



By Email Only: Midlandsconsultation1@hmcts.gsi.gov.uk

2 March 2012

Dear Sirs

Modernisation of Face to Face Services in the Civil and Family Courts

I refer to the HM Courts & Tribunals Service document entitled "Modernisation of Face to Face Services in the Civil and Family Courts". As President of Birmingham Law Society, the largest local law society in the United Kingdom, I wish to express my concerns over these proposed changes.

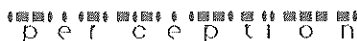
1. Introduction

- 1.1 Birmingham Law Society has a membership of over 3,600 lawyers in the West Midlands and there is considerable concern amongst our members about the plan to provide a restricted counter service.
- 1.2 What is particularly alarming is the fact that this proposed change has been prompted by a cost cutting exercise as opposed to responding to a change in demand or need. Whilst the document refers to itself as "Modernisation of Face to Face Service.....", this could not be further from the truth and the actual effect is a major step back in the provision of services.
- 1.3 The purpose of this letter is to set out some of the concerns that have been expressed by members of Birmingham Law Society about these proposed changes.

2. Areas of Concern

- 2.1 The most obvious concern of Courts operating a restricted counter service is they will provide no local advantage to Court users. The accessibility and "face" of the local Court is of great importance to Court users and to take this away will inevitably result in the selection of London (which we understand will retain counter services) as the preferred litigation centre to that of the local Court which will be particularly so in respect of the specialist Courts.
- 2.2 There is already great pressure and competition between the larger regional trial centres and London and this will certainly tip the balance in favour of London. Such a shift of usage is also likely to have an adverse economic impact upon the local bar as it will be more cost effective to use London counsel given the litigation is being conducted out of a London Court. This would be very unfortunate as most law firms want to support

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their local Court and local bar but these changes may leave them with no choice.

- 2.3 Keeping on the theme of competition, Courts which retain counter services will be able to offer a competitive edge to law firms in that locality compared to those law firms who have no access to counter services. Personal injury and many other forms of litigation are no longer restricted to a particular region. When tendering for work those law firms who have counter services will be able to offer a far more efficient, effective and speedy service for clients as compared to those law firms who do not have access to the same level of Court service. This is unacceptable and although law firms could opt to use Court services in a different region there is still the delay of post and additional cost of instructing an agent to manually process an application etc.
- 2.4 One of the most successful aspects of the English Court system is the efficiency of the specialist Courts. Again, part of the reason why these specialist Courts are so successful is (a) they have staff who are accessible, (b) the process of lodgment of bundles etc. is flexible and (c) the main specialist Court clerks are well know to the Court users. There should be no doubt that the current system works and it works very well. The proposed changes risks undermining and compromising the excellent reputation that these specialist Courts have achieved. This will undoubtedly result in litigation moving away from the regional trial centres to London.
- 2.5 In this current economic climate, the pressure is on clients to settle cases. This often means that the preparation for a trial (and the substantial costs associated with this) will be put off for as long as possible (usually as a result of ongoing negotiations). By removing the option of hand delivering bundles on the last day for lodgment, you are putting increased pressure on lawyers to start preparing for a final trial much earlier (given they will have to post the bundles). The additional costs that this will incur could, in some cases, make it more difficult to then go on to settle the matter.
- 2.6 A further adverse feature of posting trial bundles is that often the lever arch files become damaged in the DX/Post which results in papers being dislodged from the lever arch file. By hand delivering the bundles the Court can take comfort in the fact that the bundles are being handed over in a very good condition.
- 2.7 Quite apart from the impact these changes will have on local Court revenues, the local bar and local law firms there is also the impact it will have on litigants in person. Any routine attendance on a Court's counter services will show the considerable reliance that litigants in person have on the guidance and wisdom of the Court staff. Many of these people cannot afford legal representation and some are unable to read and write. The assistance provided by the Court staff pays dividends at a

later stage because the paperwork that is submitted by such individuals is usually correct (thanks to the Court staff).

- 2.8 I fear that an appointment based system would not be used by many litigants in person as the informality and accessibility of the current system is why it is so successful. I would be very concerned that by restricting counter services, many litigants in person (often in a vulnerable state) would be even more lost in the world of litigation and this undoubtedly would create far more problems for the Court service. However, in some cases people may even be dissuaded from commencing litigation in the first place (due to the lack of a friendly counter service) and as such they would lose out on the option of protecting their legal rights. Whilst I appreciate the Court staff are not there to offer legal advice, there is no question that they provide a very valuable service to members of the public and this should not be disregarded.

3. Conclusion

- 3.1 I have deliberately avoided offering every available argument as to why the proposed "modernisation" should be reconsidered and instead I have set out points of concern which highlight the detrimental effect such changes will have on the local Courts (in terms of reduced revenues) as well as to the local bar, local law firms and members of the public.
- 3.2 Whilst there are many things that need improving within various Courts and regional trial centres, generally local practitioners are keen to litigate out of their local Courts. However, making such drastic restrictions to counter services will be a step too far and it will alienate many local practitioners.
- 3.3 If there was some cutting edge IT solution that would provide a more efficient system to the current counter services then I could understand the use of the word "modernisation". However, there is no IT solution, there is no "modernisation", this is simply a cut back in the level of services to Court users.
- 3.4 For the reasons set out above, I would urge you to seriously reconsider this proposal or at the very least consider excluding the specialist work that is undertaken in the Birmingham Civil Justice Centre.

Yours sincerely



Andrew Lancaster
President of Birmingham Law Society