

OPENING OF THE 2015 MICHAELMAS TERM

LORD CHIEF JUSTICE'S ANNUAL ADDRESS

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Minister, colleagues, ladies and gentlemen, I am grateful to you all for coming here today.

The opening of the new legal year always provides me with an opportunity to reflect on key developments over the past year, and also to set out what I see as the challenges and opportunities for the coming year.

I would like to start by expressing, on behalf of us all, my deep gratitude to Sir Paul Girvan and Sir Patrick Coghlin for their contributions over the course of their careers. As those of you who were fortunate enough to hear the tributes paid to them in *Nisi Prius* in June will know, those contributions have been significant, and I wish them well in their retirement.

My sorrow in bidding them farewell is tempered somewhat, of course, by my pleasure in welcoming the newly appointed Lord Justice Weatherup and Lord Justice Weir to the Court of Appeal, and I am very much looking forward to working with them both in their new roles. I am also delighted to welcome Mr Justice Colton to the back corridor, as well as Her Honour Judge Crawford to the County Court.

Our new judges are joining us at a time of considerable political and financial uncertainty. I note with interest that intensive talks are planned, with a view to achieving a resolution to the outstanding issues.

Unhappily there also remains a continuing security threat. Ensuring the safety of judges, and of others under threat by virtue of their role within the justice sector, must remain paramount.

I commend my colleagues in the judiciary for continuing to maintain the highest standards in how they serve this community in such a challenging operational environment.

Legacy

Dealing with the past is one area in which political instability is having a particular impact, not least of course on the victims' families. This will require clear political commitment, both locally and at Westminster, as well as the provision of significant additional resources.

While I am keen to provide leadership in respect of legacy cases, there remain many factors outside my control which need to be resolved for us to have confidence that these cases can move forward within a reasonable timeframe. It would be wrong of me to underestimate the challenges that those matters pose.

I would today like to assure the families, however, that we in the Judiciary stand ready to play our part, in order to ensure that justice is both done and is seen to be done, and that we are committed to engaging with them in as open and transparent a way as possible once I assume the Presidency of the coroners' courts.

Resources

With the assistance of my colleagues in the judiciary and other justice partners, I am also seeking to provide leadership by improving how we manage the business within the court tiers for which we already have responsibility.

I am delighted to say that we have seen a dramatic improvement in the throughput of cases in the Crown Court, having eliminated a substantial backlog of cases. By way of example, since the end of 2012 we have reduced the number of outstanding Crown Court trials in Belfast by 84%. I am grateful to the PPS, the Court Service, the Bar and the Law Society for their commitment to making this happen. This was an excellent example of the partnership working to which I have often referred.

Earlier this year, I took the unprecedented step of releasing a statement setting out my concerns about the impact that proposed cuts could have on court users, and particularly on those within our society who are the most vulnerable. I fully recognise, of course, the difficult financial climate in which we are all having to operate and that no area of public service will be untouched by the requirement to deliver significant savings. We must all do our bit, and we have been increasingly trying to

deliver the same level of service – or sometimes even additional services - with less resource. However, trying to make efficiencies within existing systems and practices will only take us so far; if we are to make best use of the available resources, we need to take a fundamental look at what we do and how we do it.

When I met with the Justice Committee in March, I indicated that I had asked the Presiding District Justice (Magistrates' Courts) to look at court sitting times at that tier. I am pleased to report that as a result of Judge Bagnall's work, we have already identified the scope to save at least 13 sitting days per month and the changes needed to effect this saving are due to be in place by the end of next month. The implementation of a single jurisdiction, which I understand is likely to take effect in early 2016, should allow us to make even more effective use of court capacity. I hope that this judicially-led initiative helps to demonstrate that we are prepared to look seriously at how to reduce costs, without of course compromising justice.

Criminal justice reform

The **Justice Act 2015**, which received Royal Assent in July, contains a number of provisions which, when implemented, should help to streamline the criminal justice process. This will both benefit victims of crime and allow defendants to have the case against them considered more speedily.

I am pleased that the Justice Minister took up my suggestion that he should legislate to allow murder and manslaughter cases to be directly transferred to the Crown Court to come under the supervision of a High Court Judge immediately after the first appearance in the Magistrates' Court. I hope this will allow these most serious of cases to proceed significantly faster and thereby avoid prolonging the ordeal for the victims' loved ones.

These legislative changes will build on a number of positive initiatives that are already being taken forward on an administrative basis through close working between the Judiciary and other justice partners. An **Indictable Cases Pilot** has been operating in the Division of Ards since January. The pilot was developed in response to an exercise I commissioned to look at the causes of delay in Crown Court cases, which was undertaken by Criminal Justice Inspection Northern Ireland.

The new process, which was developed by the Public Prosecution Service and the Police Service of Northern Ireland in consultation with the local judiciary and other stakeholders, has been showing encouraging results thus far. By the middle of August, 111 cases were part of the pilot process, with 79 reaching court stage. 43 cases had been arraigned or listed for arraignment. 8 cases had been concluded, and in two of these cases the time taken from the date of incident report to sentencing was **56 days**, which represents a significant improvement.

In addition, based on the learning from the Indictable Cases Pilot, a new procedure for **murder and manslaughter cases** will be introduced shortly, in anticipation of the commencement of the legislative provisions to allow for such cases to be directly transferred to the Crown Court.

Also flowing from discussions on the Pilot, it is intended to introduce the use of **staged forensic reporting** across Northern Ireland, to provide shorter, more focussed reports at earlier stages of proceedings.

I was pleased to be invited to deliver the keynote address at the inaugural Justice Committee seminar on **youth justice** in April. As I said then, I believe that more could and should be done both to divert young people involved in lower level offending from the justice system and to ensure that their cases are dealt with as expeditiously as possible. Given the high proportion of cases that come to court which result in a youth conference, I see no reason why a reparative intervention could not be offered to the young person at a much earlier stage. I also believe that for diversion to be truly meaningful, we should strive to avoid young people acquiring a criminal record, which could have significant consequences for them in later life, provided of course that they do not pose a risk to public safety.

I therefore welcome the scoping exercise on youth justice being taken forward by the Department of Justice, to which my office is contributing, and I am grateful to Judge Conner for bringing his expertise to this work.

I am also keen to see more **alternatives to short sentences for the adult offending population**, so as to allow the relevant agencies to manage risk and facilitate rehabilitation in the community, as opposed to having offenders spend their time less productively in a prison setting. Such

community alternatives would also allow for better victim engagement and the use of restorative approaches, where appropriate, and they should make it easier for the underlying causes of the offending behaviour to be addressed through tailored programmes of support. Maintaining public confidence will also be important, and I think that this can best be achieved through continuous judicial oversight.

Earlier this year a Criminal Justice Issues Group event, chaired by Girvan LJ, brought together a range of organisations to consider the strategic issues involved in moving towards the greater use of community sentences. This generated a useful debate and confirmed that there was support across the justice organisations for such a model.

Following this event, I invited the Probation Board for Northern Ireland to consider how this type of community alternative might work in practice, and I am pleased to report that as a result of this engagement, they will be piloting a new community disposal – to be known as an Enhanced Combination Order – from 1st October in the Divisions of Newry & South Down and Ards. The aim of the Enhanced Combination Order is to divert some of those offenders from short-term custodial sentences by offering Judges, initially in a pilot arrangement, an existing community option in a more intensive package with a focus on rehabilitation, restorative practice and desistance.

There are, therefore, a number of positive developments currently underway which have the potential to improve the effectiveness of our criminal justice system, and these are being supported and informed by the involvement of the Judiciary working in close partnership with others.

Civil justice reform

In contrast to the significant progress being made in relation to criminal justice reform, the operation of the civil and family justice system has received much less attention in recent years. There may be a number of reasons for this. The criminal justice system has, through the outworkings of the Belfast Agreement, been the subject of much greater political scrutiny and general oversight. There also tends to be less general public interest and media reporting on matters falling within the civil sphere, unless a particular case happens to touch on wider issues of human rights or civil liberties.

Usually, the civil and family courts are dealing with private matters between individual parties, whereas in the criminal courts the state takes on the role of acting in the wider public interest. But for the individuals concerned, their participation in those courts may be hugely significant – it may directly affect their livelihood, their enjoyment of family life, or even their personal safety.

The last comprehensive review of the civil justice system in Northern Ireland was 15 years ago. Since then, both the landscape within which the civil and family courts operate and public expectations of what that system should be able to deliver have changed substantially. I think it is timely, therefore, to take a comprehensive look at whether the system in Northern Ireland remains fit for purpose in a modern context.

In addition, there have recently been major, judicially-led reviews in Scotland and in England & Wales which have highlighted better ways of working. Many of the ideas that have surfaced through these reviews, such as the scope to make greater use of technology to run the business of the courts and to give the citizen easier access to justice, are just as applicable to Northern Ireland as they are to other parts of the UK.

We can also learn from innovative practice in other jurisdictions, such as the Republic of Ireland, Holland and New Zealand. A good idea is a good idea, wherever it comes from, and looking at the experiences of others can be very instructive.

As has been the case in other parts of the UK, it is entirely appropriate for leadership in this area to come from the Judiciary. **That is why I am announcing today that I have asked Lord Justice Gillen to lead a wide-ranging Review of Civil and Family Justice in Northern Ireland**, with a view to improving access to justice; achieving better outcomes for court users; creating a more responsive and proportionate system; and making better use of available resources.

This is the first opportunity in a generation to effect meaningful change in how we deliver civil and family justice, and I believe that the system is ripe for reform. While our principal aim is to deliver a better

experience for court users, and so we are more interested in the high human cost of the system than the financial one, I think it is likely that a natural by-product of this work should be an overall reduction in cost. For instance, we need to look at more proportionate ways to settle low value claims; we need to make more use of alternative dispute resolution; and we need to avoid the courts being used tactically to inflict hurt on others when relationships have broken down, particularly where there are children involved.

It is our intention that Lord Justice Gillen's Review will complement and build on existing initiatives, such as the Care Proceedings Pilot being undertaken jointly by the Department of Justice and the Department of Health, Social Services & Public Safety, the project being taken forward by the Department of Finance & Personnel on the enforcement of contact orders, and the work being led by the Department of Justice to create a Digital Strategy for the justice system. I also understand that Colin Stutt's report of his review of Access to Justice should be published in the near future, and we will be looking closely at the themes identified in that report.

We also intend to make the Review process as inclusive as possible: we will be encouraging the active participation of a wide range of stakeholder organisations, and we will be writing to them shortly with the proposed terms of reference. In addition, there will be a website and mailbox for members of the public to tell us directly about their experiences.

Conclusion

I am in no doubt that there will be many challenges ahead in the coming year, including further budget cuts and the planned rationalisation of the court estate, and that the effects of these will be felt by all of us who are engaged in delivering justice.

But, as I said earlier, financial constraints also compel us to take a step back and look critically at how our system of justice works, thereby creating opportunities to innovate. I believe this should include assessing the merits of a non-ministerial department to oversee the work of the courts. This model appears to have been successful in Scotland,

Holland and the Republic of Ireland and would allow us to go even further in reforming our justice system.

The judiciary in Northern Ireland has already taken on responsibility for the management of caseload, and I spoke earlier about how we are currently seeking to discharge this responsibility more efficiently, by eradicating backlogs and making better use of court sitting time. But we do not currently have responsibility for the management of the courts system. In other jurisdictions where the senior judiciary have overseen the administration of court functions, they have been able to create an integrated approach, thereby providing a more seamless service to the citizen.

I can see the scope to do likewise in Northern Ireland.

I believe this model could only enhance the governance and accountability of the justice system. A recent study in the UK concluded that enhanced judicial independence and greater accountability are often two sides of the same coin, and highlighted the benefits of more active and transparent involvement of the Judiciary in the management of court business.

I would, therefore, encourage the Department of Justice to give serious consideration to the possibility of legislating for a non-ministerial department in the next Assembly mandate.

In the interim, the judiciary will continue to have a key role to play in exploring opportunities for reform, with our justice partners, for the benefit of all.

Thank you again for attending, and I look forward to working with you in the coming months.