

TERMS OF REFERENCE
REVIEW OF CIVIL AND FAMILY JUSTICE

Introduction

1. The Lord Chief Justice has commissioned a Review of Civil and Family Justice, to be led by a Lord Justice of Appeal.
2. Since the last comprehensive review of the civil justice system in Northern Ireland was completed in June 2000, the landscape within which the civil and family courts operate has changed substantially and there is a growing demand for the speedier resolution of business against a backdrop of declining resources. In addition, a judicially-led review of the Civil Justice System in Scotland was undertaken in 2007-2009, the outcome of which was published in September 2009 as the "Report of the Scottish Civil Courts Review", and there is a programme of civil justice reform planned for England & Wales, which is also being judicially led. These recent developments in GB have highlighted a number of potential opportunities, many of which should be capable of a local application. It is considered timely, therefore, to assess to what extent current arrangements in this jurisdiction are fit for purpose in a modern context.
3. The aim of the Review is to look fundamentally at current procedures for the administration of civil and family justice, with a view to:
 - improving access to justice;
 - achieving better outcomes for court users, particularly for children and young people;
 - creating a more responsive and proportionate system; and
 - making better use of available resources, including through the use of new technologies and greater opportunities for digital working.
4. The Review will proceed from the premise that the courts should be reserved for business that cannot be resolved through alternative means. It is recognised that additional capacity outside the courts would need to be created for such alternative approaches to be successfully implemented, and the Review will seek to provide an evidence base and clear rationale for potential new working practices that might better meet customer expectations in a modern justice system.
5. The outcome of the Review will be a report for the Lord Chief Justice to forward to the Department of Justice with recommendations designed to inform the

direction of policy development in this area in the next Assembly mandate, building on any relevant findings in the report of the Access to Justice Review II, when published. This will highlight where legislative reforms would be required as well as the identifying “quick wins” that could be implemented on an administrative basis. The Department of Finance & Personnel and Department of Health, Social Services & Public Safety will be engaged, as appropriate, on matters relevant to their responsibilities.

Scope of the Review

6. The main areas to be covered by the review are as follows:

- the jurisdiction of the small claims and county courts
- the types of business that should be conducted within these jurisdictions
- the use of mediation and other forms of alternative dispute resolution, including on-line options (for example, online dispute resolution)
- opportunities to facilitate and provide support to unrepresented parties
- the workings of the family justice system
- the scale costs system and options for the proportionate recovery of costs
- opportunities for more proportionate use of evidence
- opportunities to streamline court procedures and improve case management, including for the transfer of business between court tiers and the potential for a single entry point for all non-criminal claims
- invocation of modern technology into the court process.

Duration

7. The Review will commence in September 2015 and be completed by no later than September 2017.

Methodology

8. A Review Group will be established to:

- examine current levels of business in the civil and family courts and how these are being managed;
- look at best practice and experience in other comparable jurisdictions;
- consider the adequacy of currently available data on civil and family caseloads;

- investigate the potential for closer collaborative working with voluntary sector providers;
 - identify potential business improvements;
 - highlight areas where legislative reform is required;
 - assess the potential equality implications of any proposals, with a view to ensuring there is no adverse differential impact for any section 75 groupings; and
 - identify training and development needs.
9. The Review will be substantially informed by the views of interested stakeholders. A Reference Group will be established to allow external stakeholder groups to provide their input and members of the public will be encouraged to contribute on the basis of their personal experiences.
10. The Review Group will, in consultation with relevant members of the Judiciary, develop a series of issues papers covering key themes within and across the various court divisions and tiers within the civil and family justice system. The issues papers will be shared with the Reference Group and made available on-line, as a means of providing the basis for an informed and inclusive debate. The Review Group will then produce an interim report, which will be made publicly available, and consider views on this before publishing its final report.

Governance arrangements

11. The Review Group will be chaired by Lord Justice Gillen and include the following membership:
- Mr Justice Horner
 - The Recorder of Belfast
 - The Presiding District Judge (Civil)
 - The Presiding Master
 - Gerry McAlinden QC, Bar Council nominee
 - Arlene Elliott, Law Society nominee
 - Laurene McAlpine, Department of Justice
 - Laura McPolin, Department of Finance & Personnel
 - Eilis McDaniel, Department of Health, Social Services & Public Safety
 - Paul Andrews, Chief Executive of the Legal Services Agency
 - Paula McCourt, Northern Ireland Courts & Tribunals Service
 - Maura Campbell, Principal Private Secretary to the Lord Chief Justice

12. The Reference Group will include nominated representatives from:

- Advice NI
- Citizen's Advice
- Chamber of Commerce
- Children's Law Centre
- Confederation of Small Businesses
- Consumer Council
- Family Mediation NI
- Health & Social Care Board
- Law Centre
- Law Society/Bar dispute resolution services
- Mediation NI
- NI Commissioner for Children & Young People
- Northern Ireland Council for Ethnic Minorities
- NIGALA
- NI Human Rights Commission

13. The Office of Lord Chief Justice will provide the secretariat for the Review.