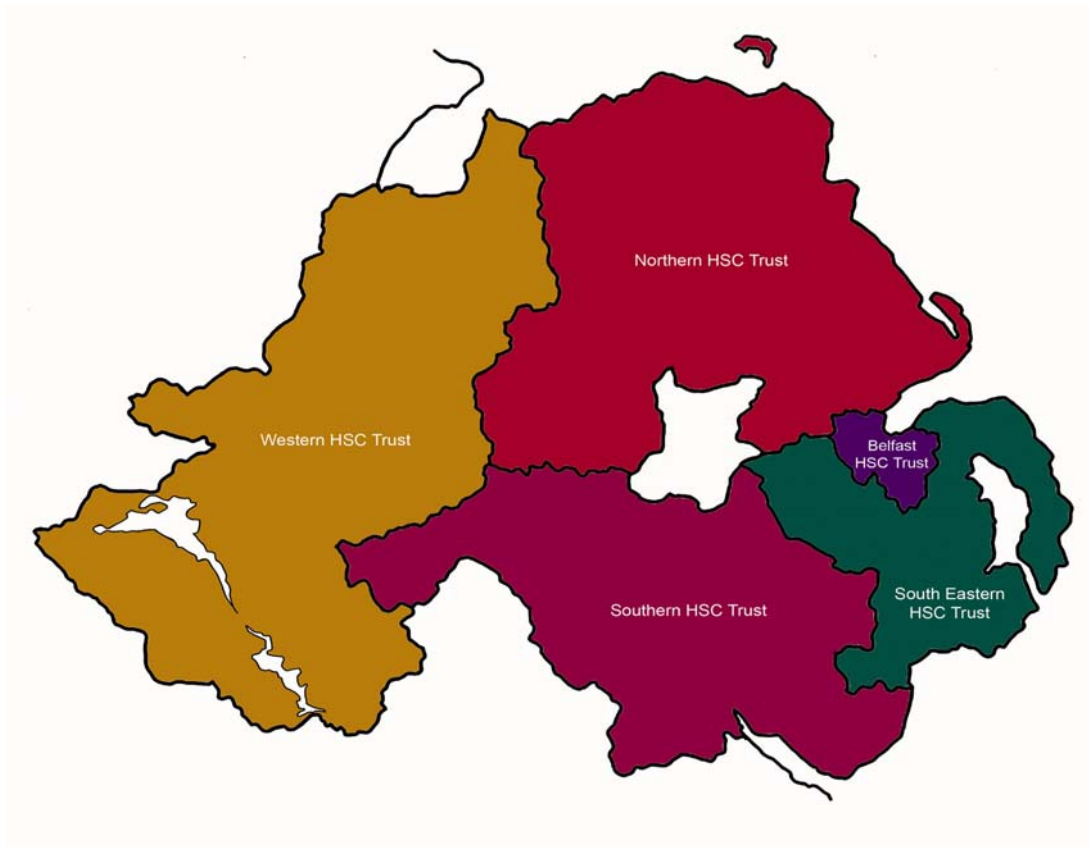


Public Prosecution Service Regional Structure



- 3.6 Similarly, it may be appropriate to consider listing public family law cases along Health and Social Care Trust boundaries.

Health and Social Care Trust Boundaries in Northern Ireland



- 3.7 In addition to the flexibility to distribute business according to available capacity and customer needs, a single jurisdiction model would also influence future court estate planning by eliminating the restrictions currently faced under the multi-jurisdictional model.
- 3.8 The Court Service is committed to ensuring that court users have access to accommodation of the highest standard. Courthouses should adequately meet the needs of all court users and, in particular, victims, witnesses, children and disabled people. However, within the current court estate there are a number of courthouses in Northern Ireland that currently do not meet, and cannot be upgraded at a reasonable cost to meet, the standards which court users are entitled to expect.
- 3.9 The ability to more flexibly manage court business across the court estate would allow the Court Service to provide court facilities to the best effect. Cases requiring special measures could be listed at venues that provide facilities that best suit the needs of a particular case, which would go some way to addressing concerns about the suitability of some court venues for certain types of business.

Ancillary Issues

3.10 We recognise that the proposals contained in this document will impact on a range of ancillary issues and we shall wish to ensure that our reforms do not have any unintended consequences on other aspects of the court system. The main issues which have been identified are set out at **Annex B**.

4.0 The administrative framework

- 4.1 As previously indicated, it is proposed that the single jurisdiction would be underpinned by an administrative framework governing the distribution of business in County Courts and Magistrates' Courts. The proposed arrangements are modelled broadly on those introduced by section 30 of the Courts Act 2003 which abolished 'commission areas' and 'petty sessions areas' and established a single national jurisdiction for magistrates' courts in England and Wales.
- 4.2 It is proposed that the administrative framework would be contained in directions issued by the Lord Chancellor or, post-devolution of justice, by the Northern Ireland Justice Minister, with the concurrence of the Lord Chief Justice. This is consistent with the Ministerial duty to ensure that there is an efficient and effective system to support the carrying on of the business of the courts in Northern Ireland⁽¹⁾.
- 4.3 Conversely it could be argued that because the Lord Chief Justice is responsible for the deployment of the judiciary and the allocation of work within the courts in Northern Ireland⁽²⁾, the directions could be issued by him with the concurrence of the relevant Minister.
- 4.4 The draft administrative framework (which is set out at **Annex C**) falls into four parts –
- an introduction (paras 1 to 3);
 - the “guiding principle” – which sets out the rules which will govern the distribution of court business (paras 4 to 27);
 - the circumstances in which the guiding principle may be departed from (paras 28 to 30); and
 - a description of the proposed administrative ‘court divisions’ (the Appendix).

The Guiding Principle

- 4.5 The purpose of the guiding principle is to ensure that there is a consistent approach to the distribution of court business and to ensure the court users will know at which court venue a case will be listed.
- 4.6 In section 3 (above) we noted the potential to introduce different arrangements for different types of court business and the possibility of having specialist courts at particular venues. While these remain longer term options, we believe that there is merit in adopting a phased approach to these reforms.

⁽¹⁾ Section 68A of the Judicature (Northern Ireland) Act 1978

⁽²⁾ Section 12(1B)(d) of the Justice (Northern Ireland) Act 2002

- 4.7 In the first instance, it is proposed that the guiding principle should be drafted in broadly the same terms as the current legislative provisions governing the jurisdiction of the courts. Criminal offences, for example, will continue to be prosecuted in the court division where the offence occurred or where the offender resides etc. There may be scope to simplify and streamline this section of the framework, but it is not intended to significantly alter the current arrangements. Any future development of the framework would be subject to further consultation.

Departing from the guiding principle

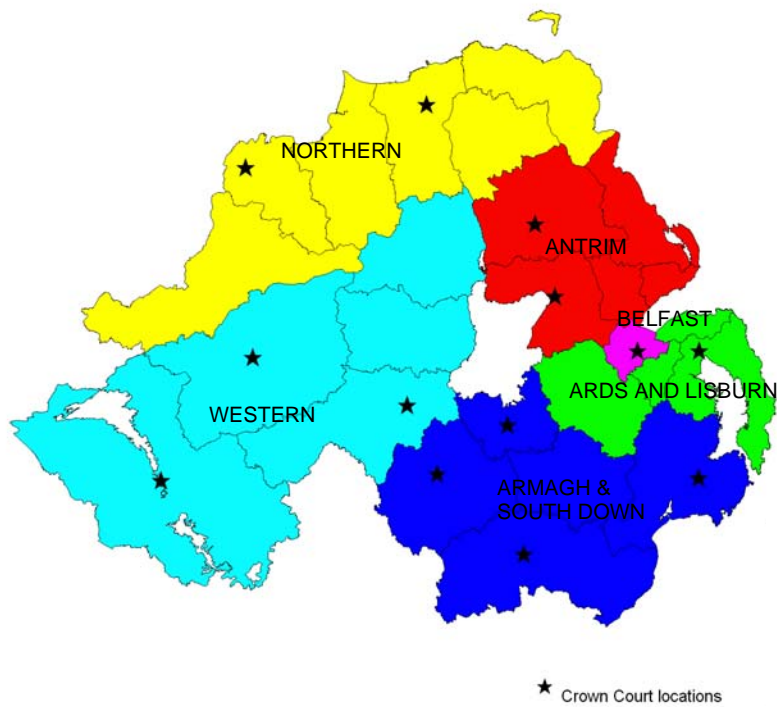
- 4.8 Unlike the current legislative framework, however, paragraphs 28 to 30 set out the circumstances in which cases can be listed in, or transferred to, an alternative court division. The draft framework provides that any departure from the guiding principle may only be with the agreement of the Lord Chief Justice or local judiciary.
- 4.9 The draft framework provides that, without prejudice to the role of the Chief Clerk or Clerk of Petty Sessions in taking routine day to day decisions on workload allocation, the guiding principle may be departed from for good reason, which may include –
- (a) the consolidation of similar complaints or proceedings in relation to the same party or parties;
 - (b) the place in which the witnesses, or the majority of witnesses, reside;
 - (c) the place where other cases raising similar issues are being dealt with;
 - (d) the need to deal with cases of a specialist nature or requiring special measures, ICT support, or victim and witness facilities etc;
 - (e) the efficient management of court accommodation;
 - (f) the avoidance of unnecessary delay;
 - (g) to facilitate the efficient distribution and disposal of business;
 - (h) at the request of a party, victim or witness to the proceedings (*for example a victim in a domestic violence case, or a child witness*); or
 - (i) for reasons of pressing need where court facilities have been damaged or are otherwise not available.

Describing the Court Divisions

- 4.10 The Appendix to the draft framework (in **Annex C**) provides a description of the various court divisions. During the first phase of the reforms it is proposed to preserve the link between court boundaries and local government boundaries, either pre- or post- RPA reform.
- 4.11 Appendix (version 1) is the current 7 court division structure. Selecting this option would maintain the status quo but could lead to confusion post-RPA reform;
- 4.12 Appendix (version 2) comprises 6 court divisions each of which comprises 1 or more of the eleven proposed Local Government

Districts. This model (*shown in map 3 below*) would provide the most even distribution of workload across Northern Ireland;

Map 3



4.13 A summary of some key data in relation to anticipated business volumes is attached at **Part 2 of Annex A**

(Note - In the event that there are further changes to the LGDs proposed under RPA before they are implemented, it will be necessary to revisit the proposed court divisions.)

5.0 Questions for consultation

5.1 We would welcome responses to the following questions –

Question 1 – Do you agree that it is appropriate to establish a single Northern Ireland jurisdiction for County Courts and Magistrates' Courts, similar to that which already exists for the Crown Court and the Coroners Service?

Question 2 – Do you consider that the flexibility afforded by a single jurisdiction, underpinned by an administrative framework, will facilitate the more effective management of court business?

Question 3 – Does the proposed administrative framework strike the correct balance between preserving access to local justice while affording some additional flexibility in certain prescribed circumstances?

Question 4 – Are the specified reasons for departing from the guiding principle appropriate? Should these be amended or extended?

Question 5 – In relation to the proposed court divisions, do you agree that it is appropriate to preserve the link with Local Government Districts? Are you content with the configuration set out at Annex C, Appendix (version 2)?

5.2 We would also welcome any comments in relation to the results of the Equality Screening Exercise which was carried out for these proposals, and which are set out at **Annex D**.

5.3 It is not considered that the proposals contained in this document will impose or reduce costs on businesses or the third sector. Nor is it anticipated that the proposals will impose significant costs on the public sector and we have therefore concluded that an Impact Assessment is not required.

6.0 Consultation

- 6.1 The Court Service will be writing to political parties, the judiciary, the legal profession, and a wide variety of other organisations with an interest in the court system to notify them about this consultation exercise. A copy of this document is also available on the Northern Ireland Court Service website (www.courtsni.gov.uk).
- 6.2 This consultation is being carried out in accordance with the Cabinet Office Code of Practice on Consultation. This Code of Practice stipulates that the seven consultation criteria must be reproduced with any consultation document. The consultation criteria are:
1. **When to consult** – Formal consultations should take place at a stage where there is scope to influence the policy outcome.
 2. **Duration of consultation exercises** – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible. (*See paragraph 6.3 and 6.4 below*)
 3. **Clarity of scope and impact** – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
 4. **Accessibility of consultation exercises** – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
 5. **The burden of consultation** – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
 6. **Responsiveness of consultation exercises** – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
 7. **Capacity to consult** – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.
- 6.3 This consultation is being conducted for a period of 8 weeks (and not the standard 12 week period.) This is to help facilitate possible early decisions after devolution by a new Justice Minister whether or not to include provision giving effect to the proposal in any early Assembly justice legislation.

- 6.4 In essence, the change that the proposals seek to effect will be comparatively limited. It is anticipated that the majority of cases will continue to be listed in the normal way and any decision to depart from the 'guiding principle' may only be with the agreement of the Lord Chief Justice or local judiciary. We have consulted with the judiciary throughout the policy development phase and their views have helped to shape the final proposals. It is also intended to offer to meet with key stakeholders, including the Northern Ireland Human Rights Commission, the Law Society and the Bar Council, to assist consultees.
- 6.5 We are satisfied that the eight-week period will be sufficient time for intelligent consideration, given the nature of the proposals and our intention to offer consultees the opportunity to meet with officials to discuss the proposals and provide their views in this format if they prefer, rather than by way of written submission.

7.0 How to Respond

7.1 This consultation is being conducted for a period of 8 weeks (and not the standard 12 week period.) The last date for responses to this consultation is 23 April 2010.

7.2 Consultation Responses should be sent to:

E-mail : communicationsgroup@courtsni.gov.uk

Post : Consultation Co-ordinator
'Redrawing the Map' Consultation
Northern Ireland Court Service
Communications Group
Laganside House
23 – 27 Oxford Street
BELFAST
BT1 3LA

Phone: 028 9041 2386

Textphone: 028 9041 2920

Fax: 028 9072 8942

7.3 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

7.4 A list of consultees who have been notified about this consultation is presented at **Annex E**.

Confidentiality

7.5 In line with the Northern Ireland Court Service's policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available. The information they contain may also be published in a summary of responses. If such a summary is published it will be made available on the Northern Ireland Court Service website. If you do not want all or part of your response or name made public, please state this clearly in your response. Any confidentiality disclaimer that may be generated by your/your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.

- 7.6 We will handle any personal data you provide in accordance with the Data Protection Act 1998.
- 7.7 You should also be aware that there may be circumstances in which the Northern Ireland Court Service will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000.
- 7.8 Please contact the Northern Ireland Court Service Consultation Co-ordinator at the address above to request copies of consultation responses. An administrative charge may be made to cover photocopying of the responses and postage costs.

Complaints

- 7.9 If you have any comments about the way this consultation has been conducted, these should be sent to the Head of Communications Group at:

E-mail : communicationsgroup@courtsni.gov.uk

Post : Northern Ireland Court Service
 Communications Group
 Laganside House
 23 – 27 Oxford Street
 BELFAST
 BT1 3LA

Phone: 028 9041 2386

Textphone: 028 9041 2920

Fax: 028 9072 8942

Additional Copies

- 7.10 You may make copies of this document without seeking permission. If you require further printed copies of the consultation document, we would invite you to access the document through our website and make the copies yourself. If you do not have access to the internet and require us to provide you with further copies, please contact the Consultation Co-ordinator with your specific request.
- 7.11 This document is available in alternative formats and other languages on request. Please contact the Communications Group at the address at 7.9 above with your request.

What happens next?

- 7.12 We will aim to publish a summary of the views expressed by consultees and the Department's response on the Northern Ireland Court Service website within three months of the end of the consultation period.

Plans for making the results public

- 7.13 In accordance with criterion 6 of the Cabinet Office Code of Practice on written consultation, decisions taken in the light of the consultation shall be made public promptly with a summary of the views expressed (subject to respondents' requests for confidentiality) and reasons for the decisions finally taken.

Existing court boundaries and Key business volumes⁽¹⁾

Annex A – Part 1

Division	Petty Sessions District	LGD	2008 MYE ⁽²⁾	Crown Court defendants disposed	Crown Court sittings	Adult Magistrates defendants disposed	Youth Magistrates Defendants disposed	Magistrates Civil and Family disposed	Adult Magistrates sittings	Youth Magistrates sittings	Magistrates Civil and Family sittings	Ordinary Civil Bill cases disposed	Small claims disposed	Decree Nisi awards	County Court sitting days
Antrim	Antrim	Antrim	53,243	45	84	1555	88	194	81	17	36	128	46	68	98
	Ballymena	Ballymena	62,738	53	99	1833	103	228	96	20	42	150	55	80	115
	North Antrim	Ballymoney	30,106	26	48	879	49	110	46	10	20	72	26	38	55
		Coleraine Moyle	57,006 16,876	49 14	90 27	1665 493	94 28	207 61	87 26	18 5	38 11	137 40	50 15	73 21	105 31
Larne	Larne	31,292	27	49	914	51	114	48	10	21	75	27	40	58	
			251,261	214	397	7340	413	914	384	80	169	602	219	320	462
Ards	Bangor	North Down	78,889	50	66	1575	140	225	106	20	56	206	61	53	115
	Downpatrick	Down	69,816	44	58	1394	124	199	94	18	50	183	54	47	102
	Newtownards	Ards	77,614	49	64	1549	137	221	105	20	55	203	60	52	113
Castlereagh		66,205	42	55	1322	117	189	89	17	47	173	51	44	96	
			292,524	186	243	5839	518	834	394	76	208	765	225	196	426
Armagh & South Down	Armagh	Armagh	58,173	53	62	1737	67	156	84	14	24	106	50	45	107
	Banbridge	Banbridge	46,966	42	50	1402	54	126	68	11	19	86	41	36	87
	Newry and Mourne	Newry and Mourne	97,289	88	104	2905	112	261	141	24	40	177	84	75	179
			202,428	183	217	6044	234	543	293	49	84	369	175	156	373
Belfast	Belfast & Newtownabbey	Belfast	268,323	422	798	10064	600	1060	697	108	191	1260	338	228	1010
		Newtownabbey	82,744	130	246	3103	185	327	215	33	59	388	104	70	311
		Carrickfergus	40,031	63	119	1501	89	158	104	16	29	188	50	34	151
			391,098	615	1163	14669	874	1545	1016	158	279	1836	492	332	1472
Craigavon	Craigavon	Craigavon	90,843	67	91	2202	167	203	129	21	52	227	71	106	180
	Lisburn	Lisburn	114,766	85	115	2781	210	256	164	26	65	287	90	133	227
			205,609	152	206	4983	377	459	293	47	117	514	161	239	407

⁽¹⁾ Court Service data is only partially geo-referenced to postcode level and therefore an apportionment method has been used to attribute court business to each proposed LGD in Northern Ireland. The method used makes an over-arching assumption that court business is driven by population which is not necessarily the case.

⁽²⁾ Mid Year Estimate of population - NISRA

Fermanagh & Tyrone	East Tyrone	Dungannon Cookstown	55,386 35,944	47 31	41 27	1718 1115	94 61	121 78	116 75	18 12	19 12	128 83	34 22	41 27	87 56
	Enniskillen	Fermanagh	61,966	53	46	1922	105	135	130	20	21	143	38	46	97
	Omagh	Omagh	52,115	44	39	1616	88	114	109	17	18	120	32	39	81
	Strabane	Strabane	39,614	34	29	1229	67	86	83	13	14	92	25	29	62
			245,025	209	182	7600	415	535	513	80	84	566	152	182	383
Londonderry	Limavady	Limavady	34,117	32	50	896	47	141	55	9	15	86	26	41	83
	Londonderry	Derry	109,097	101	161	2864	152	451	177	30	48	276	82	132	267
	Magherafelt	Magherafelt	43,844	41	65	1151	61	181	71	12	19	111	33	53	107
			187,058	174	276	4910	260	774	303	51	83	473	140	226	457

Current court types by County Court Division

Division	Crown Courts	County courts	Magistrates courts	Family Care Centres	Family Proceedings Courts
Antrim	3	3	4	0	4
Ards	2	2	3	0	1
Armagh & South Down	2	2	2	0	1
Belfast	1	1	1	1	1
Craigavon	1	2	2	1	2
Fermanagh & Tyrone	3	4	4	1	2
Londonderry	1	3	3	1	1

Proposed Court Divisions (*Annex C, Appendix version 2*) and anticipated business volumes⁽¹⁾

Annex A – Part 2

Proposed Court Division	Current LGD	2008 MYE ⁽²⁾	Crown Court defendants disposed	Crown Court sittings	Adult Magistrates defendants disposed	Youth Magistrates Defendants disposed	Magistrates Civil and Family disposed	Adult Magistrates sittings	Youth Magistrates sittings	Magistrates Civil and Family sittings	Ordinary Civil Bill cases disposed	Small claims disposed	Decree Nisi awards	County Court sitting days
Antrim	Antrim	53,243	45	84	1555	88	194	81	17	36	128	46	68	98
	Ballymena	62,738	53	99	1833	103	228	96	20	42	150	55	80	115
	Larne	31,292	27	49	914	51	114	48	10	21	75	27	40	58
	Newtownabbey	82,744	130	246	3103	185	327	215	33	59	388	104	70	311
	Carrickfergus	40,031	63	119	1501	89	158	104	16	29	188	50	34	151
		270,048	318	598	8907	516	1021	544	96	187	929	283	292	733
Ards and Lisburn	Lisburn	114,766	85	115	2781	210	256	164	26	65	287	90	133	227
	Castlereagh	66,205	42	55	1322	117	189	89	17	47	173	51	44	96
	Ards	77,614	49	64	1549	137	221	105	20	55	203	60	52	113
	North Down	78,889	50	66	1575	140	225	106	20	56	206	61	53	115
		337,474	226	300	7227	605	891	464	84	224	869	261	283	552
Armagh & South Down	Armagh	58,173	53	62	1737	67	156	84	14	24	106	50	45	107
	Banbridge	46,966	42	50	1402	54	126	68	11	19	86	41	36	87
	Craigavon	90,843	67	91	2202	167	203	129	21	52	227	71	106	180
	Down	69,816	44	58	1394	124	199	94	18	50	183	54	47	102
	Newry and Mourne	97,289	88	104	2905	112	261	141	24	40	177	84	75	179
		363,087	295	366	9639	524	945	516	88	185	779	300	308	654
Belfast	Belfast	268,323	422	798	10064	600	1060	697	108	191	1260	338	228	1010
		268,323	422	798	10064	600	1060	697	108	191	1260	338	228	1010
Northern	Ballymoney	30,106	26	48	879	49	110	46	10	20	72	26	38	55
	Coleraine	57,006	49	90	1665	94	207	87	18	38	137	50	73	105
	Moyle	16,876	14	27	493	28	61	26	5	11	40	15	21	31
	Limavady	34,117	32	50	896	47	141	55	9	15	86	26	41	83
	Strabane	39,614	34	29	1229	67	86	83	13	14	92	25	29	62
	Derry	109,097	101	161	2864	152	451	177	30	48	276	82	132	267
		286,816	256	405	8026	437	1057	474	85	147	703	222	335	603

⁽¹⁾ Court Service data is only partially geo-referenced to postcode level and therefore an apportionment method has been used to attribute court business to each proposed LGD in Northern Ireland. The method used makes an over-arching assumption that court business is driven by population which is not necessarily the case.

⁽²⁾ Mid Year Estimate of population - NISRA

Western	Fermanagh	61,966	53	46	1922	105	135	130	20	21	143	38	46	97
	Omagh	52,115	44	39	1616	88	114	109	17	18	120	32	39	81
	Dungannon	55,386	47	41	1718	94	121	116	18	19	128	34	41	87
	Cookstown	35,944	31	27	1115	61	78	75	12	12	83	22	27	56
	Magherafelt	43,844	41	65	1151	61	181	71	12	19	111	33	53	107
		249,255	216	217	7522	409	630	501	79	90	585	160	206	428

Court types by proposed court division

Proposed Division	Crown Courts	County courts	Magistrates courts	Family Care Centres	Family Proceedings Courts
Antrim	2	3	3	0	3
Ards and Lisburn	1	2	3	0	2
Armagh & South Down	4	4	5	1	2
Belfast	1	1	1	1	1
Northern	2	4	4	1	2
Western	4	6	6	2	3

SINGLE JURISDICTION – ANCILLARY ISSUES

(i) Judicial appointments and assignments

There are a number of statutory provisions relating to judicial appointments and assignments which make reference to county court divisions etc. For example

- section 102(4) of the County Courts Act (Northern Ireland) 1959 provides that the Lord Chief Justice shall assign one judge to each division any may from time to time vary any such assignment.
- section 102(5) of the 1959 Act provides that the judge assigned to the division which is or includes –
 - the area or the city of Belfast shall be styled the Recorder of Belfast;
 - the area or the city of Londonderry shall be styled the Recorder of Londonderry;
- Article 2 of the Lay Magistrates (Eligibility) (Northern Ireland) Order 2004 provides that a person may not be appointed as a lay magistrate unless they reside or work in, or within 15 miles of, the county court division to which the appointment relates.

It is not intended that the boundary reforms should disturb the arrangements for judicial assignments and appointments and we will seek to ensure that all such references are compatible with, or are amended so as to be compatible with, the proposed administrative arrangements.

(ii) Appointment of clerks of petty sessions and Chief Clerks

We will wish to ensure that nothing in the proposed reforms impacts on the ability of the Lord Chancellor to appoint persons to discharge the functions of the above offices, whether or not they are renamed.

(iii) Courts of summary jurisdiction

The Magistrates' Courts (Northern Ireland) Order 1981 draws a distinction between –

- Courts of summary jurisdiction, which are construed as referring to a District Judge (Magistrates' Courts) sitting ***in petty sessions***.
- Magistrates' courts, which includes a court of summary jurisdiction or a District Judge (Magistrates' Courts) or lay magistrate sitting ***out petty sessions***

Sitting 'in petty sessions' simply means a scheduled court sitting at a time and place designated by the Lord Chief Justice in directions under Article 11(3) of the 1981 Order.

'Courts of summary jurisdiction' may exercise the full range of powers to deal with any proceedings brought before them. 'Magistrates' courts' would be more likely to deal with ad hoc matters such as first remands; execution of

arrest warrants and other urgent applications which cannot wait until a scheduled sitting day.

Again we will wish to retain this necessary distinction and we will want to explore whether or not it is necessary to amend the terminology.

Draft direction governing the distribution of court business in the magistrates' courts and county courts in Northern Ireland

Interpretation

1. In this Direction "Court Division" means the areas for the time being specified in the Annex.

The allocation of court business

2. From *[date]* the statutory provisions relating to petty sessions districts and county court divisions were repealed to establish a single Northern Ireland jurisdiction.
3. For the ordinary distribution of cases, however, a guiding principle is necessary to ensure the accessibility of local justice and a consistent approach. The guiding principle, set out in this Direction, broadly preserves the current practice in allocating business. Any existing arrangements for the allocation or distribution of magistrates' courts or county courts business which are in place on *[date]*, will be taken as having been made in accordance with this Direction.

The Guiding Principle

(i) Magistrates' Courts – Criminal

4. The guiding principle governing the listing of magistrates' court criminal business is that a magistrates' court for a court division may conduct a preliminary investigation or a preliminary enquiry into an indictable offence or hear and determine a complaint charging a summary offence, if in any such case –
 - the offence was committed in the court division, or
 - the offence was committed elsewhere than in the court division and the defendant is or is resident (or in the case of a body corporate has its registered office or principal place of business) within the court division;
 - it appears necessary or expedient with a view to the better administration of justice that the person charged with the offence should be tried or jointly tried with, or in the same place as, some other person who is charged with an offence and who

is in custody or is being or is to be proceeded against within that court division; or

- the court under any other enactment or otherwise has jurisdiction to deal with the offence.

5. Offences alleged to have been committed on boundaries or on journeys should be treated as follows –

(a) Where an offence has been committed on the boundary between two or more court divisions, or within 500 yards of such a boundary, or in any harbour, river, arm of the sea or other water lying between them, the offence may be treated for the purposes of this Direction as having been committed in either.

(b) An offence begun in one court division and completed in another may be treated for the purposes of this Direction as having been committed in either.

(c) Where an offence has been committed on any person, or on or in respect of any property, in or on a vehicle or vessel engaged on any journey or voyage through two or more court divisions, the offence may be treated as having been committed in any of those court divisions.

(d) Where the side or any part of a road or any water along which a vehicle or vessel passed in the course of the journey or voyage forms the boundary between two or more court divisions, the offence may be treated as having been committed in either or any of those court divisions.

(ii) Magistrates' Courts – Civil

6. The guiding principle governing the listing of magistrates' court civil business is that a magistrates' court for a court division shall have jurisdiction to hear and determine a complaint or other application/appeal where one of the parties to the proceedings is resident within the court division, or where it relates to –

- anything done within the court division for which the court sits;
- anything left undone that ought to have been done within that court division;
- anything done or which ought to have been done either within that court division or elsewhere by a person residing or carrying on a business within that court division;

- any lands or premises situated within that court division; or
- any matter arising within that court division.

(iii) Magistrates' Courts – Family Proceedings

7. The guiding principle governing the listing of business before a Family Proceedings Court is that the court shall have jurisdiction to hear and determine a complaint or other application where one of the parties to the proceedings is resident within the court division; or there are pending, in the same court, any other family proceedings which affect or are connected with a child to whom the subsequent proceedings relate.

(iv) County Courts

8. The Guiding Principle governing the listing of county court business is set out at paragraphs 9 to 27 below.

Appeals from a magistrates' court

9. Proceedings for an appeal from a magistrates' court shall be commenced in a court for the court division in which the decision appealed against was made.

Actions generally

10. An action may, irrespective of the place of residence of any plaintiff or defendant, be commenced –

- in a court for the court division in which either the plaintiff or defendant resides or carries on business; or
- in a court for the court division in which the cause of action wholly or in part arose; or
- where the plaintiff sues as the assignee of a debt or other legal thing, in action, in any court in which, but for the assignment, the action might have been commenced.

Actions for recovery of, and in relation to, land

11. Proceedings -

- for the recovery of land (whether with or without a claim for rent or mesne profits); or
- in which the title to any land comes in question; or
- for the redemption of any mortgage upon any land; or
- for enforcing any mortgage, charge or lien upon any land; or
- for the recovery of money secured by any mortgage, charge or lien upon any land; or

- otherwise relating to land (not being proceedings for the recovery only of rent or mesne profits),
may be commenced in a court for the court division in which the land or any part thereof is situate.
12. Without prejudice to paragraphs 13, 14, 15, 17 and 18, proceedings specified in those paragraphs and relating wholly or partly to land may be commenced in a court for the court division in which the land or any part thereof is situate.

Proceedings in relation to trusts

13. Proceedings in relation to any trust (including a charitable trust) or arising under the Trustee Act (Northern Ireland) 1958 may be commenced in a court for the court division in which the persons instituting the proceedings, or the trustees or any one of such persons or of the trustees, reside or resides or in the court in which any fund to which the proceedings relate has been lodged.

Proceedings in relation to the estate of a deceased person

14. Proceedings for the administration of or otherwise in relation to the estate of a deceased person may be commenced in a court for the court division in which that person last resided or carried on business, or in which his executors or administrators or any one of them reside or resides.

Partnership proceedings

15. Proceedings for the taking of a partnership account for the dissolution or winding-up of a partnership may be commenced in a court for the court division in which the partnership business was or is carried on or where either the plaintiff or defendant resides or carries on business.

Proceedings under the Settled Land Acts 1882 to 1890

16. Proceedings under the Settled Land Acts 1882 to 1890 may be commenced in a court for any court division in which is situate any part of the land which is to be dealt with by the court from which the capital money to be dealt with by the court arises under those Acts or in connection with which the personal chattels to be dealt with by the court are settled.

Proceedings under the Married Women's Property Act 1882, s.17

17. Proceedings under section 17 of the Married Women's Property Act 1882 may be commenced in a court for the court division in which either party to the proceedings resides.

Proceedings in relation to minors

18. Proceedings relating to the maintenance or advancement or for the protection of the property of minors or for the payment out of court of funds standing to the credit of minors may be commenced in a court for the court division in which the minors or any one of them reside or resides or in the court in which any money to which the proceedings relate has been lodged as may be appropriate.

Probate proceedings

19. Proceedings relating to the grant or revocation of probate or letters of administration in respect of the state of a deceased person shall be commenced in a court for the court division in which that person was ordinarily resident at the time of his death.

Proceedings for the construction of deeds, wills, etc.

20. Proceedings by way of equity civil bill for the construction of a deed, will or other written instrument and for a declaration of the rights of the persons interested therein may be commenced in a court for the court division in which-
 - either the plaintiff or defendant resides or carries on business; or
 - the subject-matter of the application or a substantial part thereof is situate.

Proceedings commenced by petition

21. Where proceedings are required to be by petition and no other provision is made by any enactment as to the court in which the proceedings are to be commenced, paragraph 20 shall apply with the necessary modifications.

Proceedings by or against a judge, district judge, circuit administrator or chief clerk

22. A Judge, district judge, circuit administrator or chief clerk may sue and be sued in accordance with this Direction, but if the court in which but for this Direction the action would be commenced is a court of which he is the Judge, district judge, circuit administrator

or chief clerk, the action shall not be commenced in that court but in some other court of which he is not such Judge or officer.

23. Nothing in paragraph 22 shall effect any alternative right to commence the action in some other court of which the Judge, district judge, circuit administrator or chief clerk suing or being sued is not the Judge, district judge, circuit administrator or chief clerk.

Proceedings by and against the Crown

24. For the purposes of this Direction, the Crown shall be deemed to reside within each court division.

Proceedings under Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984

25. Proceedings under Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 shall be commenced in a court for the court division in which the dwelling house (or any part thereof) which is the subject-matter of the proceedings is situate.

Protection from Harassment (Northern Ireland) Order 1997

26. Proceedings under Article 5 of the Protection from Harassment (Northern Ireland) Order 1997 shall be commenced in a court for the court division in which either the plaintiff or defendant resides or carries on business.

Small claims

27. A small claims hearing may take place –
- in a court in the court division in which the applicant or one of the applicants lives or carries on business; or
 - in a court in the court division in which the respondent or one of the respondents lives or carries on business.

Departure from the Guiding Principle

28. Without prejudice to the role of the Chief Clerk or Clerk of Petty Sessions or any person authorised by him/her, in taking routine day to day decisions on workload allocation, the guiding principle may, with the agreement of the Lord Chief Justice or local judiciary, be departed from for good reason.

29. ‘Good reason’ may include –

- (a) the consolidation of similar complaints or proceedings in relation to the same party or parties;
- (b) the place in which the witnesses, or the majority of witnesses, reside;
- (c) the place where other cases raising similar issues are being dealt with;
- (d) the need to deal with cases of a specialist nature or requiring special measures, ICT support, or victim and witness facilities etc;
- (e) the efficient management of court accommodation;
- (f) the avoidance of unnecessary delay;
- (g) to facilitate the efficient distribution and disposal of business;
- (h) at the request of a party, victim or witness to the proceedings (*for example a victim in a domestic violence case, or a child witness*); or
- (i) for reasons of pressing need where court facilities have been damaged or are otherwise not available.

Transfer of business between courts

30. A case may be transferred where a court or judge considers it appropriate to do so, having regard to the Guiding Principle. Factors to be taken into account when considering a transfer include those mentioned in paragraphs 28 and 29 above.

Northern Ireland Court Service

Appendix (version 1)

Court division	Current Petty Sessions Districts <i>(to be combined so only one per division)</i>	Current Local Government Districts	Courthouses
Antrim	North Antrim	Coleraine Ballymoney Moyle	Coleraine
	Ballymena	Ballymena	Ballymena
	Antrim	Antrim	Antrim
	Larne	Larne	Larne
Ards	Down	Down	Downpatrick
	Castlereagh	Castlereagh	
	Ards	Ards	Newtownards
	North Down	North Down	Bangor
Armagh and South Down	Armagh	Armagh	Armagh
	Newry and Mourne	Newry and Mourne	Newry
	Banbridge	Banbridge	Banbridge
Belfast	Belfast	Belfast Newtownabbey Carrickfergus	RCJ Laganside Old Townhall
Craigavon	Craigavon	Craigavon	Craigavon
	Lisburn	Lisburn	Lisburn
Fermanagh and Tyrone	East Tyrone	Cookstown Dungannon	Dungannon
	Omagh	Omagh	Omagh
	Strabane	Strabane	Strabane
	Fermanagh	Fermanagh	Enniskillen
Londonderry	Londonderry	Derry	Londonderry
	Limavady	Limavady	Limavady
	Magherafelt	Magherafelt	Magherafelt

Appendix (version 2)

Court division	Comprises the following Local Government Districts (post R.P.A.)	Current council areas included within Division (For illustration only)	Courthouses (For illustration only)
Antrim	<ul style="list-style-type: none"> • Antrim and Newtownabbey; • Mid-Antrim. 	<i>Antrim Newtownabbey Ballymena Carrickfergus Larne</i>	<i>Antrim Ballymena Larne</i>
Ards and Lisburn	<ul style="list-style-type: none"> • Lisburn City and Castlereagh; • Ards and North Down. 	<i>Lisburn Castlereagh Ards North Down</i>	<i>Newtownards Lisburn Bangor</i>
Armagh and South Down	<ul style="list-style-type: none"> • Armagh City and Bann; • Newry City and Down. 	<i>Armagh Banbridge Craigavon Newry and Mourne Down</i>	<i>Newry Armagh Downpatrick Craigavon Banbridge</i>
Belfast	<ul style="list-style-type: none"> • Belfast City. 	<i>Belfast City</i>	<i>Laganside Old Townhall</i>
Western	<ul style="list-style-type: none"> • Fermanagh and Omagh; • Mid-Ulster. 	<i>Fermanagh Omagh Cookstown Dungannon Magherafelt</i>	<i>Dungannon Omagh Enniskillen Magherafelt</i>
Northern	<ul style="list-style-type: none"> • Derry City and Strabane; • Causeway Coast. 	<i>Derry City Strabane Ballymoney Coleraine Limavady Moyle</i>	<i>Londonderry Coleraine Strabane Limavady</i>

NORTHERN IRELAND COURT SERVICE

Screening of Policies

**REVIEW OF COURT BOUNDARIES IN NORTHERN
IRELAND – “REDRAWING THE MAP”**

Date Policy Screened: 6th January 2010

**Policy Screened by: Una Corrigan, John Halliday,
Peter Luney**

Facilitated by: Alan Cartwright

CONTENTS

- 1. General Guidance on screening of policies**
- 2. Summary of policy**
- 3. Summary of available information**
- 4. Guidance on completing questionnaire**
- 5. Screening form**

1. General guidance on screening of policies

Section 75 of the Northern Ireland Act places new duties on Public Authorities to promote equality of opportunity and good relations. The statutory duty makes equality central to the whole range of public policy decision making and should:

- Contribute to better decisions being made by public authorities
- Encourage greater openness in government
- Achieve greater transparency in decision making
- Assist public authorities to effectively and efficiently address issues of equality
- Assist in complying with the law.

The Northern Ireland Court Service arrangements for complying with this requirement are set out in our Equality Scheme. Section 3.3 of the Scheme outlines our commitment in line with the Commissions guidance to Screen all our policies to identify those with equal opportunity implications.

It is important that when considering the impact of policies on the promotion of equality of opportunity, due regard is given to the need to promote **equality of opportunity** for all categories of persons specified in Section 75. (The Nine Categories).

These are:

- Persons of different religious belief
- Persons of different political opinion
- Persons of different racial group
- Persons of different age
- Persons of different marital status
- Persons of different sexual orientation
- Men and women generally

- Persons with a disability and persons without
- Persons with dependents and persons without

The relevant categories of persons between whom **good relations** are to be promoted are

- Persons of different religious belief
- Persons of different political opinion
- Persons of different racial group

Each Policy will be considered against the following criteria:

- Is there evidence of higher or lower participation or uptake by different groups?
- Is there evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?
- Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with others in government or in the larger community
- Have consultations with relevant groups, organisations or individuals indicated that particular policies create problems, which are specific, to them.

Section 5 is a Screening Form that should facilitate your considerations.

2. Summary of policy

Background

Historically, the boundaries of the county court divisions and petty sessions (i.e. magistrates' courts) districts into which Northern Ireland is divided have been based upon Local Government Districts.

- Article 11(2) of the Magistrates' Courts (Northern Ireland) Order 1981 provides that "the Lord Chancellor, after consultation with the Lord Chief Justice, may by order specify the petty sessions districts into which Northern Ireland shall be divided".

[Each of the current 21 petty sessions districts is made up of one or more Local Government Districts]

- Article 3(1) of the County Courts (Northern Ireland) Order 1980 provides that "Northern Ireland shall be divided into such divisions as the Lord Chancellor may, after consultation with the Lord Chief Justice, by order specify".

[Each of the current 7 county court divisions is made up of one or more petty sessions districts.]

The Review of Public Administration has proposed a major restructuring of local government in Northern Ireland which would see a rationalisation in local government districts from 26 to 11 districts. It is intended that these changes would take effect in time for the local council elections in 2011.

In light of these proposals, the Northern Ireland Court Service established a Working Group on Court Boundaries to consider the options for redesigning court boundaries in Northern Ireland. The Working Group considered two options –

- The first option would be a conventional realignment of the current court boundaries to take account of the changes proposed to local government districts;
- The second option would be a more fundamental redesign of court boundaries which would establish a single magistrates' courts and county court jurisdiction for the whole of Northern Ireland (similar to that which already exists for the Court of Judicature and the Coroners Service).

We believe that there are sound arguments to follow the more radical of these two options.

Under the current court boundaries model there are limitations on our ability to manage the distribution of court business to ensure the most efficient use of judicial time and court resources. Providing customers with access to justice at a convenient court location will always be a significant consideration when listing court business, but a single jurisdiction model would allow greater flexibility in the distribution of court business based on administrative arrangements rather than fixed statutory boundaries.

The requirement that proceedings must be listed in a particular county court division means that it is not always possible to reallocate work to take account of peaks and troughs in court business. The multi-jurisdiction model also places constraints on our ability to plan and manage our court estate.

Under a single jurisdiction model it may also be possible to develop distinct administrative arrangements for different types of court business. For example, it may be possible to distribute criminal business with regard to the administrative arrangements for the Public Prosecution Service or the Police Service of Northern Ireland. Alternatively, public family law cases could be distributed with regard to the arrangements for Health and Social Services Trusts in Northern Ireland.

Establishing a single jurisdiction

As noted above, the Lord Chancellor currently prescribes in secondary legislation the county court divisions and petty sessions districts into which Northern Ireland is divided.

The legislative framework within which the magistrates courts and county courts operate (in particular, legislation governing the general jurisdiction of the courts and the appointment and assignment of judges etc), is predicated on there being a number of separate court jurisdictions in Northern Ireland. It will be vital to ensure that the establishment of a single jurisdiction does not have any unintended consequences on other aspects of the court system.

We will wish to explore with First Legislative Counsel how our policy objective might best be achieved. In particular we will want to consider whether the concept of county court divisions and petty sessions districts should be abolished or whether it would be desirable to retain these but only have one Division and one District covering all of Northern Ireland.

We will wish to provide that a magistrates' court (*including a youth court and family proceedings court*) and a county court (*including a family care centre*) should have jurisdiction to deal with proceedings arising in any part of Northern Ireland⁽¹⁾. It is, however, proposed that underpinning administrative arrangements will be introduced to govern the listing, transfer and distribution of court business (*see below*).

Underpinning arrangements

We recognise that, in establishing a single jurisdiction, it would be undesirable for the listing of court business to become a free for all. We propose to introduce a new administrative framework to underpin a single jurisdiction, similar to that provided for under section 30 of the Courts Act 2003 when England and Wales abolished 'commission areas' and 'petty sessions areas' and established a national jurisdiction for magistrates' courts.

⁽¹⁾ It is not intended to disturb any extra-territorial or ultra-territorial jurisdiction which may currently apply in these courts.

It is proposed that the Northern Ireland administrative framework would be contained in Directions issued by the Lord Chancellor with the concurrence of the Lord Chief Justice. The administrative framework would fall into four parts

–

- An introduction;
- The guiding principle – which sets out the rules which will govern the distribution of court business;
- The circumstances in which the guiding principle may be departed from; and
- A description of the proposed administrative ‘court divisions’.

The purpose of the guiding principle is to ensure that there is a consistent approach to the distribution of court business and to ensure accessibility of local justice. In the first instance it would be drafted in broadly the same terms as the current legislative provisions governing the jurisdiction of the courts. *(Any future development of the guiding principle e.g. to adopt different arrangements for different types of business, would be subject to a separate consultation exercise).*

Unlike the current legislative framework, however, the administrative framework will set out the circumstances in which the guiding principle may, with the agreement of the Lord Chief Justice or local judiciary, be departed from. These circumstances might include –

- (a) the consolidation of similar complaints or proceedings in relation to the same party or parties;
- (b) the place in which the witnesses, or the majority of witnesses, reside;
- (c) the place where other cases raising similar issues are being dealt with;
- (d) the need to deal with cases of a specialist nature or requiring special measures, ICT support, or victim and witness facilities etc;
- (e) the efficient management of court accommodation;
- (f) the avoidance of unnecessary delay;
- (g) to facilitate the efficient distribution and disposal of business;
- (h) at the request of a party, victim or witness to the proceedings *(for example a victim in a domestic violence case, or a child witness);* or

- (i) for reasons of pressing need where court facilities have been damaged or are otherwise not available.

The Annex to the Direction will set out a description of the various court divisions. It is likely that the proposed court divisions will be developed around the new local government districts, but we will assess various LGD combinations to identify which model will provide the optimum solution based upon anticipated workload and available courtroom accommodation.

Ancillary issues

As noted above, the establishment of a single jurisdiction is a significant departure from the established multi-jurisdiction model that has historically been used for county courts and magistrates' courts in Northern Ireland. It is likely that the proposed changes will impact on a range of ancillary issues and we will need to ensure that our reforms do not have any unintended consequences on other aspects of the court system. Some of these issues which have been identified to date are considered below.

(a) Judicial appointments and assignments

There are a number of statutory provisions relating to judicial appointments and assignments which make reference to county court divisions etc. For example -

- section 102(4) of the County Courts Act (Northern Ireland) 1959 provides that the Lord Chief Justice shall assign one judge to each division any may from time to time vary any such assignment.
- section 102(5) of the 1959 Act provides that the judge assigned to the division which is or includes –
 - the area or the city of Belfast shall be styled the Recorder of Belfast;
 - the area or the city of Londonderry shall be styled the Recorder of Londonderry;
- Article 2 of the Lay Magistrates (Eligibility) (Northern Ireland) Order 2004 provides that a person may not be appointed as a lay

magistrate unless they reside or work in, or within 15 miles of, the county court division to which the appointment relates.

It is not intended that the boundary reforms should disturb the arrangements for judicial assignments and appointments. We will work to identify all such references in primary and secondary legislation and then will work with Legislative Counsel to ensure that all such references are compatible with, or are amended so as to be compatible with, the proposed administrative arrangements.

(c) Appointment of clerks of petty sessions and Chief Clerks

Currently the Lord Chancellor may, in exercise of his power under section 69 of the Judicature (Northern Ireland) Act 1978, appoint persons to be clerks of petty sessions (which includes deputy and assistant CPS) to exercise relevant functions under the Magistrates' Courts (Northern Ireland) Order 1981 and other statutory provisions.

If it is decided to abolish the concept of petty sessions districts then it may be argued that title of Clerk of Petty Sessions would no longer be appropriate. Our preference would be to retain the title however we will explore this matter with Legislative Counsel. In any event, we would wish to ensure that the Lord Chancellor retained a power to designate persons to carry out relevant functions.

Similarly, we will want to ensure that current provisions relating to the appointment of Chief Clerks and other county court staff are retained and amended so as to be compatible with the proposed arrangements.

(c) Courts of summary jurisdiction

The Magistrates' Courts (Northern Ireland) Order 1981 draws a distinction between –

- Courts of summary jurisdiction, which are construed as referring to a District Judge (Magistrates' Courts) sitting *in petty sessions*.

- Magistrates' courts, which includes a court of summary jurisdiction or a District Judge (Magistrates' Courts) or lay magistrate sitting ***out petty sessions***

Sitting 'in petty sessions' simply means a scheduled court sitting at a time and place designated by the Lord Chief Justice in directions under Article 11(3) of the 1981 Order.

'Courts of summary jurisdiction' may exercise the full range of powers to deal with any proceedings brought before it. 'Magistrates' courts' would be more likely to deal with ad hoc matters such as first remands; execution of arrest warrants and other urgent applications which cannot wait until a scheduled sitting day.

Again we will wish to retain this necessary distinction and we will want to explore with Legislative Counsel whether or not it is necessary to amend the terminology.

3. Summary of information available

The Screening Panel was provided with the options paper prepared by the Court Boundaries Working Group which contained quantitative information in relation to the population density and key business volumes for the current county court divisions and for a preferred post-RPA divisional model, together with details of available court venues.

In addition the Screening Panel was provided with an initial draft the proposed administrative framework to set out clearly how the distribution of business would be governed within a single jurisdiction environment. The framework contained three alternative annexes setting out possible administrative boundaries for the proposed court divisions.

Finally the policy owner provided the Screening Panel with a brief summary of feedback received from key stakeholders and explained how this had helped to shape the current draft of the proposals.

4. Guidance on completing questionnaire

Before completing the questionnaire you should ensure that you have a clear understanding of the aim of the policy in question.

SECTION A Questions 1-6 help you to think about the scope of the policy, policies which are related to it, the main stakeholders and any factors which could contribute or detract from its aims or implementation.

SECTION B Questions 1-4 deal with the criteria set out at section 1. Before answering these questions you should have considered fully any information available which may have impacted on the development of the policy. Question 3 specifically asks for details of consultations and research with relevant groups, organisations or individuals and the outcome of this.

Having considered the available information you should again think through the policy and its purpose to identify whether there is anything expressed within it which is likely to have an adverse differential impact on anyone belonging to any group within the nine categories, or alternatively, any action omitted, the addition of which would promote equality of opportunity, **(Question 4)**. Question 5 relates to the two new duties imposed on public authorities under the Disability Discrimination Act in 2007 requiring the promotion of positive attitudes towards disabled people and encouraging participation by disabled people in public life.

SECTION C Questions 1-5 deal specifically with the impact of the policy in the context of the Human Rights Act.

SECTION D If the answer to one or more of these questions is **Yes** you are asked to make a determination as to whether or not the policy should be subject to a full equality impact assessment

It should be borne in mind that a **Yes** answer does not automatically trigger an equality impact assessment. Unfortunately there is no guidance available on what constitutes adverse differential impact, although it should be noted that differential impact could exist between groups but not necessarily be adverse.

If the answer to all the questions is **No** there is then clearly no requirement to subject the policy to a full equality impact assessment.

If however the answer to **SECTION D** is **Yes**, a full equality impact assessment is required, a view must then be reached on the priority issues for equality impact assessment, (**SECTION E**).

Priorities will be based on the following factors:

- effect on people's daily lives
- strategic significance of the policy
- budgetary significance of the policy

Remember that the purpose of this screening is to **identify** any equality implications within the policy; it is not to carry out a full impact assessment. Use your knowledge of the policy together with the additional available information to help you provide an informed indication of whether a full equality impact assessment is or is not necessary.

Finally **SECTION F** is the Final Authorisation and Endorsement which requires the signature of both the policy developer and the responsible manager.

Northern Ireland Court Service

SCREENING FORM

SECTION A: SCOPING THE POLICY

1. Title of Policy:

Review of Court boundaries in NI –“Redrawing the map”

2. Aims and Description

To move away from rigid and statutory court boundaries to develop alternative administrative arrangements which will provide sufficient consistency and certainty for court users whilst affording a desirable degree of flexibility to better manage court business for the benefit of all.

3. Who owns or defines the policy?

Northern Ireland Court Service

4. Which other policies are related to this policy?

This policy does not relate directly to other Court Service policies but is relevant for listing court business and judicial assignments etc which are the responsibility of the Lord Chief Justice

5. Who are the main stakeholders in relation to the policy?

The Judiciary, Legal Profession, Legal Services Commission, Court users generally – including the Police Service for NI, Public Prosecution Service, Probation Board for NI, Departmental prosecutors and everyone else who uses the court system

6. What factors/forces could contribute/detract from the aim or implementation of the policy?

The Review of Public Administration – as it has not yet been settled – could impact on what the administrative boundaries may look like, however the core policy should remain unchanged.

SECTION B: SCREENING FOR EQUALITY ISSUES

1. Is there any evidence of higher or lower participation or uptake by different groups?

	Yes (please specify)	No	Not known
Religious belief		✓	
Political opinion		✓	
Racial group		✓	
Age		✓	
Marital status		✓	
Sexual orientation		✓	
Gender		✓	
Disability		✓	
Dependency		✓	

Additional Comments:

2. Is there evidence or indications that different groups have different needs, experiences, issues and priorities in relation to this policy issue?

	Yes (please specify)	No	Not known
Religious belief		✓	
Political opinion		✓	
Racial group		✓	
Age		✓	
Marital status		✓	
Sexual orientation		✓	
Gender		✓	
Disability		✓	
Dependency		✓	

Additional Comments:

The intention behind the policy is that the current arrangements for listing business would be broadly maintained with some additional flexibility. The needs of individuals involved in particular cases will be considered before a judicial decision is taken to depart from the guiding principle.

3. Have consultations/research with relevant groups, organisations or individuals indicated that policies of this type create problems that are specific to them? (The user engagement guide and protocol provide useful support.)

	Yes (please specify)	No
Religious belief		✓
Political opinion		✓
Racial group		✓
Age		✓
Marital status		✓
Sexual orientation		✓
Gender		✓
Disability		✓
Dependency		✓

Additional Comments:

a) List the organizations/groups/individuals both internal and external, that you contacted during the development of the policy

External - The Office of the Lord Chief Justice, a representative group of members of the Judiciary; Public Prosecution Service; Police Service of Northern Ireland

Internal – The Court Boundaries Working Group comprised of a number of staff across the Court Service

b) Specify how comments were incorporated into the final draft policy

The feedback received from the provisional consultees led to the development of a robust administrative framework

c) If ideas from groups weren't included please indicate why not

N/A

4. In relation to implementing this policy, is there an opportunity to better promote equality of opportunity or good relations by altering the policy or by working with others in Government or in the larger community?

Yes

No

Please Specify:

5. Have you identified opportunities to:

a) promote positive attitudes towards disabled people;

b) encourage participation by disabled people in public life?

Please Specify:

Not in relation to this policy

6. Monitoring Information: What data will be required to ensure effective monitoring of the policy following implementation?

Statistical data on cases which are moved in accordance with the directive and the Section 75 groups into which the various parties may fall, insofar as this information is available.

7. Have you any other comments on the policy and/or screening exercise?

No

SECTION C: HUMAN RIGHTS IMPACT ASSESSMENT

Articles as identified by European Convention of Human Rights.

- Article 2 - Right to life
- Article 3 - Prohibition of torture, inhuman or degrading treatment
- Article 4 - Prohibition of slavery and forced labour
- Article 5 - Right to liberty and security
- Article 6 - Right to fair and public trial
- Article 7 - Right to no punishment with law
- Article 8 - Right to respect for private and family life, home and correspondence
- Article 9 - Right to freedom of thought, conscience and religion
- Article 10 - Right to freedom of expression
- Article 11 - Rights to freedom of assembly and association
- Article 12 – Right to marry and to found a family
- Article 14 – The prohibition of discrimination
- Protocol 1 Article 1 – Protection of Property
- Protocol 1 Article 2 - Right to education

Definitions of degree of risk of infringement of each article:

High risk – It is foreseeable that this policy is very likely to breach this Article.

Medium risk – This policy is likely, in certain circumstances, to breach this Article.

Low risk – It is possible, though very unlikely, that this policy will breach this Article.

1. Indicate any potential Human Rights implications associated with this policy, the perceived degree of risk (see above) and who the victim may be.

	Has this policy the potential to infringe the rights (Please Tick)		If yes indicate here the degree of risk – High, Medium or Low (See definitions above)	If yes indicate here who the potential victim(s) would be
	Yes	No		
Article 2		✓		
Article 3		✓		
Article 4		✓		
Article 5		✓		
Article 6		✓		
Article 7		✓		

Article 8		✓		
Article 9		✓		
Article 10		✓		
Article 11		✓		
Article 12		✓		
Article 14*		✓		
Article 1 of Protocol 1		✓		
Article 2 of Protocol 1		✓		

2. Outline any justification for any infringements identified:

While there is no infringement it is worth noting that any decision to depart from the guiding principle will be taken by the judiciary taking full account of Article 6 obligations.

3. Are any alternatives available which may not infringe Human Rights?

No

If yes, and the decision has been taken NOT to pursue the alternatives, please give a rationale for this decision.

N/A

4. Outline any action which could be taken to reduce the level of infringement.

N/A

No

SECTION D: RECOMMENDATION: DECISION TO PROCEED TO FULL EQUALITY IMPACT ASSESSMENT (EQIA)

On the basis of answers to Questions 1 to 4 in Section A (and in particular positive answers), do you recommend that the policy should be subjected to a full equality impact assessment?

Yes

No

Please specify your reasons:

SECTION E: TIMETABLE FOR EQUALITY IMPACT ASSESSMENT (to be completed if you have made a recommendation for a full EQIA).

1. Assess the policy in terms of its priority for equality impact assessment.

	High	Medium	Low
Effect on people's daily lives.			
Strategic significance of policy			
Budgetary significance of the policy			

2. Is the policy affected by internal or external strategies, policies or initiatives that are relevant to the scheduling of the EQIA?

Yes No

Please Specify:

3. Is the organisation carrying out an EQIA in the same area? Could they be conducted collaboratively?

Yes No

4. What is the estimated scale of expenditure incurred by the policy?

5. Overall priority rating: HIGH
MEDIUM
LOW

6. Estimated date for completing the Equality Impact Assessment

a. To be completed by the Policy Developer(s)

Where a working group was set up to develop this policy, **please list their names below**. The chair or lead person of that group should sign this form and, in doing so confirms that policy screening under Section 75 of the Northern Ireland Act and screening for infringements to the Human Rights Act has been carried out on this policy.

Peter Luney (Business Development); Jim Coffey (Business Modernisation and Ops Policy); Paula McCourt (Regional Business Manager); Gillian McClearn (Commercial and Estates); Brian Sinnamon (Judicial Services Group); Angela Bell (Policy and Legislation).

Signed: *Peter Luney* Date: 6th January 2010

Name: PETER LUNEY Title: Head of Business Development

b. To be completed by responsible Executive Manager

I am satisfied that this policy has been properly screened for both equality and human rights. Based on the information provided by the policy developer from the policy screening, this policy:

- Needs to go to full EQIA
- Does not need to go to full EQIA

Signed: *J. Durkin* Date: 6th January 2010

Name: Jacqui Durkin Title: Director, Business Development and Services

List of Consultees

- 1 Age Concern Northern Ireland
- 2 Alliance Party
- 3 Association of Chief Officers of Voluntary Organisations
- 4 Association of Justices of the Peace
- 5 Children's Law Centre
- 6 Committee on the Administration of Justice
- 7 Council of Her Majesty's County Court Judges in Northern Ireland
- 8 Criminal Justice Inspection Northern Ireland
- 9 Crown Solicitors Office
- 10 Directorate of Legal Services
- 11 Democratic Unionist Party
- 12 Departmental Solicitors Office
- 13 Disability Action
- 14 District Judges' Association
- 15 Equality Commission for Northern Ireland
- 16 The General Bar Council of Northern Ireland
- 17 General Consumer Council for Northern Ireland
- 18 Green Party
- 19 Health and Social Care Board
- 20 Help The Aged, Northern Ireland
- 21 High Court Judges
- 22 Law Centre (Northern Ireland)
- 23 Law Society of Northern Ireland
- 24 Lord Chief Justice
- 25 Northern Ireland Association of Citizens Advice Bureaux
- 26 Northern Ireland Association of District Judges (Magistrates Court)
- 27 Northern Ireland Commissioner for Children and Young People
- 28 Northern Ireland Council for Ethnic Minorities
- 29 Northern Ireland Guardian Ad Litem Agency
- 30 Northern Ireland Human Rights Commission

- 31 Northern Ireland Lay Magistrates' Association
- 32 Northern Ireland Legal Services Commission
- 33 Northern Ireland Office
- 34 Northern Ireland Peers
- 35 Northern Ireland Policing Board
- 36 Northern Ireland Women's Aid Federation
- 37 NSPCC
- 38 Office of the First Minister and Deputy First Minister
- 39 Police Service of Northern Ireland
- 40 Prison Service for Northern Ireland
- 41 Probation Board for Northern Ireland
- 42 Progressive Unionist Party
- 43 Public Prosecution Service
- 44 Sinn Fein
- 45 Social Democratic and Labour Party (SDLP)
- 46 Television Licensing Enquiry Office
- 47 The Participation Network
- 48 Traditional Unionist Voice
- 49 Traveller Movement Northern Ireland
- 50 Ulster Unionist Party
- 51 UK Unionist Party
- 52 Victim Support Northern Ireland
- 53 Youth Justice Agency



For further information on the work of the Northern Ireland Court Service please contact

Northern Ireland Court Service

Communications Group
Laganside House
23-27 Oxford Street
Belfast BT1 3LA

Telephone: 028 9032 8594
Facsimile: 028 9072 8942
Textphone: 028 9041 2920
Email: communicationsgroup@courtsni.gov.uk
www.courtsni.gov.uk