

SHADOW CIVIL JUSTICE COUNCIL ADVISORY GROUP

Minutes of the First Meeting of the shadow Civil Justice Council Advisory Group held on 15 January 2019 at 4.00pm in the Judges' Assembly Room, Royal Courts of Justice, Belfast.

Attendees: Mandy Kilpatrick (Chair, PPS to LCJ)
Glenn McKendry (NFU Mutual/ABI)
Patrick Yu (NICRE)
Scott Kennerley (The Consumer Council)
Ursula O'Hare (The Law Centre NI)
Michael Murray (Institute of Directors)
Les Allamby (NIHRC)
Alastair Ross (ABI)
Alison Cassidy (BLM Law)
Maurece Hutchinson (JMK Solicitors/NI Coordinator of the Association of Personal Injury Solicitors)
Professor Grainne McKeever (Ulster University)
Dr Lucy Royal-Dawson (Ulster University)
Janet Hunter (Housing Rights [Director])
Collette Donaghy - (NICCY)
Peter Luney (NICTS)
Stephen Martin (DoJ)
Kim Elliott (OLCJ)

Secretariat: Katharine McQuade (OLCJ)

1. The Chair welcomed everyone to the meeting and thanked the members for their attendance. She advised that the Civil Justice Council is currently constrained in shadow form and that the purpose of this meeting was to update members on developments.

Apologies

2. Apologies were noted from Mairead McCafferty and John French.

Priority Areas

3. The Chair advised members that the shadow Council has allocated leads to each of the recommendations and has acknowledged that a phased approach to implementation of the recommendations will be required. She confirmed

that this was due to a number of reasons including financial constraints and the absence of a functioning Executive. In order to maintain momentum the shadow Council has agreed that the following five priority areas should be taken forward: Digitisation and paperless courts; Online dispute resolution; Personal litigants; Business Hub and Disability.

Digitisation and paperless courts

4. Mr Luney described the NICTS Transformation Portfolio to members. The Portfolio seeks to improve delivery of justice services through restructured processes, maximising use of technology, and providing a fit for purpose estate. He advised that the Public Accounts Committee had published a critical report of how HM Courts and Tribunals Service (HMCTS) had approached modernisation in England & Wales. It was felt that the HMCTS programme had been embarked upon too quickly and that NI should take account of the lessons learned and ensure that progress was incremental, and recognised that consultation and engagement needed to be central to any modernisation strategy.
5. NICTS will undertake a comprehensive review of existing line of business systems to assess the likely future needs of Courts and Tribunals, and identify best practice in similar organisations and current / future technologies. They will identify pilot projects to test concepts and develop a range of new integrated on-line services.
6. Mr Luney advised members that NICTS had already identified a number of pilot projects that could be used as 'Proofs of Concept'. This would permit testing of certain technologies before they were applied more broadly. He advised that NICTS was seeking to develop a solution for online case initiation and evidence upload and were considering piloting either a 'Non-Contentious Probate End to End Solution' or 'Online Application for Divorce'. He noted that further exploration of the options was needed but that the Divorce pilot was limited to a back office function while the Probate pilot could deliver an end to end solution.
7. Work is already progressing on three case management systems which were identified as priority: Coroners, Official Solicitors Office and The Office of Care and Protection. Any lessons learned from these will be considered in evaluating future case management projects.

8. Some early digitisation improvements are planned, for example, the roll-out of wi-fi in up to ten courtrooms in Laganside between January and March, with the potential to extend this to the Commercial Court in the RCJ.

Online Dispute Resolution

9. The Chair said the potential for a pilot to process small claims more effectively was being explored. She advised that she had recently attended a forum in London for online courts along with Mr Luney. The forum had examined the various initiatives being developed in twenty other jurisdictions. The Chair noted that the forum had reinforced the view that it was important to learn from experiences and issues encountered elsewhere.
10. Members welcomed this approach and developments.

Litigants in Person (LIP)

11. The Chair advised members that the LCJ had met with Professor McKeever and Mr Allamby to discuss Professor McKeever's report 'Litigants In Person In Northern Ireland: Barriers to Legal Participation'. She confirmed that DoJ would be liaising with the Human Rights Commission and Ulster University to take this work forward.
12. Mr Martin explained that DoJ was working to establish a reference group for LIP and that it was hoped that the first meeting would take place in early February. The group is interested in exploring what support already exists and identifying what improvements could be made to assist litigants in person to deal with their cases in court. There is potential for the chair of the LIP reference group to inform the work of the shadow Civil Justice Council and shadow Family Justice Board either directly or through the Advisory Groups.
13. There was discussion surrounding whether funding was the main obstacle to securing legal representation and it was suggested that, while funding was the dominant theme, there was also a contingent who felt that legal representation was not worth the cost incurred. It was agreed that solutions developed should take account of the varying needs of LIP to help them navigate the court system without legal representation.

Commercial Hub

14. The Chair informed members that Mr Justice Horner chairs a working group to consider changes in practice in the Commercial Division arising from the Review. The new Commercial Hub which is due to commence operation in the High Court is one of the products of the Review. She advised that the new hub will operate as a business court dealing with all forms of commercial dispute and will comprise several judges working across the areas of commercial and chancery law, judicial review and ancillary relief.
15. Features that underpin the operation of the new hub include: early case management, appropriate considerations of alternative dispute resolutions and early neutral evaluation. The Judge has engaged with local solicitors' groups and the Law Society, and court staff. The Chair confirmed that the practicalities of how it would work are being finalised and that a Practice Direction is being developed, and could be shared with the Advisory Group. Members were content to await the final Direction.

Disability

16. Mr Luney confirmed that NICTS intends to establish a sub-committee to look at the recommendations contained in Chapter 14 of the Review Report. He advised that technical and functional surveys of all buildings in the court estate are being carried out and that these should highlight any disability-related issues. Mr Luney confirmed that this work looks at disability in a broad sense and is not solely focused on physical disability.
17. Mr Kennerley described the work that the Consumer Council has carried out in this area regarding access to air and sea travel. He informed members that access audits are performed which take a wide range of consumers with various disabilities through a facility. Recommendations for improvements are then passed to the service provider.
18. Mr Luney accepted Mr Kennerley's offer to discuss this work and share contact details for disability representative organisations.

Sub-Committee on Accreditation to Undertake Clinical Negligence Cases

19. The Chair explained that the Review had identified that medical negligence cases were taking a long time to work their way through the system, noting that, in Northern Ireland, there is no requirement for a solicitor to hold any

particular qualification in order to litigate a clinical negligence case. The issue of accreditation, ultimately, is about access to justice for vulnerable members of society. Most views, with the exception of the Bar Council and the Law Society, that were expressed on this topic during the Review were in favour of a system of accreditation for clinical negligence lawyers, both solicitors and barristers.

20. The shadow Council has set up a small sub-committee to consider the relevant recommendations, chaired by Master McCorry. The Chair advised that consideration is being given to how best to enhance the training and support provided in this area, and the Master will report progress at the next shadow Council meeting.

The county court and small claims court (Civil Hearing Centres)

21. On the 31st October 2016, the Lord Chief Justice set out directions for the distribution of court business in the county court in Northern Ireland into new administrative areas, which were more aligned with Local Government Districts.
22. The Chair explained that following a short pilot to examine if greater efficiencies would be achieved by concentrating judicial and staff resources to create a civil hearing centre spanning across these boundaries, it was decided that all ordinary civil bill business from several neighbouring council areas should be listed in the Armagh Hearing Centre from 1 December 2017. She advised that the Recorder of Belfast recently extended the business heard here to include Equity Civil Business and that further changes are being considered to other areas.

Action: OLCJ to circulate any updates regarding the Civil Hearing Centres.

23. There was discussion around the timetabling of cases to avoid unnecessary waiting times for vulnerable users. It was thought that a concerted effort was required to manage this and that practitioners should flag up any issues to the judge and request an indication of timings if necessary. Dr Royal-Dawson noted that LIP have no representative to advise them when they are likely to be called to court. The Chair explained that court clerks and security personnel will often try to provide assistance on this front. She confirmed that she would raise this matter with the shadow Civil Justice Council to explore what existing initiatives or resources could be utilised. Ms Cassidy emphasised that the key issue was helping users to know who to ask for assistance. Mr Luney confirmed that he would look into this issue.

Action: Mr Luney to explore how this issue can be addressed in courthouses and Mrs Kilpatrick to raise issue with shadow Civil Justice Council.

Any Other Business

24. Mr Allamby noted that the minutes of the shadow Civil Justice Council are published online and suggested that it would be useful if they were also routinely circulated to members of the Advisory Group. He also suggested that it might be useful to invite members to indicate which areas of work they had particular interest in so that any relevant updates could be circulated to them as appropriate. The Chair agreed that this could be accommodated.
25. Members also confirmed that the minutes of this Advisory group should be published online.

Action: OLCJ to routinely circulate minutes of shadow Civil Justice Council, consultations and any other documents as required.

Action: OLCJ to contact members to enquire which areas of work they have a particular interest in.

Frequency of Meetings

26. It was agreed that the Advisory Group would formally meet twice a year but that ad-hoc meetings of particular members could be arranged as required to discuss specific issues.