

## **THE NATURE OF THE ROLE OF A COUNTY COURT JUDGE**

There are currently 20 county court judges, 9 are assigned to geographic divisions, one is assigned as Family Judge another as Civil Judge and 9 are peripatetic.

Each newly-appointed judge is peripatetic and the experience of the last 5 years at least suggests that s/he will remain so for a number of years. The Presiding Judge decides on the allocation of the peripatetic judge and the practice is that all peripatetic judges will spend about 4 - 8 weeks in an area outside Belfast before moving to another division. This practice enables the peripatetic judge to assist the assigned judge to meet the challenges of the full range of work and to develop a broad understanding of the administration in each area.

The public face of the judge is sitting in court and hearing evidence and legal submissions. However, the role is much more extensive. The determination of most criminal and family cases demands considerable preparation and, while the practice in some other jurisdictions is to free judges from court sittings for "reading time" or for time to prepare judgments, that ideal does not prevail here.

Most county court judges also serve on a range of statutory committees including the County Court, the Crown Court and the Family Proceedings Rules Committee. In addition there are numerous other committees at tier level and in the Province. County Court Judges can also be appointed as Parole Commissioners, to the Judicial Studies Board and the Judicial Appointments Commission. Several County Court Judges are members of the Children Order Advisory Committee. County Court Judges will also be expected (after appropriate training) to undertake extradition, inquest and HIA Redress Board cases.

Other out-of-court activities include lecturing in, and examining for, the Institute of Professional Legal Studies and engaging in outreach activities organised by Court Service staff, for example, introducing schoolchildren to the operation of the criminal court and judging moot competitions in which the parts of lawyers are played by post-primary pupils.

The variety and richness of the role of the County Court Judge are therefore difficult to capture in any formal description of the work. That formal description refers to three broad categories of work:

- Criminal;
- Family; and
- Civil.

The vast majority of a County Court Judge's time is currently taken up in sitting in Crown Court trials. In addition, appeals are heard from the Magistrates' and Youth Courts, the latter involving sitting with Lay Magistrates.

In the Crown Court the County Court Judge presides over all trials on indictment, with and without a jury. Initially this will not include rape and murder trials, but after training and sufficient experience County Court Judges can be 'ticketed' to hear these cases. The work of the Crown Court Judge commences with the arraignment of the defendant and includes the determination of pre-trial issues such as third party disclosure, dealing with prosecution disclosure matters, bad character and hearsay applications, special measures applications and applications to exclude evidence. It can also include determination of a 'No Bill' or a defendant's fitness to plead prior to arraignment. During a jury trial the principal roles of the Judge are to ensure the fairness of the proceedings, to rule expeditiously on legal issues as they arise and to sum up to the Jury. In the case of a non-jury trial the Judge will be required to return the verdict of guilty or not guilty, and to give a reasoned written judgment. The final stage in the proceedings is the sentencing of the defendant who has been convicted. This will involve the reading of various reports on both the defendant and the victim, consideration of sentencing guidelines and conducting a plea and sentence hearing.

In advance of a trial the Judge is expected to deal with bail issues and to have a major role in case management. S/he will often spend many hours considering material disclosed to the court pursuant to a Third Party Disclosure Order. For example, where a defendant faces trial for sexual offences, the judge is likely to have to consider a complainant's school records, medical notes, and records by any counsellor involved in order to decide whether any of this material should be

disclosed to the defendant. It is likely that County Court Judges will be taking a much greater role in the granting of bail in the future.

One of the most exciting challenges for the Crown Court judge is to keep abreast of the many legislative changes, particularly in the field of criminal law. Thus, for example, the reforms in the Sexual Offences (NI) Order 2008 have been described as “the most important overhaul of law at least since Victorian times” and the bad character provisions in the Criminal Justice (Evidence) Order (NI) 2004 have been referred to as “revolutionary”. The Criminal Justice (NI) Order 2008 introduced a new legislative code for sentencing, including the sentencing of ‘dangerous’ offenders.

In the Family Care Centre there is an assigned Family Judge primarily sitting in Belfast. There are other Centres in Craigavon, Dungannon and Londonderry where other Judges will hear cases. The Judge is responsible for deciding both private and public law applications under the Children (NI) Order 1995 which have been transferred by the Family Proceedings Court. The judge also hears appeals from the Family Proceedings Court. Among the most difficult private law applications are those where the parent with whom the children of the parties are living is implacably hostile to contact between the children and the other parent. They can also involve issues arising from a caring parent’s desire to relocate abroad.

The most common public law application is for a Care Order in which the child will be represented by a guardian ad litem. The preparation for the full hearing of applications under the Children (NI) Order 1995 usually requires a number of directions hearings to facilitate judicial management and to seek to avoid delay. In public law applications the trial bundles are voluminous, comprising reports from the Trust, statements of evidence on behalf of the parents, expert evidence, a report from the guardian ad litem, discovery of Trust contact records. The cases can involve consideration of complex medical issues on causation of injuries and difficult psychological and psychiatric matters relating to the parent’s child-rearing ability.

The County Court Judge also hears applications under the Adoption (Northern Ireland) Order 1987 including applications to free a child for adoption and

applications to adopt a child. Some of the latter are by a parent and step-parent and some others are in respect of a child who has been already freed for adoption. The child who is the subject of a full application order will usually be present in court with the applicants who are often accompanied by members of their extended family.

The civil jurisdiction of the County Court Judge is varied including claims for damages in tort or contract up to the limit of £30,000, actions in respect of title to land the net annual value of which is less than £500, applications under the Married Women's Property Act 1882, and liquor and bookmaking licensing applications. The proposals in the Gillen Family and Civil Justice Review (2017) envisage a significant increase in the limit for damages. Any increased limit will have significant implications in terms of the complexity of cases, the range of interlocutory applications and the duration of the hearing of civil cases.

The Gillen Review also proposes a move towards civil and family hearing centres which could involve a cadre of judges sitting in various venues to hear civil and family business. This could involve a degree of specialism within the tier, although it is not intended that any judge should be permanently assigned to a specific jurisdiction, but will be able to rotate jurisdictions depending on business demands.

In recent years the jurisdiction has been extended to include claims of discrimination on the grounds of race or disability in the provision of goods and services. The judge keeps under regular review - by means of a callover of the cases in which the certificate of readiness has not been lodged within a period of six months - the progress of civil claims to ensure a hearing within a reasonable time.

The long-standing objective of a fair hearing within a reasonable time has been given added impetus by article 6 of the European Convention on Human Rights and there is now considerable emphasis on the achievement – through robust judicial case-management - of time limits in the discharge of court business.

A programme of training is provided by the Judicial Studies Board. This will include induction training and mentoring. This has proved immensely helpful for all newly appointed Judges. There is also a programme of seminars organised by the Judicial Studies Board.

A County Court Judge is also a member of the Council of HM County Court Judges which meets formally about 6 times annually to discuss issues affecting the work of the County Court and its Judges. The Council represents the interests of the County Court Judges, makes representations to the Lord Chief Justice, the Department of Justice and to outside bodies such as the Senior Salaries Review Body, and represents the County Court Bench at functions organised by colleagues in other jurisdictions. The Council also facilitates the maintenance of a strong collegiality among the County Court judiciary through its varied social calendar.

At present 10 County Court judges have been appointed as Coroners for Northern Ireland and take carriage of such inquests as are allocated to him or her by the Lord Chief Justice.

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