



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Proposed Rationalisation of the Court Estate:
Lord Chief Justice

18 March 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alastair Ross (Chairperson)
Mr Tom Elliott
Mr Paul Frew
Mr Seán Lynch
Mr Alban Maginness
Mr Patsy McGlone
Mr Edwin Poots

Witnesses:

Rt Hon Sir Declan Morgan The Lord Chief Justice

The Chairperson (Mr Ross): Good afternoon, Lord Chief Justice.

Rt Hon Sir Declan Morgan (The Lord Chief Justice): Good afternoon, Chairman.

The Chairperson (Mr Ross): Thank you very much for attending. When you are ready, perhaps you will brief us with some comments. We will then open it up to questions from members.

Rt Hon Sir Declan Morgan: Thank you very much. I am grateful for the opportunity to speak about the proposal to close a number of courthouses, but I would like to start by making a few comments about the extremely challenging financial position within which the Courts and Tribunals Service has to operate.

The Minister has already briefed the Committee on the outcome of the 2015-16 Budget settlement. When he appeared before you, he said that very difficult funding and prioritisation decisions would be required that will have a major impact on the wider justice system and the services provided. He has clearly stated that his priorities are to protect front-line policing and other front-line areas across the Department as far as possible in order to protect outcomes for the public, so the police, the Prison Service and the Probation Board have seen their budgets reduced by less than other parts of the Department.

I recognise the difficult decisions that the Minister faces in light of the budgetary settlement, but it is important to be clear about the fact that, if these proposals are implemented in full, it will change the shape of the delivery of court services in Northern Ireland to the detriment of many vulnerable adults and children seeking to vindicate their rights. The Department has a statutory duty under section 68A of the Judicature (Northern Ireland) Act 1978 to provide an efficient and effective system to support the courts and to provide appropriate services to do this. This statutory obligation is designed to reflect one of the basic governance principles in a democratic society, which is the right of access to

justice. Failure to provide sufficient funding for the courts to be accessible would clearly put the Department in a position where it was not fulfilling its statutory duty. We need to make sure that we do not reach that point.

I do not intend to rehearse the sorry history of budgetary cuts over recent years. Others, no doubt, will provide the facts. I also do not intend to dwell on the impact of legal aid expenditure, which remains a source of considerable debate and analysis. I do, however, want to point out that one of the unfortunate aspects of being caught in a squeeze like this is that the focus remains on what we can do this year or next year. I agree with the Department that we should be taking a wider view, but one of the ways in which we can reduce cost is by reducing the time taken to deliver justice. I recently commissioned an exercise to see how the progress of indictable cases could be speeded up. A pilot in Newtownards, led by the Department, has seen the PSNI and the Public Prosecution Service (PPS) working together to implement changes to how cases are investigated and prepared for court. A case outline summarising the evidence is prepared and allows early engagement between the PPS and the defence with a view to encouraging early guilty pleas. There is also a new statement at police interview stage highlighting to suspects the potential benefits of entering a plea at the earliest opportunity.

The changes allow cases where there is a guilty plea to be listed before the Crown Court judge at the earliest opportunity and for sentencing to take place. The early results have been dramatic. I will give you a flavour of what we are talking about. At the moment, the average number of days elapsing between a case being reported and the file being submitted is 75 days. Under the pilot, it is 29 days. At the moment, the average number of days from a case being reported to prosecutorial decision is 160 days. Under the pilot, it is 28 days. At the moment, the average for cases reported to committal is 186 days. Under the pilot, we are doing it in 30 days. At the moment, the average for cases reported to arraignment is 217 days. Under the pilot, we are doing it in 50 days. It is an indication that, where the resources are concentrated, you can make a big change. We should not be blind to the fact that that can be secured.

It reflects, of course, the considerable effort made by all of those involved. We now propose to extend this to murder and manslaughter cases. If we continue to drive down delay, we can ensure that the existing case load could be managed by fewer people. Changes like this, however, cannot be achieved by the flick of a button or the slashing of a fee. They take time, and budgetary constraints should try to recognise that and, where possible, accommodate it.

I turn now to the rationalisation of the court estate. We have already seen the permanent closure in 2013 of Larne and Bangor hearing centres. This has resulted in the users of those courts having to travel to Ballymena or Newtownards. In November 2014, a further round of in-year cuts led to the temporary closure of the Old Townhall courthouse in Belfast. The business of the youth, family and coroners' courts, which would have taken place in that building, was moved to Laganside. Later this year, we will see the relocation of the tribunals hearing centre in Bedford House to the Royal Courts of Justice and the Parole Commissioners to Laganside Courts. The relocation of tribunals is a particular concern to me, because people attending tribunal appeals can be among the most vulnerable in society. As legal aid is not available to them, they are largely unrepresented by solicitors or barristers. I fully appreciate the efforts that are being made by the Courts and Tribunals Service to ameliorate the impact on those users of coming into a courthouse as imposing as the Royal Courts of Justice, but this is an example of one of those extremely difficult and unpopular decisions that have had to be taken.

We now have the consultation on proposals for the rationalisation of the estate. The paper proposes the closure of up to another eight courthouses, which would see the number of courthouses in this jurisdiction reduce from 22 to 10, a reduction of 55% since 2013. The suggested level of closures in this jurisdiction compares very unfavourably with other jurisdictions with similar austerity cuts. In England and Wales, the estate has been reduced by 28% since 2010, but the closures were part of an investment package, particularly in IT, totalling some £713 million. In fact, the Minister has recently made express comment about that. In Scotland, a programme of closures will result in 30% of the court estate being closed between 2013 and 2015, but, again, there is money being made available for IT to assist the Scottish Court Service with the processing of cases. Unfortunately for us, the Courts and Tribunals Service has been forced into a modernisation and court rationalisation programme without the funding that is essential to make such a reform programme work.

On any view, the level of closures being suggested will result in a dramatic change in the pattern of the delivery of justice throughout Northern Ireland. The proposals will certainly place a strain on the remaining courts. While the paper sets out how the Courts and Tribunals Service intends to accommodate each of the court sittings in the remaining venues, I am not satisfied that there will be

sufficient court space for all courts, including coroners' courts which have not been specifically targeted in the exercise, and nor will all the courts be suitable. For example, the paper suggests that some adult criminal business transfers to a courtroom without docks or access to the cell. That is particularly relevant to court 3 in Omagh. This means that prisoners will have to be moved through public areas to the court. It is easy to anticipate the problems that this could give rise to, and it will need to be managed carefully. There may be ways and means of trying to ensure that.

Merging courts will make the experience of coming to court very uncomfortable for victims, witnesses, claimants and defendants. An inspection of the second floor of Laganside Court on any morning will show the impact of the closure of the Old Townhall building. Court and tribunal users will have to travel greater distances to have their case heard, with the added hardship of transport costs and the additional time that will take. Folding the business from one court venue into another will result in much greater numbers of court users attending. I have a concern that some of the waiting areas will simply be unable to cope. The provision of ample waiting areas is essential where there are different types of court business under one roof. It is particularly important to keep those involved in the youth court and family proceedings separate from those adults involved in criminal proceedings, for obvious reasons.

The reason I say that the proposals are dramatic is that they involve the breaking of the connection between visible, active courts in the market towns of Northern Ireland and the people who live there. If the affected communities were getting access to enhanced services and venues further away, such mitigation might be appropriate, but the consultation should carefully consider the importance of ensuring the visible presence of public justice in the wider Northern Ireland community.

I mentioned before that we will all need to rethink the way that we deliver justice to live within our budget, and that includes the judiciary. I have asked the presiding district judge to consider splitting the lists in Laganside. That would reduce overcrowding, as not everyone would have to turn up at the same time. It might also cut down on the time that witnesses have to wait at court for their cases to be heard. We are also monitoring the levels of new business coming into the Magistrates' Courts. The number of new cases has fallen in the past year as the police are using more discretionary, rather than court, disposals. That has resulted in a 23% reduction in the number of adult offenders coming to court since 2012. If that is the new reality, I will ask the presiding district judge to look at the court lists to see if some can be amalgamated. That would free up courtroom space without impacting on delay.

It is extremely important that there is an opportunity to plan how to cope with any proposals to make savings to the budget. There needs to be sensible and proper consultation with all of those affected. In reality, none of the closures suggested in the consultation paper could be implemented before next year. That gives us all an opportunity to consider and discuss the proposals and to make arrangements about how to cope if any of the venues are closed.

I hope that those observations are of some assistance. If you have any questions, I would be more than happy to try to deal with them.

The Chairperson (Mr Ross): Thank you very much. I appreciate that. There are no Clarence Thomases here, so I suspect that we will have plenty of questions when we open it up. Could you tell us what engagement there has been between the Department and you or the judiciary about the proposals?

Rt Hon Sir Declan Morgan: I have had discussions on a number of occasions and from an early stage with officials from the Department about the shape that the proposals might take. During those discussions, I have had the opportunity to express my concerns about what I saw as the potential impacts. As you may have gathered, I made a public statement about some of this towards the end of January this year. That was essentially to reflect that, although I understood the difficulties that the Department had and they indicated the financial background to me, I had concerns about the impact on the ground for court users. I am content that the Department came to me before the proposals were published at pre-consultation, and I think the Department is probably content to acknowledge that I was not exactly enthusiastic about what I saw.

The Chairperson (Mr Ross): Clearly, we are dealing with an existing infrastructure of courts around the country. If we had a blank page and were starting from fresh, what would the court estate look like across Northern Ireland? What would the optimum number of courts be? Would they be specialised courts, or what do you think would be the optimum way of arranging them?

Rt Hon Sir Declan Morgan: At the end of the day, in a sense, it is not really a decision for me. I think it is a decision for all of us. There are probably two models. The first is the existing model, where the market towns of Northern Ireland have court centres, which are plainly justice-based public buildings in which courts regularly sit and dispense justice. That has been the model throughout Northern Ireland for many decades. It is a model that has also been present in England, Scotland, Wales and the Republic of Ireland. Those jurisdictions have broadly moved their model so that they are now looking at specialist centres, such as family and youth justice centres. One of my objectives had been to see whether we could do something like that at Old Townhall in this jurisdiction. They have amalgamated a number of courts to produce individual courts where a number of judges would sit together, and there would be economies of scale as a result of that, in the sense that the judges would be able to pass the work between them, and it would ensure that the work was done more quickly so that you would not need the same number of personnel in order to deal with the business. Because of the size of Northern Ireland, if we were going to go down that route, to make it viable, you would probably end up with three or four court centres, which would be very unsatisfactory. I do not think that the public would feel that that accommodated their interests because of the long distances that people would have to travel and the inconvenience that would arise as a result of it.

There was a model, and I am not sure whether you have had access to it, but there was some work done by one of the accountancy firms, around 2008 or thereabouts, where it looked at a new shape for the delivery of court services in Northern Ireland, and that involved about seven hearing centres. A number of them were substantial new builds, which would have within them facilities for several Crown Courts to operate at the same time and other facilities in relation to family, youth justice and civil justice. That is the debate at the end of the day. It is whether we follow the other jurisdictions towards some consolidation model, where you reduce the number of courtrooms and you develop the offer that you are making at the new courtrooms, or whether we feel that, for Northern Ireland, we want to stick to the approach that we have taken in the past. That is a debate that needs to be had with the wider community.

The Chairperson (Mr Ross): Obviously, we are in the middle of a consultation, and we are all of the view that there is no predisposed outcome to that consultation, but if, at the end of the day, there was a proposal that we will reduce the number of courtrooms across Northern Ireland, what would your view be on looking at weekend courts or evening courts or better use of the existing buildings that we have?

Rt Hon Sir Declan Morgan: I think that it is sensible to take a very close look, as part of the consultation exercise, at the use that we could make of our existing facilities. There has been some pilot work done in England and Wales, in particular, in relation to some of that. I know that the Government in England and Wales were keen on the idea of weekend courts, but that seems to have cooled off somewhat. The reality is that a lot of people have better things to do with their weekends than come to court.

The courts are available 24 hours a day, in the sense that if something happens, it has to be dealt with. I have spent many a night in this building dealing with things that have arisen as a matter of emergency, but apart from that, there are other practical issues involved. Laganside, for instance, is on a contract where it closes at 6.00 pm Monday to Friday, and it is open for a limited time on Saturdays. We have just spent some money putting an alarm system into this building, which will close now at 9.00 pm and open at 7.00 am. If we are going to move towards that, we have to recognise that there will be overhead costs and staff costs associated with those courts. One needs to see to what extent there is going to be demand, because it is not at all clear from the pilots that there was a demand for early-evening courts. We have a bit to learn from the pilots and we want to see what is happening there.

There was also some discussion about it in the Leveson 'Review of Efficiency in Criminal Proceedings' in England and Wales. It touched on some of that in relation to court sitting hours, and it suggested that some investigation of extended daily hours would be appropriate, but the feeling was that, beyond that, it was unlikely that there was going to be uptake or enthusiasm for usage. But it is definitely something that needs to be considered.

The Chairperson (Mr Ross): One of the things that we are trying to do in government now is look at innovative approaches to existing problems. In many Departments, some of the services will be delivered differently, and, obviously, with technological advances, there are online facilities in some Departments for applications and things like that. I noted from media reports in February that the Civil Justice Council had talked about what it described as eBay-style online courts to resolve some of the

smaller claims. Obviously, that is a fairly radical move but what is your view on the digitisation of the justice system, online courts and some of those facilities?

Rt Hon Sir Declan Morgan: There are a couple of things. We do some online stuff anyway. We have video links, which we use on a regular basis. We use Skype, for instance, in Hague Convention cases, if we are trying to get in contact with people in Australia and there is an issue about whether a child should be returned. We have digitisation in the criminal courts, so that we can replay all the stuff that is there, and so that stenographers are no longer utilised in virtually any of those courts.

Also, as part of the justice system, which of course is continuing to see whether there are more efficient ways of doing things, there are police discretionary disposals. I indicated that there was really quite a significant drop in the number of cases in the Magistrates' Court which are down to discretionary disposals. Those are being monitored by Criminal Justice Inspection, and it is important that it continues to do that. You may have noticed that, in England and Wales, there is another pilot going on in relation to low-level offending. There are now arrangements in place to ensure that the papers in relation to low-level offending are sent out electronically to the offenders and one of the screens that come up at a certain stage is, "Guilty or not Guilty?". You can choose which way to go, and if you press "Guilty", the matter will be dealt with administratively. Subject to what comes out of the pilot, and bearing in mind that there must be protection for older and vulnerable people, it seems to me that there is much there that we need to look carefully at.

In terms of small claims, some work must be done to look at a pilot that was undertaken, I think, in Manchester in relation to ways in which such cases could be disposed of. One of the most successful methods was by a form of mediation. That requires some telephone-to-telephone contact in order to achieve it, rather than just doing it digitally. I am a strong believer that, if we are going to face a situation where more and more vulnerable people are not going to have representation for one reason or another in the courts, we should be thinking about using just a little of the money that we are saving to put in place mitigation arrangements, officials or others, who can provide the kind of mediation face-to-face for those vulnerable people to make them understand how they can best present themselves in courts.

Mr Lynch: Sir Declan, you mentioned at the outset that the Department would not be fulfilling its statutory duty if these proposals went ahead. Can you expand on that?

Rt Hon Sir Declan Morgan: If we end up with access to justice being very difficult for a group of people who, for instance, are dependent upon public transport or something of that kind, it seems to me that we would then have reached a point where the Department was not fulfilling its statutory duty. Therefore, when we are looking at the consultation proposals, among the things that we will need to look at — the sort of thing in the 2008 study that I referred to — are access times, particularly for people in rural communities who have difficulties in getting themselves to venues. The old routine was that all courts started at 10.00 am or 10.30 am, and people therefore had to get themselves there. If you could not get there by public transport, you were at a significant disadvantage. We need to look carefully to make sure that we do not leave any material group of vulnerable people in that situation, because that would be a serious problem in my view.

Mr Lynch: Tom and I come from a rural community, Enniskillen, which now has the only courthouse in the county. It is proposed that the court will move to Omagh. We know about the difficulties of rural transport. What you said with regard to Omagh in particular was along the lines that there may not be the space if the two were amalgamated at this juncture.

Rt Hon Sir Declan Morgan: One of the problems in Omagh is that, although the building itself is a very attractive, nice building, it is old. The structures are not necessarily what one would need for criminal-justice business. I am very cautious about entering into this level of debate because the various public-services issues between Omagh and Enniskillen have of course proved to be remarkably controversial. The debate is not dissimilar in some ways to the debate that you had over the provision of hospital facilities. One needs to ensure that, at the end of the day, people have access. That is critical.

Mr Lynch: Finally, you mentioned that you thought that they were being forced into rationalisation.

Rt Hon Sir Declan Morgan: I think that there is no doubt that this rationalisation proposal is driven by the fact that the Department needs to save money. It needs to be able to find the money in order to satisfy its budget. If that were not the case, there could still be a debate about rationalisation, but it

would be a different debate because you would be looking at what you were going to offer that was different or improved and whether it was sufficient to deal with the disbenefit of taking public justice out of so many communities.

Mr Poots: Sir Declan, you indicated that Laganside Courts have absorbed services previously. What is their capacity to absorb further services?

Rt Hon Sir Declan Morgan: I did this exercise completely on spec. A few weeks ago, on a Tuesday morning, word came through that an appellant who was due to start his appeal at 10.30 am was not able to come until 11.00 am, so I thought to myself, "Well, I will go over and have a look just to see exactly what it is like". At 10.30 am, on the second floor of Laganside, I found a door marked, "Television Licensing Officer" and a queue of around 40 people who were self-policing themselves down along the middle of the corridor. I saw a group of people who were sitting in all the seats that were available and another group of people who were standing around them. On the other side of the queue, I saw another group of people walking around in what seemed to be a fairly bewildered way, wondering what on earth was going on. I saw lawyers clearly consulting their clients in corners, presumably because there was no adequate consultation facility. I saw one unfortunate solicitor come out of one of the courts and shout at the top of his voice in order to attract the attention of his client, who may or may not have been there. He was not going to be heard by many people because of the din that was actually going on. That concerned me. Part of the answer to that is that we need to think about how to use the space and maybe do a bit better. Anybody who surveyed that scene would be extremely worried about the suggestion that cases from either Lisburn or Newtownards would end up in up in Laganside.

Mr Poots: With reference to the financial situation, I take it that the courts are not making the argument that they should not be the subject of cuts. Looking at the austerity that is taking place in education, health and right across the board, I do not think that any reasonable argument could be made that courts should be exempt.

Rt Hon Sir Declan Morgan: No.

Mr Poots: You indicated a pilot, which appears to be very successful from the figures that you are giving us. What other pilots are ongoing, and what work is being done by the courts? It strikes me that the Minister is bringing forward proposals, and they are not necessarily the right ones. It would be much better if the courts were actually leading and demonstrating to the Minister where we can make savings that do not undermine the system. I am not sure that I am getting the evidence that that is the case.

Rt Hon Sir Declan Morgan: The things that we have been trying to do have focused around, in particular, trying to speed up justice. There has been a concern that there has been excessive delay in the justice system. In fact, some of the results that we have achieved have been quite dramatic. I can give you a chart in due course to help you with this. Because of a build-up of pressures and difficulties over professionals contributing to a certain group of cases, we had a situation around September 2012 when we had well over 500 indictable cases that had to be dealt with. We have introduced new arrangements in order to deal with that. I set up a case management protocol. I discussed new allocation arrangements with the presider. We now have that outstanding court list down to 170 or thereabouts. We did that as a result of case management. There is a great deal that we can achieve through adopting that course.

Of course, we then became the *bête noire* of the legal aid authorities because, having managed to reduce the list of outstanding cases from 530 to 170, it meant that a whole raft of extra bills was coming in for the cases that we had managed to dispose of, which caused all sorts of problems for them. I suspect that the end result will be that the legal aid bill will not be quite as bad next year, because we have got everything under control.

Apart from the Ards pilot that I mentioned to you, there is another issue which I have raised in this Committee before and which I hope to have the opportunity to raise next month when I come to speak on it. It is the question of youth justice. We spent far too much time in youth justice cases before we eventually reached the out point for youths. We have a model in Hull in England which is getting these cases dealt with in somewhere between 40 and 50 days instead of the 120 or 160 days that it is taking us. It seems to me that if we spent a little time trying to focus our resources on that sort of issue, we would be able to achieve the kind of benefits and savings that would contribute to ensuring that we make our contribution to the budgetary situation along with everybody else.

Mr Poots: I was once with a permanent secretary who had been in the Department of Finance at one stage. He indicated that if you want to drive change, you need to do it by cutting funding, because the form follows the funding. It strikes me that, at this moment in time, you are in the position where funding has been cut and you are unhappy with what is being proposed. I accept that. It is important that the courts and the entire legal service actually come back with sets of proposals that help us to move forward into the future. We can all accept that in five years' time, we are not going to be where we were five years ago. Public funding is going to be constrained for a considerable period. I might add that you caused a funding issue elsewhere with regard to dealing more quickly with clinical negligence claims, which led to tens of millions of pounds having to come out of the public purse. Nonetheless, they should be dealt with, and I appreciate that. Therein lies the crux of the issue: we have financial difficulties, and austerity will not go away after this election. People cannot blind themselves to that fact. How do the legal services step up to the plate and ensure that they deliver a qualitative system within the constraints that will obviously be applied?

Rt Hon Sir Declan Morgan: As I have indicated, I think that the steps that we have taken through case management have been a start. The pilot, which is the result of work that I commissioned to actually analyse what was happening in the Crown Court system, is now beginning to deliver the type of results which it seems to me will enable us to reduce cost. I have been putting forward for some years an approach to youth justice which it seems to me will be in the interests of youths, but will also reduce cost. I have absolutely no difficulty in looking at sensible proposals to make better use of court space. I have no problem at all with that, and I am perfectly happy to accommodate it. In fact, if the politicians had been prepared some years ago to agree to the model of delivery of court services that we have in England, Scotland and the Republic of Ireland, where there was a non-ministerial Department, I am entirely sure that I would have got further on down this route than we have managed to get at the moment.

The Chairperson (Mr Ross): Before I move on to Alban, you mentioned some of the chaotic scenes in the morning down there in terms of finding space. Over lunch, we had the opportunity to speak to some of the young members of the Bar Council. They raised the issue of how much court time can be lost because they simply do not have the space to have a private conversation with their clients and, therefore, they need to ask the judge to allow them a short adjournment to go off the grounds and do that. How big a problem is that across the entire courts estate, or is it simply something here in Belfast?

Rt Hon Sir Declan Morgan: I think that it is a bigger problem in Belfast because of the numbers. There are a lot of people who come into the space in Belfast, and it has been exacerbated somewhat by the closure of Old Townhall Street. The numbers are not as big in the other areas. Belfast also has a multitude of different courts going on in different areas. Correspondingly, the need for consultation facilities is much increased. On any view, Belfast is the most seriously affected of the courts. Newry has five courts going on a regular basis, and it might be another example, but Belfast is undoubtedly the most severely affected, so far as I am aware.

Mr A Maginness: Thank you, Chief Justice, for your remarks this afternoon. I think that your frankness is deeply appreciated by the Committee, as are your insights into the way in which the system is currently operating and might operate in the future if these closures occur. I was very struck by the point that you made about breaking connections with market towns throughout Northern Ireland and there being a visible presence in certain towns throughout Northern Ireland. It chimes with the idea of justice being public. The justice system is, by and large, a public system. Family courts, of course, are excluded, and dealing with young people is restricted as well. How important do you think those connections are with local communities?

Rt Hon Sir Declan Morgan: I have absolutely no doubt that, to certain sections of the community and certain people in the community, a great deal of reassurance comes as a result of the presence of an independent justice system that has been there and which they can rely on and depend on. If you end up in the sort of situation that was put to me, where you are living on the western side of Enniskillen and you find that the nearest court to you is Dungannon or Omagh, which are really quite some way away, there is a danger that people will start to think that the justice system has either forgotten about them or become disconnected from them. Whatever we do, we have to make sure that that does not happen. Finding that a community feel that they have been rejected by or are not respected by the justice system would be a disaster.

Mr A Maginness: You mentioned in passing a number of courts, but you mentioned the Coroners' Courts in particular. What sort of pressures are there in relation to Coroners' Courts at the moment? Might those pressures increase if closures were to take place?

Rt Hon Sir Declan Morgan: There are a number of types of coroners' cases that create particular pressures. One group of cases is the medical negligence cases, where you can have quite a lot of evidence occurring. They will take a week or thereabouts before they will be completed. Finding space for cases like that is difficult. Even under our present system, I have found people from the coroner's service — for whom, at the moment, I have no responsibility — coming to ask for help in trying to ensure that courtrooms are made available. People are very anxious that, where an inquest is taking place in relation to a death, it should occur broadly in the area in which the death occurred rather than being transferred up to Belfast from the country or something of that kind. That is an existing issue. If the proposals in the Stormont House Agreement were to be implemented and we were going to deal with the legacy inquests, that would involve the provision of some sort of facility like Banbridge. Indeed, it might well be Banbridge, once the historical abuse inquiry is complete. There would also be an issue about how to deal with the smaller of those cases, which will not finish in a day but will not take the months that some of the inquests might take. There are a lot of those; we have, I think, 58 legacy inquests at the moment that touch on 86 deaths. We are going to have to find space to deal with those cases properly, on the assumption that the political leaders want us to proceed down that path.

Mr A Maginness: They tend to be quite lengthy cases.

Rt Hon Sir Declan Morgan: They will be lengthy cases. We have done a couple recently, both of which are subject to challenge at the moment. They have taken in the order of four, five or six weeks each. Those are single-item cases; they are not the most complex of cases. At the moment, I do not know where we are going to find room for that within the localities that we are talking about.

The Chairperson (Mr Ross): In terms of Alban's first question about the proximity of the population to their courthouses, how do we fare in comparison with the Irish Republic or England, Wales or Scotland? How would that change if the proposals were carried through?

Rt Hon Sir Declan Morgan: As I think I said, other jurisdictions have been moving towards a model where the courts are being taken out of every local town. For instance, in the Republic, I think that, since the 1990s, they have closed something like 70 courts, but they have done it by investing in new courts. There are some absolutely splendid public buildings in Dublin, Cork and other centres. As part of the arrangements for the latest round of closures under austerity, they have had agreement to seven PFI courts being built in different parts of the Republic. That is a lot of investment in quality buildings and facilities. People can see the benefit of that, so, to some extent, although you are taking away access to public justice in the immediate locality, if you go down that route, you can at least point them to the fact that, when they get there, there is a facility to ensure that there will be an adequate waiting area and enough facilities to make sure that consultation can take place and that the cases can be proceeded with because there will be enough courtrooms for people to be able to do it.

The Chairperson (Mr Ross): So they have a longer distance to travel to get to their court, but, once they get there, the experience is clearly —

Rt Hon Sir Declan Morgan: It is a better experience. That is where, at the end of the day, the risks and benefits have to be judged.

Mr McGlone: Thank you, Lord Chief Justice. I ask you for a wee bit of clarification on the sorts of tribunals that are conducted through the courts at the moment.

Rt Hon Sir Declan Morgan: In October 2009, I opened the Bedford House tribunals centre. In passing, I noted that it was the political intention to bring the tribunals under my wing, as it were, by way of protection. It remains the political intention to bring the tribunals under my wing by way of protection, but apparently it is not going to happen before 2018. So I do not have direct responsibility for the tribunals, but the work that was done in terms of the tribunals centre was promoted by Leggatt committee's report in England and Wales, which noted that tribunals were not courts and should not be made courts. It stated that it was important that they did not become courts, that you did not get

legalised, with lawyers appearing all over the place in them, and that the informal manner in which they were being conducted should be encouraged because it had the benefit of making the people attending more comfortable. That was what the Bedford House hearing centre was all about. That centre is going to be closed. I understand that arrangements are in place to see if some hearings can take place in Cleaver House.

The Pensions Appeals Tribunal, for example, deals with the award of pensions to people who have been affected by disability in the course of service in the Army or similar service. We were achieving a target of making sure that 90% of those cases were dealt with within 12 weeks. As a result of a reduction in tribunal hearings imposed as a result of cuts, that target fell to 22% in November last year. I think that as a result of some public comments that I made about that, work is ongoing to do something about it. That is an example of how, for informal tribunals such as care centres, the Pensions Appeal Tribunal and even appeals tribunals, it is all too easy to cut back the number of hearings but there are people out there waiting for their rights to be vindicated and that is not happening for them.

Mr McGlone: I asked that because I deal with quite a lot of social security appeals. All those, bar the Social Security Commissioners hearings, are held in a non-judicial setting, which is good. It makes people already nervous about going along or who are vulnerable, sick or with mental health issues feel that wee bit more accommodated. I take the thrust of the logic in that. Do you feel that having more of those appeals held away from courtrooms might ease the situation?

Rt Hon Sir Declan Morgan: I do not disagree with that. Our objective had been to discourage people from thinking that they were in a court environment. I am encouraging of finding neutral venues where people feel confident. I am certainly not looking to use courtroom space for tribunals if I can possibly avoid it.

Mr McGlone: Thanks very much for that. The principal theme of what you were developing earlier was that the Department could get to the stage of not fulfilling its statutory duty of access to justice. Inevitably, you are in charge of those hearings that have to go to court. If they are remote from people, many of whom just do not have the money, the wherewithal, a car or access to a car, that is a difficulty in itself in terms of physical access. Inevitably, the cuts in legal aid bring you to the point of saying that, because of financial and physical access difficulties, we are going to arrive at the point where not only would the Department not be fulfilling its statutory duty but access to justice becomes the preserve of just the rich?

Rt Hon Sir Declan Morgan: We have to make sure that that does not happen. Going back to the Chairman's question about technology, we may have to start thinking about the use of technology to deal with things like this. If we end up in this situation, we may have to go down the route of thinking about some form of virtual connection between people in remoter areas by way of somewhere that they could go to virtually engage with the court, or something of that kind.

We would have to find a solution to make sure that that did not happen. I do not know precisely the physical circumstances, so I cannot predict what that solution might be. I am conscious that courts are not the only public buildings. There are other buildings operated by different Departments, in particular by councils, and we may need to think a little about whether some use could be made of their facilities to ensure that justice can be properly delivered if we get to that point.

Mr McGlone: You are coming back to give us details on the youth cases.

Rt Hon Sir Declan Morgan: Next month, yes.

Mr McGlone: Great. Thank you.

Mr Elliott: Thank you, Sir Declan. There is an issue around access to justice. I received an answer to a question recently that stated that there is still quite a backlog of cases through the court system. Will the closure of the eight courthouses increase the backlog, or will it have a positive effect? My interpretation is that it will have a negative effect in that there will be less court space.

Rt Hon Sir Declan Morgan: It will certainly not help. We have been particularly concerned about backlogs of cases in the family area. I made readjustments in September to put further judicial resources into family work because I was concerned to ensure that it was getting the help that it

needed. I was also concerned — I have talked to the Department about this — about the unavailability of figures to tell us more about how long family cases are taking and why they are taking that length of time because, without that type of information, you cannot really get on to the next stage and do something about it. It seems to me that this can give rise to difficulties, and we must make sure that, in those types of cases, we do not end up with family cases sitting alongside criminal cases or something of that kind, as that could have very unhappy consequences. Under the Department's proposals, as I understand them, it anticipates being able to provide courtroom space to all the existing family courts. The consultation will tell us whether those who are involved in those courts think that it actually will, but it is certainly not going to help. There is no doubt about that.

Mr Elliott: In answer to one of the last questions, the Lord Chief Justice touched on thinking about where else you can hold court services, not just in a specific court. I take it that that is what you were saying.

Rt Hon Sir Declan Morgan: Yes.

Mr Elliott: I apologise — well, I do not apologise at all for going back to the Enniskillen or Fermanagh situation. There were some plans to have a public-sector hub at the site of the old Erne Hospital, and the Court Service and Police Service were two of the bodies that were asked to think about going there, because it would accommodate them both. Have you or the Court Service thought of issues like that and potential buildings or structures to accommodate not only that body but other organisations as well?

Rt Hon Sir Declan Morgan: I would be astonished if it had not, because the debate among all those who have been involved in thinking about this sort of thing has recognised that the courts are not isolated, nor should they be, from other public agencies. For instance, we have encouraged the view that, if one was looking for a court centre, you would want to put with it a probation centre and a youth justice agency, and you would want to think about whether there should be access for police, because you might want to think about virtual courts and things like that. You can see that, within the concept of creating a justice centre, a lot more than the courts would be involved in that. You might want to think about facilities for the professions and for mediators as well. You would develop a whole concept if you were going down that route. It would be foolish to spend time simply looking at this from the perspective of court buildings, rather than looking at it from the perspective of delivering a justice system that was going to work for the community.

Mr Elliott: Finally, you touched on the timings of court commencements. We have talked about this. If there were no courthouse in Fermanagh, it would be impossible to get to Omagh from some areas of Fermanagh by public transport on the same day for 10.00 am. Do you have any plans around more appropriate timescales for people to be at court?

Rt Hon Sir Declan Morgan: There is no reason that the timings for court proceedings cannot be altered to deal with the needs of particular cases. If it were to come to the bit, and the people of Fermanagh were to be deprived of a courthouse, and would therefore have to travel long distances, you would have to think about doing something such as starting Fermanagh cases at 11.30 am rather than at 10.30 am. You would also need to take a look at the public-transport arrangements to see whether all of that was going to be sensible.

Mr Elliott: Of course, the reverse would apply if the Fermanagh courthouse were to stay open and some of the others were to close. *[Laughter.]*

Rt Hon Sir Declan Morgan: Yes. You would have to think about that. At the moment, for instance, if you have a contested case, the witnesses are not asked to come at 10.00 am or 10.30 am. They are most often asked to come at 11.30 am. The idea there is that the prosecutor will have an opportunity to consult with them, but, unfortunately, the prosecutor is often up to his or her eyes with whatever cases are going on and does not get to consult with the witnesses until 1.00 pm. The prosecutor then finds that somebody is missing and, at 2.00 pm, when the people have been there for two and a half hours, they are told that it is time to go home. They are told that the case cannot go on and are asked whether they can come back in four weeks' time. That is what makes people unhappy.

Mr Frew: Thank you, Lord Chief Justice, for your answers so far. You talked about the timings at court. Excuse my ignorance, but are there set times in all the court settings? Are they from 10.30 am onwards, for instance?

Rt Hon Sir Declan Morgan: No. We normally start court business in this building at around 9.30 am. Sometimes, we start it at 9.00 am, if there are reasons to get things going early, such as a case involving the Hague Convention 1996, for instance. In other words, in the case of an abducted child, if there were an issue with whether a child should go back, having been taken from Australia or somewhere like that, we would have to make arrangements to conduct business via Skype at perhaps 8.30 am.

Court business is partly influenced by a need to make sure that people have an opportunity to get here. That applies, particularly in the criminal context, to making sure that the Prison Service can ensure that prisoners are brought on to the screen for a video link or, if it is a running appeal or something of that sort, here for an appeal. Our experience with the Prison Service is that, if somebody is coming here for an appeal, it is not sensible to start before 10.30 am. If you do, you will, in many cases, be waiting for the person to arrive, because the operation of bringing people here is a significant one. From our point of view, court proceedings can start at any time from 9.00 am onwards. In the Magistrates' Court, for instance, you may see a 10.30 am list, as you will in most Magistrates' Courts. That is designed to ensure that people come in. Before that time, you will find that magistrates are dealing with an ex parte non-molestation order or something that has come in as a matter of urgency, and they will be organising their list at perhaps 9.30 am or 9.45 am to deal with it. This is not telling tales out of school, but there is a question that tends to be asked of people who are applying for such posts. They are given a scenario of what it is like in the morning: they have a contest; there is a doctor in the contest; the doctor has to get away to do something; there is a lady crying outside because she wants something or other; and there is a child who needs to be attended to. The people are asked how they would manage that list. The secret is to get the shorter and important things on and sorted and then make the accommodations that you can.

Mr Frew: Is there a guillotine for close of play?

Rt Hon Sir Declan Morgan: The guillotine in Laganside is 6.00 pm, because, at around 5.45 pm, some person starts telling you over a PA system that, if you do not leave by 6.00 pm, you will be locked in for the night.

Mr Frew: Is that also the case for Magistrates' Court business, as opposed to County Court business?

Rt Hon Sir Declan Morgan: Yes. The Magistrates' Court list will vary depending on the caseload on a particular day. A contest may well run on until 5.30 pm. I am aware of some cases, particularly family cases, that have sat until 7.30 pm or 8.00 pm. I do not encourage that, because that is probably too long for the people involved. I understand why judges are keen to do it, because they want to get resolution of the cases, in the interests of the children and the parents. It also has consequences for staff. Unplanned late court sittings can be a problem for staff.

Mr Frew: You talked about the historical connection with the market towns, and you can understand the rationale for that in days gone by. The areas covered by courthouses and the new council are not coterminous, but is there an argument for saying, "Yes, we have to rationalise our estate and take cuts, but we should have at least one courthouse in each council area". Is that logical?

Rt Hon Sir Declan Morgan: If you were to stand back and look at this, you would want a rule of reason to govern the way in which you spread court services, and that might be one of the approaches to take, because it would enable you to show publicly the connection between public justice and particular locations. If you do that, however, you have to make sure that the facilities are up to the mark so that people get the type of experience that they deserve when they come to court.

Mr Frew: I hear with interest what you say about sharing buildings and facilities with other public agencies, and that is only right and proper, but I could turn that argument around. I am not here in any shape or form to fight for buildings; rather, it is the services in them that I care about. Would it be viable for some of the threatened courthouses to be used for business by other public agencies, particularly at night? For example, the new Mid and East Antrim District Council has concluded that, because of administration requirements, it may not have enough office space to hold corporate meetings. Councils could meet corporately in a courtroom setting.

Rt Hon Sir Declan Morgan: I cannot see any problem with that at all.

Mr Frew: There would be no resistance from anybody in the Courts Service.

Rt Hon Sir Declan Morgan: As long as there was no perception that the courts were becoming politicised as a result. There is no reason that public buildings should not be used to best advantage.

Mr Frew: There is no law that would not allow for political parties to meet there, albeit corporately in a council.

Rt Hon Sir Declan Morgan: I am not sure that I would encourage political parties to start signing up to use the courts, but, certainly, if public bodies sought to utilise space in courthouses, I cannot see what on earth the difficulty would be, as long as it did not lead to any semblance of politicisation of the courts.

Mr Frew: Are there any of the proposals that you think are quite logical? I would not put you in the position of naming a courthouse that you think needs to be closed, but can you understand the logic and rationale?

Rt Hon Sir Declan Morgan: I have no difficulty with the logic and rationale, because there has been a debate in other jurisdictions about the way in which court services should be delivered, and this proposal is heavily influenced by that debate. My issue with it is that, in the other areas, there has been a realisation that you have to ensure that the quality of what is left is up to scratch. My concern is that, if one were to decide that this was the way forward — that is a discussion at the moment for the Department, this Committee and others — one would need to make sure that the rest was up to scratch. I am not indicating that, in principle, some rationalisation is not a sensible approach; rather, it is the consequences of this rationalisation as a whole.

The Chairperson (Mr Ross): Lord Chief Justice, thank you very much for your time. Thank you also very much for agreeing to be our first speaker at the justice seminars next month.

Rt Hon Sir Declan Morgan: I look forward to that very much. I am very grateful for the invitation.