

“Redrawing the map” – a consultation on court boundaries in Northern Ireland

Summary of responses and proposed way forward

serving the community through the administration of justice

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1.0 Introduction

- 1.1 This documentation is the post-consultation report on the consultation paper “Redrawing the Map”- A Consultation on Court Boundaries in Northern Ireland”.
- 1.2 The report provides:
- a background to the consultation and policy proposal;
 - a summary of the views expressed by consultees together with the NICTS response to these issues; and
 - a conclusion and proposed way forward.
- 1.3 Further copies of this report and the consultation paper can be obtained by contacting:

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- 1.4 A copy of this report will be sent to all those who have responded to the consultation and placed on the NICTS website at www.courtsni.gov.uk
- 1.5 You may make additional copies of this report without seeking permission. If you require further printed copies of this report, we would invite you to access the document through our website and make 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 at the address at paragraph 1.3 above with your specific request.
- 1.6 This document is available in alternative formats or languages on request. Please contact the Consultation Co-ordinator with your request.

2.0 Background and Policy Proposal

- 2.1 On 1st March 2010, the NICTS published a consultation paper entitled ***“Redrawing the Map”- A Consultation on Court Boundaries in Northern Ireland*** for a consultation period of eight weeks. Following representations by stakeholders, the consultation period was extended until 28th May 2010 to facilitate their responses.
- 2.2 The consultation exercise sought views on proposals to reform the current statutory geographical court boundaries for county courts and magistrates’ courts in Northern Ireland.
- 2.3 The consultation paper noted that 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). When the Review of Public Administration published its proposals to restructure local government from 26 to 11 districts, the NICTS established a working group to consider the available options.
- 2.4 The first option considered was a conventional realignment of court boundaries to take account of the proposed new LGDs. The consultation paper noted that this would result in the same type of rigid statutory framework which constrains our ability to manage the distribution of court business to take account of the needs of victims and witnesses and ensure the most efficient use of judicial and court resources.
- 2.5 Accordingly, the consultation paper proposed a second reform option which would remove the current statutory boundaries to establish a single territorial jurisdiction for county courts and magistrates’ courts in Northern Ireland, similar to that which already exists for the Crown Court and the Coroners Service.
- 2.6 The consultation paper recognised that, if a single jurisdiction were established, providing court users with access to justice at a convenient court location would remain a significant consideration when listing court business. Therefore we proposed that the single territorial jurisdiction would be underpinned by an administrative framework.

- 2.7 The administrative framework, agreed by the Minister of Justice and the Lord Chief Justice, would -
- describe the administrative court divisions;
 - set out the rules governing the distribution of court business in the county and magistrates' courts (referred to as the 'guiding principle'); and
 - specify the circumstances in which the guiding principle may be departed from.
- 2.8 The purpose of the guiding principle would be to ensure that there was a consistent approach to listing court cases so that court users would know at which court venue a case would be listed. 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, would usually still be prosecuted in the area where the offence occurred or where the offender resides.
- 2.9 Unlike the current statutory arrangements, however, the framework would set out the circumstances in which cases could be listed in, or transferred to, an alternative court division.
- 2.10 The additional flexibility afforded by the proposals would allow the NICTS to better meet the needs of victims and witnesses, for example by allowing a case to be listed at a venue which is more convenient and had better facilities for victims or witnesses. For example, cases requiring special measures, specific ICT support or separate waiting areas could be more readily listed at those venues which best suit the needs of a particular case.
- 2.11 Moreover, the flexibility to better manage peaks and troughs in court business volumes generally and to make better use of court accommodation would facilitate the more efficient distribution and disposal of business, helping to avoid unnecessary delay.

3.0 Summary of views expressed by consultees and NICTS response

- 3.1 We received 12 substantive responses to the consultation paper. In addition, meetings were held with some consultees. A full list of respondents is at Appendix 1.
- 3.2 In summary, the responses were broadly supportive, although many respondents emphasised the importance of having adequate safeguards to protect individuals.
- 3.3 Many of respondents commented generally on the proposals in addition to or instead of answering the specific questions posed. The following summary of responses is grouped according to the specific questions set out in the document. It also deals with comments on the policy equality screening and other more general comments that were received.

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?

Responses

- 3.4 Nine respondents were generally supportive of the principle of a single jurisdiction. Two respondents stated that they were neither supportive of nor opposed to the single jurisdiction proposal while one respondent opposed the proposal.
- 3.5 Eight of those respondents who supported the policy emphasised the importance of having adequate safeguards to ensure that the needs of individual court users are prioritised over administrative convenience and to ensure that the principle of access to justice is protected.
- 3.6 The respondent who opposed the proposal felt that a single jurisdiction proposal could exacerbate perceived access to justice issues for certain court users.

- 3.7 One respondent welcomed the initiative as a means of tackling delay but again noted that decisions to depart from the guiding principle should be taken in a timely manner so as not to inconvenience victims, witnesses and other parties to proceedings.
- 3.8 Four consultees suggested that, in addition to the proposed administrative framework, it would be helpful to define the practical steps to be considered before a case is transferred.

NICTS comments

- 3.9 Under the proposals, any decision to depart from the guiding principle would only be taken by the Lord Chief Justice or local judiciary. It is anticipated that, in the majority of cases, the judiciary would consider the impact on individual parties of any decision to depart from the guiding principle. In some cases, however, the judge taking such a decision may be required to balance the conflicting needs of parties, victims and witnesses.
- 3.10 NICTS can see merit in the recommendation from some consultees that the practical arrangements should be set out more clearly. We propose to develop a protocol which would supplement the administrative framework and would –
- prescribe the manner in which an application to depart from the guiding principle should be made;
 - give affected parties a right to make representations; and
 - set out specific grounds on which parties could object.
- 3.11 It should be noted, however, that there may be times when it is simply not practicable to facilitate representations, for example where all business is moved because courthouses or courtrooms are unavailable.

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?

Responses

3.12 Eight respondents agreed with the above statement. Three respondents did not specifically address this question. One respondent advised that there was insufficient evidence to support the statement and that the same objective could be achieved by providing additional sitting days in each business area.

NICTS comments

3.13 The proposals would replace the current rigid statutory framework with a more flexible administrative arrangement, which would allow us to provide a more responsive service to court users and better meet their needs. In addition, they would allow us to better manage court business generally, facilitate more efficient disposal of cases and help to reduce avoidable delay.

3.14 We noted in the consultation paper that we regarded this as a process of incremental change. We would develop mechanisms to monitor the operation of the impact of the proposed arrangements and build on the strengths of a more flexible system while addressing any issues encountered.

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?

Responses

3.15 Similarly to question 1, eight of the respondents agreed that the proposed administrative framework, provided that it is supplemented by appropriate safeguards, would strike the correct balance. The remaining respondents did not specifically address this question.

NICTS comments

3.16 The consultation document stated that nothing in the proposals would detract from the access to justice principle. In many cases, however, the decision may require a judge to balance different needs. However, we have noted respondents' views that it would be helpful to more explicitly set out the practical steps to be considered before a case is transferred.

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

Responses

3.17 The five respondents who answered this question agreed the departing reasons had merit, although they noted that the more important issue is how they will be applied in practice. Two of these respondents also suggested that the arrangements should be periodically reviewed. The remaining respondents did not specifically address this question.

NICTS comments

3.18 The reasons for departing from the guiding principle are designed to address a number of key issues which may be encountered on a day to day basis and thereby enhance the judiciary's listing options. As noted above, we intend to monitor and review the operation of any revised arrangements.

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)?

Responses

3.19 Four respondents addressed this specific question. Two of them supported the retention of the link with Local Government Districts and were broadly content with the proposed configuration of administrative divisions. Two suggested that further consideration would need to be given to the practical implications

of the proposed boundaries, in particular taking account of other potential reforms such as an increase to the financial jurisdiction of the county court.

NICTS comments

- 3.20 We believe the link with LGDs helps to provide clarity for court users. If they know in which LGD the cause of action occurred, it is relatively simple to identify the relevant court venue.
- 3.21 It may be helpful to clarify that while the review of court boundaries was initiated because of the changes to LGDs proposed under RPA (which have now been deferred), the two are not dependent on each other. NICTS believes that the flexibility these proposals afford are just as desirable and beneficial under an administrative framework which is based on the current court boundaries model.

Equality Screening

- 3.22 Three respondents queried our conclusion that the proposals would not adversely impact any of the section 75 groups or otherwise have significant implications for equality of opportunity.
- 3.23 The proposals seek to strike a 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 the more effective disposal of business for the benefit of court users. The intention behind the policy is that the current arrangements for listing business would be broadly maintained with some additional flexibility. We believe there would be sufficient safeguards to ensure that the needs of individuals were considered before a decision was taken to depart from the guiding principle.
- 3.24 The proposal has, however, been included as part of the document published by the Department of Justice entitled “Equality Impact Assessment for a Proposed Justice (NI) Bill 2010”, which is available at www.dojni.gov.uk/index/public-consultations/current-consultations/justice_bill_eqia.pdf.

Other Comments

(i) Who will issue the Directions containing the administrative framework?

3.25 Two respondents sought clarification on who would be responsible for issuing the proposed administrative framework. In the consultation paper we suggested that this could be issued by the Department of Justice with the agreement of the Lord Chief Justice or vice versa.

3.26 Having reviewed the options and considered the consultation responses, it is our view that the function is essentially one of judicial deployment and distribution of court business and it should be exercised by the Lord Chief Justice, with the agreement of the Department of Justice. However, we think it would be helpful to also provide that the Department of Justice may make a recommendation to the Lord Chief Justice that the administrative framework should be amended.

(ii) Maintenance of the court estate

3.27 Four respondents expressed concern that the proposals are designed to avoid NICTS obligations to maintain the court estate to an appropriate standard.

3.28 The consultation paper acknowledges that the proposed single jurisdiction could influence future court estate planning by eliminating the restrictions currently faced under the multi-jurisdictional model. The proposals are about providing additional flexibility to better manage and more effectively dispose of court business for the benefit of all court users.

3.29 The court estate has varied services and facilities available at different court venues. It is not possible or practical to upgrade all courthouses to the same standard at a reasonable cost. For that reason we are seeking the flexibility to be able to move cases to an alternative court venue where particular facilities are available for particular cases.

4.0 Conclusion and proposed way forward

- 4.1 NICTS has considered carefully all the responses to this consultation exercise and notes that there is a broad measure of support for the principle of a single jurisdiction for county courts and magistrates' courts in Northern Ireland. Accordingly we propose to implement the reforms by establishing a single territorial jurisdiction underpinned by flexible administrative arrangements.
- 4.2 It is equally clear, however, that the success or failure of the proposed reforms will be determined by how they are implemented.
- 4.3 The consultation paper recognised the importance of access to justice and contended that the proposed reforms would not detract from that. The responses to the consultation exercise have underlined the importance of ensuring that there are adequate safeguards in place to ensure that the needs of individuals in this regard are protected.
- 4.4 We are also persuaded that there would be merit in setting out the practical arrangements which would apply when considering where a case should be listed. Therefore we propose to supplement the administrative framework with a protocol setting out these practical steps. A draft of both the administrative framework and the protocol will be consulted on prior to the introduction of the single jurisdiction reforms.
- 4.5 We had anticipated that, subject to a positive response to the consultation exercise, the legislation to give effect to these court boundary reforms would be carried in a Justice Bill to be introduced before the Assembly this Autumn. This will not prove possible due to the number of other priority initiatives which are to be included in that Bill. We will, however, seek to include these reforms in the next suitable legislative vehicle.
- 4.6 As there is currently no timescale for implementing these reforms, it will be necessary to defer any further work in the administrative framework, protocol

and proposed administrative court divisions. These will be reviewed at the appropriate time.

- 4.7 A copy of this report will be sent to all those who have responded to the consultation and it will be placed on the NICTS website at www.courtsni.gov.uk. NICTS is grateful to all those who considered and responded to the 'Redrawing the Map' proposals and we shall continue to work with stakeholders to ensure the satisfactory implementation of the revised arrangements in due course.

Northern Ireland Courts and Tribunals Service
September 2010

Appendix 1

Respondents to the consultation

Responses were received from the following:

- Children's Law Centre;
- Commercial Bar Association;
- Committee on the Administration of Justice;
- Disability Action;
- Law Society for Northern Ireland;
- Office of the Lord Chief Justice;
- Police Service of Northern Ireland;
- Probation Board for Northern Ireland;
- Public Prosecution Service for Northern Ireland;
- Sinn Fein;
- Victim Support Northern Ireland; and
- Women's Aid Federation Northern Ireland.

A presentation on the consultation proposals was also made to the Committee for Justice of the Northern Ireland Assembly.

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