

Speaking notes to AJTC Annual Conference: Les Allamby Law Centre (NI)

Welcome

I would like to say something about the progress we are making and the issues facing us in Northern Ireland...

- We missed out on Franks to a significant extent with the Council on Tribunals remit never extending to Northern Ireland. Consumer/user groups and others are determined that won't happen again.
- Leggatt made reference to NI acknowledging the devolved status and setting out that NI suffered the same problems in Britain. Drivers for reform apply equally in NI. In March 2006 Peter Hain announced that the Northern Ireland Court Service would assume administrative responsibility for all Northern Ireland tribunals ... as part of a new unified Courts and Tribunal Service. This set the direction of travel for administrative reform without addressing legislative structural/substantive reform.
- Our landscape is that we have just over 20 Northern Ireland managed tribunals handling just over 20,000 cases a year. We don't have exact figures because of the lack of consistency in reporting.

- The administrative reform is moving slowly but inexorably forward with the transfer of responsibility of NI Department tribunals to the Northern Ireland Court Service (NICtS) and subsequently (and hopefully) to a new Department of Justice. This has received the approval of the NI Executive. Northern Ireland will not delegate day to day operational responsibilities to a united Tribunal Service. I am broadly relaxed by this approach subject to seeing the details of how the coherence will be driven forward departmentally. What remains is an important menu of substantive reform ... for example:
 - We still lack a statutory guarantee of judicial independence for tribunal judiciary which is vital to underpin the role of tribunals.
 - We need to improve the end to end decision making process including monitoring and reducing the time it takes for appeals to go from decision making Departments to the appeal tribunal.
 - The arrangements for first tier and upper tribunals are not in place and that includes the lack of an EAT in NI. One of the perennial frustrations for colleagues is that getting an important case to the Court of Appeal relies on an appellant not finding a job and losing legal aid so only a handful of employment cases are heard in the NI Court of Appeal each year.
 - Lack of an AJTC. 'The AJTC's mission is to focus first and foremost on the needs of users. In NI in over 50 years and counting we have had no statutory body with that primary focus and there are times in the tribunal system where frankly that lack of statutory focus shows.

- No systematic upgrading of procedural rules – we are left in a vacuum as to whether the amendments to the procedural rules will be applied in part, in whole or not at all in Northern Ireland.
- To try and move the case for substantive reform on further, Law Centre (NI) convened a ‘Chatham House rule’ seminar last year – attended by Tony Newton and Lord Justice Carnwath and their contributions were extremely helpful. The Law Centre has secured funding from Nuffield to produce two pieces of research – one a scoping paper on how to carry forward tribunal reform in NI from Brian Thompson and the other a qualitative analysis of stakeholders and users of tribunals focusing particularly on social security and employment being undertaken by Grainne McKeever. We hope to complete the research and hold a conference with the President of the Appeals Service in Northern Ireland next spring. Our hope is that the research will sustain the impetus and movement for substantive reform. We have received considerable support from the AJTC and the tribunal judiciary in Britain and I am sure we will count on that support again for the conference.

I remain an optimist (at heart). It is clear the tribunal judiciary in NI are keen on reform, and so are key players in NICtS (though I think the even ‘modest’ cost of substantive change causes some concern in the current economic climate)

Much will depend on devolution of policing and justice. The financial deal appears to have been done. We are now arguing about other bargaining chips, for example regulation of contentious parades. I think we will get there in the end.

The question for a new minister will then be whether tribunal reform becomes a non-contentious quick win to be moved forward quickly or disappears to the bottom of the in-tray. Devolution of justice must not become code for criminal justice alone.

All of which means the next year is going to be important for the reform of tribunals and civil and administrative justice in NI. I will finish on two other notes. We are also in the slow lane as far as the development of ADR/PDR and in civil justice development as a whole. It has taken us eight years from the recommendation of the Civil Justice Review in Northern Ireland to set up a civil justice committee with no representation beyond the judiciary and the legal profession. There is a need for a more outward focussed approach with consumers/users input along the lines of the Civil Justice Council as envisaged in our own Civil Justice Review. These are matters that an AJTC in Northern Ireland could kick start however, that's a story for another day. I hope in a year's time to be able to report on significant and substantive progress.

Thank You