

Judicial Communications Office

OPENING OF THE NEW LEGAL YEAR

LADY CHIEF JUSTICE'S ADDRESS

5 SEPTEMBER 2024

The Lady Chief Justice of Northern Ireland, Dame Siobhan Keegan, today delivered the following address to mark the opening of the new legal year:

“It is my pleasure to deliver this opening of term address. Looking back over the past year I begin by paying tribute to Sir Michael Nicholson a former Lord Justice of Appeal who passed away last October. He made a valued contribution to justice in Northern Ireland and brought a unique and highly valued perspective to the bench, indicative of his independence and character. He will be fondly remembered as much for his wit and humour as for his considerable contribution to the legal landscape.

I would once again like to thank the entire judiciary of Northern Ireland for their continued work in dealing effectively and efficiently with their caseloads. In particular, I would like to mention the Crown Court judges for their sterling efforts in dealing with the backlog of cases that are still going through the criminal justice system allied with the increased volumes coming into the Crown Court. The first half of 2024 saw a continued increase in cases in the Crown Court when compared with the same period in 2023 with over 100 additional cases being committed for trial during that time – that equates to a 15% increase in caseload. Despite that the disposal of cases continued to reflect the significant effort being applied and was maintained throughout that period at the same rate as 2023 with over 800 cases dealt with during the first half of this year. The Crown Court is currently operating at 115% capacity. This judicial tier has been carrying vacancies which I have raised with the Minister of Justice. I hope we will shortly be able to go out to recruit to bring the tier back to full complement.

The continued success of the judicial-led Voluntary Protocol, to expedite serious sexual offences involving witnesses under 13 years, resulted in the extension of the Protocol to cases involving those under 16 in January 2024. The Protocol demonstrates that criminal justice organisations, working cohesively to prioritise and deal with these cases, can achieve very tangible and positive results for young witnesses.

You may recall that last year saw the opening of the Belfast Remote Evidence Centre. I am pleased to say that the usage of this facility has been steadily increasing since then – not only for trials and contests but also for familiarisation visits, viewing of sentencing hearings and witness consultations.

December 2023 saw the first Belfast Domestic Abuse Contest Court for magistrates' court cases which enabled injured parties to give their evidence from the remote facilities. This was very successful and feedback from injured parties was entirely positive. Further Domestic Abuse Contest Courts were held in March and May this year and courts have already been scheduled for late September, mid-November and

Judicial Communications Office

mid-December. This is a very welcome move, and the Presiding District Judge has indicated a commitment to continue with future courts being scheduled as required.

I also want to thank the Northern Ireland Courts & Tribunals Service who continue to support the judiciary and operation of the courts despite staff shortages particularly in front line court clerk posts. I cannot stress enough how central our court staff are to the efficient and professional conduct of business in our courts. It is essential that court clerk posts are filled as a priority, and to that end I welcome the launch of the recent bespoke recruitment competition which should complement the retention of our experienced staff.

This past year I have completed my visit to all working courts in Northern Ireland with a visit to Enniskillen. These visits have provided me with the opportunity to observe the courts functioning at first hand and to hear directly from experienced court staff about the challenges they face including the day-to-day impact of staff shortages, continuity of service and the lack of appropriate consultation facilities at court.

As a part of the NICTS Vision 2030 Modernisation Programme a delivery partner for the Themis Programme has now been appointed. Themis will enable the delivery of improved services including a new IT solution to incrementally replace existing systems. It will help support the move towards “paper light” courts and will promote access to services directly online via a web portal for legal professionals, members of the public, and justice partners. This work is just commencing, and it will be some time before the benefits will be realised, however, it is an essential move towards a more modern and accessible justice system.

From my observations we clearly need improvements to our court estate which I hope will come to fruition under Vision 2030. I note that a prelude to the Royal Courts of Justice upgrade will be the restoration of the Old Town Hall; and in the Northwest, the modernisation of Bishop Street Courthouse will see a significant reconfiguration and refurbishment of the existing building, which will deliver improved facilities for staff and users including more service delivery spaces and improvements to the segregation of criminal and non-criminal business.

We have been operating two additional Crown Courts as part of business recovery with the support and the collaboration of other criminal justice organisations. There have been some touch points this year, but I hope that our continued engagement, a bespoke recruitment scheme for court clerks and funding from the Department of Justice will continue to assist with recovery for the benefit of victims, witnesses and defendants.

The three priority areas I announced last year were the establishment of a Non-Ministerial Department; welfare and training of judges; and diversity of the judiciary. On the first of these, my office will continue to actively engage with the NICTS and Department of Justice to support a Non-Ministerial Department as a new model for good administration here.

On welfare and training, the work of the Judicial Studies Board has this last year progressed to involve specific training in the criminal and family fields. In addition to

Judicial Communications Office

making use of our own judicial trainers we have also involved victims, the Victims of Crime Commissioner Designate, eminent legal academics from this jurisdiction and further afield, the retired judicial author of the leading text on sexual offences law, a retired judge of the California Superior Court and former Dean of the California Judicial College, a leading English silk and an author in the field of inquests and article 2 ECHR.

We have also taken the initiative to include, where appropriate, members of the Bar in certain of our training activities where this was deemed to be of overall benefit to the administration of justice. Judicial Studies Board has also had training interaction in the past year with international judicial delegations from Austria, Ghana and Tanzania and has additionally taken steps to consolidate ties with academia including the establishment of a judicial college to maximise the benefit from the expertise which is available from that source. I have also appointed a group of welfare judges who take forward welfare initiatives at each tier.

In terms of diversity, I think some good progress is being made. I was pleased to call 34 new silks in February 2024 with 12 women which is the highest ever statistic of female senior counsel. I am confident that there will be a commensurate trickle through to judicial office in future years. Northern Ireland Judicial Appointments Commission's statistics are healthy as regards diversity save at the highest tier of courts. We know that there has been a steadily increasing proportion of female judicial office holders since 2011. As of September 2023, female judicial office holders are in the majority when the figures for courts and tribunals are taken together, indicating a gender balance that is broadly reflective of the general population. When the figures are isolated by court tier, however, the position is less encouraging at senior level, with women comprising 21.2% of senior judicial office holders, and so we know that work remains to be done in this area. More work also needs to be done in encouraging those from different ethnic backgrounds and with disability. However, I am confident that with a more flexible approach, the Northern Ireland Judicial Appointments Commission is attracting the best people across a range that is reflective of our society.

GOING FORWARD

The law affects people across the criminal, civil and family jurisdictions. Common to all is the need to have decisions made in an effective and efficient way which are accessible and understandable. Part and parcel of that is the need for open justice.

Earlier this year, I took the first step towards shedding light on the work of our Court of Appeal by working with broadcasters on a pilot to film the delivery of judgments. The broadcasting of our senior courts will allow the public to better understand what we do and how judicial decisions are made supporting the principle of open justice. The broadcasters did an excellent job, and I was very impressed with the footage they compiled. I would also like to be able to broadcast sentencing decisions of the Crown Court. I have however been advised that it will not be possible to progress the necessary legislation until the next Assembly session, that is from mid-2027 onwards. This delay is disappointing as it means we cannot build on the momentum we have achieved.

Judicial Communications Office

Without legislative change I cannot oversee the advances I would like. However, I will continue to promote open justice within the parameters that are open to me. That is because it is a long-established principle that justice must be done, and it must be seen to be done. The public has a right to know what happens in their courts. I am particularly interested in the transparency of family courts. This year I have engaged with the media on this, and it is my first priority in the coming year with a focus on private law cases concerning domestic violence and contact disputes.

I am aware that in this area there is ongoing work in England and Wales in recent years in opening up the family courts. In Northern Ireland we have previously looked at this as part of the Gillen Review, however I want to increase the momentum on this. I recently visited a Family Proceedings Court in Laganside to observe for myself some of the issues arising within that environment that have been raised in correspondence received in my office from various quarters. I observed dedicated professionals working towards arrangements that were in the best interests of the children involved in the cases. I want to promote public understanding of the difficult and complex matters that those courts deal with. To that end I am establishing a judicial working group, which I will lead initially, to explore the current Family Court system and make recommendation for improvements and reform.

As I said I spoke to the media recently about transparency in the family courts. I welcome the Minister's announcement in June that her department has commenced policy scoping work to consider how the openness of family courts could be increased, whilst continuing to protect the privacy of the families and children involved. I am committed to doing what I can to improve openness and transparency in the courts in this jurisdiction and this will be one of my key priorities in the coming year.

My second priority is to enhance the public's understanding of criminal justice, particularly the sentencing process. The Court of Appeal in Northern Ireland can clarify sentencing principles through appeals by those convicted in the Crown Court and references brought by the Public Prosecution Service if a sentence is considered to be unduly lenient. We also have a sentencing group in Northern Ireland comprised of judges from the various criminal court tiers and lay members, including the Victims of Crime Commissioner Designate and one academic from each of the two main law schools in Northern Ireland. This group meets once every term to consider and advise on the sentencing guidelines in Northern Ireland.

I am unfortunately unable to speak to victims or their families due to my role as an appellate judge, but I wish to convey to all those affected that I do understand the pain and distress caused by the loss of a loved one or due to the effects of crime. I have continued judicial training on sentencing principles and sentencing remarks to include how victim statements are communicated and as a priority, I am going to undertake further work with fellow judges, court users, victims' groups and others in this area over the coming year.

While I am told that the Department of Justice's budget precludes any major systemic transformational work, that should not in my view prevent achievable change. The judiciary have been able to show how, through collaboration at a local level, changes can be introduced that will improve the experiences of those going through the justice

Judicial Communications Office

system. Examples from the past year include a change to the High Court bail days to avoid prisoners being released at the weekend and facing difficulty in obtaining accommodation or benefits thereby reducing the risk of them reoffending and ending back in prison. I continue to promote the use of remote evidence centres where victims and witnesses can give their evidence by video link without having to come to court and face the perpetrator.

A further example of judicial collaboration aimed at improving practice is in respect of the use of achieving best evidence interviews where vulnerable victims and witnesses can record their evidence in chief in advance, so they don't have to give evidence at the trial. The judiciary and my office are working with a group established by the Police Service of Northern Ireland to improve both the quality of the recordings but also the quality of the interviewing techniques to obtain the best evidence to aid the court and avoid adjournments.

I also commissioned an observation exercise at the start of the last legal year to determine the type and frequency of adjournment requests in the Crown Court. I am pleased to say that those observations clearly showed that the judiciary deploy a robust challenge function in actively case managing the matters before them. While delay is often unavoidable it is important that cases are dealt with in a timely and just manner for the benefit of both complainants and defendants.

I have listened to the issues facing the Probation Service. They have asked to be given further time to complete the pre-sentencing reports needed for the Crown Court because of resourcing pressures. While this may increase the total overall time for cases to conclude, it will enable more realism for defendants and complainants when fixing the date for sentencing. It will also reduce unnecessary listings for the sentencing that then have to be adjourned. I am supportive of the request and have asked for the matter to be considered at the next meeting of the Criminal Justice Board. I attended a recent film launched by the Probation Service aimed at raising awareness and confidence in the use community sentencing as well as highlighting their excellent work. The judiciary regularly see the positive impact that can be made to a person's life from their engagement with probation services which can change their lives for the better, which in turn reduces the likelihood of their re-offending and has wider impacts of reducing crime and making our community safer.

I have visited the Foyle Family Justice Centre on a number of occasions now and have seen and heard for myself the difference that can be made by the provision of bespoke services for people who need accommodation, legal support, and professional support. While this is not the only model for successfully providing support services, anecdotal evidence from those who use Foyle Centre's services indicates that this model is a very valuable facility for those who need multifaceted support, and it deserves to be recognised as playing a vital role in the Northwest.

I continue to be supportive of problem-solving initiatives and as many will know the Substance Misuse Court in Laganside was the first of its kind in this jurisdiction. I am pleased that it has now moved beyond a pilot and is embedded in the court business structure in Laganside. I have already referred to the Domestic Abuse Contest Court set up in Belfast which utilises the remote evidence centre and it is this type of

Judicial Communications Office

forward-looking initiatives that I would like to see continuing within our justice system.

I am very aware that the justice system is made up of distinct organisations which work together to ensure that justice is delivered for all those involved in the process. It is easy to think that the conclusion of the court case is the end of that process but, for the defendant, that is often the start of their journey towards rehabilitation. I recently took the opportunity to meet with the Director General of Prisons to discuss the importance of adequate support measures being in place when defendants are released – particularly where these relate to mental health or addiction problems. I have also visited Maghaberry Prison this year and am attending Magilligan Prison later this year.

Finally, the Criminal Justice Board, of which I am a member, is taking forward a number of workstreams that have the potential to reduce delay, improve the experience of those participating in criminal proceedings and promote better understanding of the process and its outcomes. I have taken on board comments made by the Victims of Crime Commissioner Designate, Geri Hanna, as well as the police and prosecution and this year the judiciary and my office will be engaging in work to look at the transparency of the sentencing process, including the language around reductions in sentence for early guilty pleas, early engagement and case management, extending the remit of the magistrates' court and the introduction of direct committal.

CONCLUSION

In concluding this address, I understand the ongoing budgeting pressures within justice. I engage with the Minister when issues arise, however, I believe, there can still be reform and achievable change within the parameters we work under. Notwithstanding the constraints I have, I am confident that this year will present opportunities to make progress on initiatives that will benefit all those who engage with the justice system. We must work together to prioritise those that will deliver the best outcomes within the framework that we have. I will strive to do all I can to ensure that the judiciary engage, listen and play our part in the delivery of the administration of justice for Northern Ireland whilst maintaining our high professional standards and our independence is respected."

ENDS

If you have any further enquiries about this or other court related matters please contact:

Alison Houston
Lady Chief Justice's Office
Royal Courts of Justice
Chichester Street
BELFAST
BT1 3JF

Telephone: 028 9072 5921
E-mail: LCJOffice@judiciaryni.uk