

8 Courts

Introduction

- 8.1** The courts are a focal point of the criminal justice system. The aims set out in the Belfast Agreement note the need for fairness, responsiveness to the community, ensuring confidence, and efficiency and effectiveness throughout the criminal justice system. It is with these aims in mind, and against the human rights background, that we examine particular aspects of the courts in Northern Ireland. Our terms of reference specifically point us to an examination of the structure, management and resourcing of the criminal justice system including measures to improve its responsiveness and accountability.
- 8.2** In this chapter we consider some of the principles behind the way the courts conduct their business. We examine the means by which information on the courts is supplied to the community and the ways in which the courts can relate to their local communities. In doing this we look at who uses the court and examine structures such as court user groups to enable court users to express their views.
- 8.3** We also consider the court environment and court buildings, in the context of work already being carried out by the Northern Ireland Court Service, to see what more might be done in the interests of court users and to ensure public confidence. We look at court-related aspects of the accessibility of justice and at whether court structures and procedures might be intimidating or confusing to some, together with the impact of symbols displayed, language used and the dress worn in courts. All of these issues are important in public confidence terms. We address the balance that has to be achieved in developing accessible modern procedures and practices with which members of the community can feel comfortable, while preserving the sense of dignity and respect that in our view should be associated with the courts.
- 8.4** The issue of ministerial responsibility for the Northern Ireland Court Service will be examined in Chapter 15. Whilst this chapter deals with aspects of the courts affecting all users, Chapter 13 covers in more detail the support that should be available to victims and witnesses.

Human Rights Background

- 8.5** There are some internationally accepted human rights principles which need to be taken into account when considering the way courts operate in Northern Ireland. These rights should be protected by government, not only through the enactment of laws but also through the management, structure and funding of the criminal justice system.
- 8.6** While human rights instruments have traditionally been most concerned in the criminal justice context with suspects and defendants, this is now changing with emphasis also being given to obligations towards all to whom the state may be said to owe protection.¹ Put simply, the state must ensure that those attending court can do so without risk of harm.
- 8.7** The right to a fair trial, a cornerstone of the criminal justice system, is articulated in Article 6 of the *European Convention on Human Rights* (ECHR) as follows: “In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.” We have already discussed the role of the judiciary in protecting this right, but there is also a responsibility on government to ensure that the courts are structured and resourced in a way that helps secure a fair trial. The ECHR also guarantees the right to the free assistance of an interpreter if a defendant cannot understand or speak the language used in court.
- 8.8** The United Nations *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, dealt with in more detail in Chapter 13, is directly concerned with the needs of victims. As an unincorporated instrument it urges governments to ensure that the needs of victims are facilitated. For the courts and other agencies this includes taking measures to minimise inconvenience to victims, protect their privacy when necessary, and ensure their safety from intimidation and retaliation, as well as that of their families and witnesses. It also requires the avoidance of unnecessary delay in the disposal of cases.

Current Arrangements

COURT USERS

- 8.9** In looking at the criminal courts in Northern Ireland we need to have an idea of who is using the courts. A range of different groups can be identified including:
- witnesses;

¹ Livingstone and Doak, Research Report 14. See also *Osman v UK* (1998) 28 October 1998 where the European Court recognised that states have an obligation to protect an individual whose life is known to them to be at risk from the criminal acts of another.

- victims of crime;
- jurors;
- the accused in a criminal case;
- relatives and friends of those involved in a case;
- interested members of the public;
- the legal profession;
- the prosecution;
- the police;
- other professional users such as the Probation Service, Victim Support and social services; and
- journalists.

8.10 The business of the courts is facilitated by the Northern Ireland Court Service. The Courts' Charter for Northern Ireland,² first produced in 1993 and being revised for publication in early 2000, identifies the court facilities which the Court Service aims to provide:

“In the programme of rebuilding and refurbishing courthouses continuing consideration is given to your convenience and comfort. As court buildings vary in age and layout it is not always possible to provide every facility that might be desirable. However, where resources permit, and it is physically possible to do so, better facilities will be provided:

- improved waiting and consultation areas;
- more reception or information points; and
- better access for the disabled.”

8.11 The Court Service, within the resources available to it, is working to implement the commitments contained in the Charter. Steps have been taken to provide facilities for Victim Support, separate waiting rooms for witnesses and victims and information desks which also act as referral points for solicitors, probation and other agencies.³ Another feature of this process has been an audit of 10 courthouses carried out by the William Keown Trust to assess the needs for disabled people in gaining access to buildings, facilities and services.

8.12 As well as setting out standards for court facilities, the Courts' Charter also sets standards which members of the public can expect when attending court. The Court Service aspires to ensuring that those attending court do not feel ill at ease or intimidated. Wherever possible

2 *Courts' Charter for Northern Ireland*, Northern Ireland Court Service, page 7. This document can be obtained by writing to the Northern Ireland Court Service, Windsor House, 9-15 Bedford Street, Belfast BT2 7LT. It is also available on the internet at www.nics.gov.uk/pubsec/courts/crtchart.htm.

3 One such information desk has been established at Belfast Magistrates' Court staffed by the Citizens' Advice Bureau.

witnesses should be provided with a place to wait away from the other side involved in the case. Also victims called to court as witnesses should, as far as possible, be able to familiarise themselves with the courtroom surroundings before they appear in court. In an effort to inform the public of these standards the Court Service has produced a range of leaflets explaining what happens in court.⁴ As an additional assistance to witnesses, Victim Support Northern Ireland runs the Crown Court Witness Service at Belfast Crown Court which provides assistance to witnesses, victims of crime, their families and friends who may be attending court to provide support.

8.13 The Northern Ireland Court Service is currently involved in some innovative programmes to engage with the local community and promote greater public awareness and understanding of how the courts and the legal system work. Initiatives include:

- visits to courthouses by local schools at which the judiciary and court staff explain the function of courts and the roles of the participants (in the past 18 months 811 students have taken part, although coverage across Northern Ireland is not uniform);
- helping facilitate an annual mock-trial competition (twelve schools in Northern Ireland have been involved in this and two have won the national final in recent years);⁵
- all local schools and community groups in Dungannon are being invited to become involved in the design of a new courthouse for the town;
- courthouses at Armagh and Downpatrick were open to the public as part of the European Heritage Day on 11 September 1999.

8.14 It is important that the different groups involved in court business work together. At the Northern Ireland wide level, this is achieved through Court Service membership of inter-agency groups such as the Criminal Justice Board and Criminal Justice Issues Group, which enable cross-cutting issues affecting the criminal justice system as a whole to be addressed.⁶

8.15 Court user fora have been established at some court venues. One of the most recent examples is the Londonderry Court User Committee, chaired by the Recorder of Londonderry, which comprises representatives from a wide range of organisations and agencies, including the voluntary sector, involved in supporting the administration of justice. The committee provides a forum for discussion on a range of operational issues across all tiers of courts. There are also other types of fora such as statutory Family Business Committees.

4 Leaflets published include *Witnesses in Court*, *Small Claims Courts in Northern Ireland*, *Jury Service and You*, and *The Work of the Coroner in Northern Ireland*. These leaflets are available at all court offices or can be obtained by writing to the Northern Ireland Court Service, Windsor House, 9-15 Bedford Street, Belfast BT2 7LT.

5 Facilitated by the Northern Ireland Court Service in conjunction with the Citizenship Foundation.

6 See Chapter 15 for details of inter-agency and inter-departmental machinery.

Views Expressed During the Consultation Process

- 8.16** During the consultation process members of the Review Group undertook visits to Antrim courthouse, Belfast Youth and Magistrates' Courts, and Brighton Magistrates' Court. Through these visits we were able to form a view on how far the courts in Northern Ireland were able to meet the standards to which the Courts' Charter aspires and on ways in which improvements might be made.
- 8.17** In our meetings with a variety of groups, and in written submissions, court issues were raised in different contexts, both from a court user perspective and from the point of view of wider society. The attendance of many Court Service staff at our consultation seminars helped stimulate a useful exchange of views.

INFORMATION

- 8.18** Whilst depictions of courtroom scenes in television dramas are commonplace, only a minority of people have direct experience of being in a court in any capacity.⁷ This lack of direct experience may help explain the lack of knowledge and understanding of courts, together with a feeling that they are somehow distant from the community, which was apparent amongst a range of people met by the group during the consultation process. There was a desire for more effort to be made to inform both the general public and court users about what goes on in the courtroom and it was argued that widespread public confidence in the system was dependent on a greater degree of understanding.
- 8.19** There was some criticism of the lack of accessible information. Suggestions made included a court information pack and school visits to courts. At a consultation seminar in Craigavon the practice of inviting local schools to visit the courthouse on a regular basis was welcomed, but there was often a lack of knowledge of initiatives which were already in place. A small minority expressed the view that, by the very nature of the court function, knowledge of courts would be confined to a small group in society and it should not be expected to be otherwise.

COURT GROUPS

- 8.20** The need for the criminal justice system to involve the community was a clear message during the consultation process. So far as the courts were concerned, initiatives which had been established, such as the court user and inter-agency groups, were broadly welcomed and there was a desire to see such good practice replicated across Northern Ireland. It was hoped

⁷ The November 1998 omnibus survey indicated that just over one third (34%) of respondents said that they had experienced contact with a court in Northern Ireland. See Chapter 2.

that improving court links with the community would demystify the courts and also provide users with a mechanism to hold the courts to account and allow for the discussion of ideas about the way courts operate.

- 8.21** Amongst those working in the courts, there was also a desire for structures to bring together the court professionals with user representatives to improve court efficiency, accessibility and facilities and address issues such as outreach.

COURT ENVIRONMENT

- 8.22** In addition to increased awareness about courts there was a desire for a more user friendly court environment. There were several aspects to this.
- 8.23** We heard from groups representing court users who wished to see improvements in the physical environment and the facilities available. For example, victims of crime needing to attend court wanted to be able to wait in comfort and safety, away from the defendant and his or her supporters, but this was not always possible. Within the courthouse separate waiting rooms and child-care facilities were suggested and there were calls for the specific needs of young people to be addressed. In particular instances the conditions in which people were required to wait, whether defendant, witness or member of the public, were criticised. The point was also made that courtrooms needed to be designed to ensure that those attending could see and hear what was happening. In the courtrooms which we visited in Northern Ireland we found instances where it was very difficult for defendants, witnesses or observers to hear what was going on.
- 8.24** As well as the physical environment, there were comments about the impression created at courthouses. There was a view that there was excessive formality, demonstrated by the dress worn in court, the procedures and the language used. Some argued that this created a barrier to some groups in society, particularly those from working class areas, and to victims of crime. A number of different groups and individuals called for the removal of wigs and gowns on the basis that they created undue formality and were off-putting to those attending court. We heard that resident magistrates had ended the practice of wearing gowns in the youth court. There were also those who did not feel that the dress worn by judges and lawyers at court was a problem and some argued that wigs and gowns contributed to an appropriate atmosphere of solemnity.
- 8.25** The need for more easily understood language in court was raised on a number of occasions, with one group we met saying “law language should be simplified removing Latin phrases from usage”. It was suggested that particular problems in relation to courtroom language and “jargon” were created for children and young people and those with learning difficulties.

- 8.26** A demand was made by some groups for the right to conduct court business in Irish when desired. Some requested this specifically for defendants whilst others argued more generally for the use of Irish in court business.
- 8.27** There was concern about delays during attendance at court. Some felt that the length of time members of the public were kept waiting at courts displayed a lack of concern on the part of the professions. There were also complaints that the hours of court were inconvenient. However the main area of concern about delay was the time taken in actually getting cases to court, especially where defendants were being held on remand in custody. We address this aspect of delay in greater detail in Chapter 15.
- 8.28** We heard that the prominence of police at courthouses could create the erroneous impression that the courts were being run by the police. In our visit to Antrim Courthouse we noticed that the police were involved in a range of activities unconnected with their security role, such as giving directions to those attending the court and acting as jury keepers.
- 8.29** There were comments about the impression created at courthouses and the ethos that was reflected. The argument, largely articulated by political parties and groups representing the Nationalist community, was that the courts needed to create an environment in which all sections of the community could feel comfortable. There needed to be a real sense of parity of esteem, as expressed in the Belfast Agreement. This pointed to a neutral environment in which references to the monarchy and British State were removed, or to equal prominence for Irish and British symbols. An argument put forward by others was that removing symbols and references to the Crown might alienate another section of society.
- 8.30** Mixed views were expressed about the flying of flags, the proclamation of “God Save The Queen” as the judiciary enter some courts and about symbols and emblems. In one group it was felt that flags and proclamations were alienating but that the presence of a Royal Coat of Arms often went unnoticed and was not an issue. Views at seminars were not entirely polarised and there was often agreement that while flags and emblems could be provocative, removing symbols could be just as provocative. We heard the plea that any recommendation in this area should be guided by the need for sensible modernisation, making the system more transparent and intelligible.
- 8.31** The research and focus group discussions which we commissioned gave some insights into people’s contact with, knowledge of and attitudes towards the courts. In short, this work demonstrated that few people had regular contact with the courts in any capacity. There was worry about the prospect of having to give evidence in court, fuelled by concerns about possible intimidation or retaliation and by unease about waiting and having to stand up and give evidence. Issues such as the wearing of wigs and gowns, oaths and Crown symbols gave rise to some concern, but for fewer people. However views expressed during focus group discussion⁸ confirmed that for many the court system was seen as overwhelming.

8 Dunn, Morgan and Dawson, Research Report 12, Annex A.

- 8.32** Apart from the overwhelming nature of the court system a number of other issues relating to the way in which the courts operate were identified as leading to a feeling of frustration with the process and isolation from it. Delay in the system through postponements, long waits and broken appointments was viewed by people as a sign of a general lack of respect for the individual and at worst it was seen as a sign of contempt or incompetence. People wanted to understand what being in court meant. They wanted the language used in court to be clear and simple and clear information on how the courts system worked.
- 8.33** The large majority of people felt that the courts could help reduce the anxiety of those having to appear as witnesses by offering a range of support facilities. Opportunities for familiarisation with court layout and structure were seen as potentially helpful, as well as facilities designed to make witnesses feel more comfortable.⁹

COURT STRUCTURE

- 8.34** We set out the current court structure for Northern Ireland in Chapter 5. The structure of the courts did not arouse a great deal of comment during the consultation process. There were some suggestions that the creation of a constitutional court should be considered, perhaps dedicated to interpreting a Bill of Rights for Northern Ireland. Alternatively, we heard a view that the right of appeal to the House of Lords should be abolished and that a new court might operate on an all-Ireland basis as the Supreme Court for Ireland.

INQUESTS

- 8.35** An inquest is carried out to establish the identity of a deceased person and how, when and where that person died. A number of groups raised the issue of the inquest system and coroners' courts in Northern Ireland. Human rights groups were concerned that in Northern Ireland inquests, persons suspected of causing a death, or charged or likely to be charged with an offence relating to a death, could not be compelled to give evidence. There was also criticism that verdicts had effectively been abolished and replaced by findings which included only factual statements about the circumstances in which death occurred.
- 8.36** We recognise those serious concerns about the way the system is operating and the depth of feeling on this issue. We are also aware that the operation of the coroners' courts has not been reviewed since the Broderick Report in 1971.¹⁰ This Review does not have sufficient

⁹ Amelin, Willis and Donnelly, Research Report 2, Annex A.

¹⁰ November 1971 (Cmnd 4810).

time or expertise available to undertake the major review of the coroners' courts we feel is now due. **We recommend an independent review into the law and practice of inquests in Northern Ireland.**

Experience in Other Jurisdictions

- 8.37** The Group found in most jurisdictions an increasing focus on the needs and demands of court users and the goal of a transparent and publicly understood system for the administration of justice. For example, the Department of Justice in South Africa has published a report, *Justice: Vision 2000*, which emphasises the role of the courts in ensuring access to justice.¹¹ They aim to review the language used in all court documents and establish citizens' advice desks and public information systems using modern technology in all courts. A need for more courts dispersed widely throughout the community was also identified.
- 8.38** We noted with interest the growing awareness internationally of the opportunities for bringing courts and the justice system generally closer to the community. *Les Maisons de Justice et du Droit*¹² in France provide a sort of one stop shop, with probation, social services, juvenile justice workers, legal aid, victim support, prosecutors and, in some instances, judges under one roof. Such institutions can provide easier access to the law, mediate disputes and engage in local outreach and crime prevention activities.
- 8.39** An example of this approach in a common law environment was the development of community-based courts about which we learnt during our visit to the United States. One such project, well evaluated, is Midtown Community Court, which opened in 1993 with the aim of responding to crime problems affecting the community on the West Side of Manhattan. The court is the focus, but the courthouse is home for a range of services including probation, police, social workers and counsellors. The judge can consult the professionals on individual cases and monitor the success or otherwise of treatment programmes being carried out from the premises, while the police can use the facilities there to provide immediate cautions and advice to defendants who might benefit from a diversionary outcome. Partnerships are formed with local schools, businesses and churches in order to develop community-based programmes, often based on restorative principles. Community links, familiarisation visits and outreach are seen as essential to the success of such ventures.
- 8.40** In establishing community courts such as Midtown, the American authorities have faced the challenge of persuading a sceptical public, who tend to be concerned about initiatives focused

11 Available on the internet at www.gov.za/reports/1996/justice.htm.

12 See Wyvekens, A. 1996 *Justice Proximité et Proximité de la Justice, Les Maisons de Justice et du Droit*, Droit et Société, pages 33, 363-388.

on placing offenders back in the community. Early signs point to some positive results. As well as achieving improved compliance rates for community sentences,¹³ the projects can produce greater public confidence in the courts and the criminal justice system.¹⁴

Evaluation and Recommendations

PRINCIPLES

8.41 We believe that the courts in Northern Ireland should operate efficiently but also effectively and in a way that promotes confidence in the criminal justice system.

8.42 This principle needs to inform the activities of all the various agencies involved in court and requires their co-operation. It points to the following:

- It is important that court hearings are conducted in a way that enables jurors, witnesses, defendants and other members of the public present to understand what is happening.
- The Court Service is accountable to court users and the general public. This requires communication with the community of a kind designed to inform the public of the court system and its workings. It requires a proactive strategy of public education and outreach.
- As with all areas of public administration, there needs to be continuous effort to improve levels of service. This involves ensuring that courts are organised and conduct their business in a way which facilitates the delivery of a fair system of justice and minimises any unnecessary fears of court users. Effectiveness means the proper administration of justice in the public interest of the state, the citizen and in particular of those who attend the courts in whatever capacity.

8.43 The rest of this chapter is about how to live up to those principles. The overarching purpose and vision of the courts is about providing the best possible environment and context in which the adjudication of criminal and civil cases can take place. From all that we have seen and heard, we believe firmly that if this is to be achieved then the courts should be regarded as an integral part of the community and as places where a range of agencies can contribute to the cause of justice. The French *Maison de Justice et du Droit* and the American community court experience are examples of this sort of approach and such models have much to commend them. In Northern Ireland, the Probation Service, Victim Support and other agencies are already to be found in our courts and our recommendations on such issues

13 Nearly 75% of offenders processed through Midtown complete their community service sentence as mandated, *BJA Bulletin*, NCJ 166821 p 3.

14 Bureau of Justice Assistance, *Overcoming Obstacles to Community Courts: A summary of workshop proceedings*, 1998, NCJ 73400, p.6. Available on the internet at www.ncjrs.org/txtfiles1/173400.txt.

as restorative and juvenile justice will place a premium on effective inter-agency working being closely related to court outcomes. How this is reflected in arrangements for the accommodation of local services, and the interaction between them, will depend very much on local circumstances.

- 8.44** We have stated throughout this report the need for a satisfactory complaints mechanism to underpin accountability and ensure that the needs of the public are addressed. This principle applies to the courts just as it does to other parts of the criminal justice system. As the Courts' Charter says, if mistakes are made the Court Service needs to be told so that steps can be taken to ensure the same mistakes do not happen again. An information leaflet explaining how verbal or written complaints may be made is available at all court offices.

INFORMATION/OUTREACH

- 8.45** While there has to be an element of formality and dignity about court proceedings, this does not mean that courts should be intimidating places. We believe it necessary to tackle unwarranted fears about courts as a means of improving access to justice and the responsiveness of the criminal justice system to the community. The level of worry about giving evidence in court indicated in research demonstrates the need to address this issue. The provision of information and education to potential court users has an important role to play. **The courts' administration should contribute to and be fully involved in the co-ordinated strategy of public education and information about the criminal justice system** in line with our recommendations in Chapter 3.

- 8.46** The Northern Ireland Court Service produces an annual report and corporate plan and is already active in producing information for court users. Particular instances of courts actively engaging with their local communities through, for example, school visits have been brought to our attention. **We endorse the current efforts of the Northern Ireland Court Service to provide information to the public and recommend that this work is developed further. Information points in courthouse reception areas should include a range of leaflets explaining what goes on in courts, while the internet and video might be used to disseminate information. Visits to courts should continue to be encouraged as a way of increasing community awareness and understanding.**

COURT GROUPS

- 8.47** We have noted that some groups have already been established in Northern Ireland bringing together various court users including the judiciary, victims groups and criminal justice agencies. Such groups can provide feedback from the users of the service to those managing the courts and allow discussion of a range of issues such as improving efficiency, court

facilities and dealing with the needs of vulnerable groups. **We recommend the establishment of court user groups across Northern Ireland inclusive of the judiciary, the professions, criminal justice agencies, and voluntary organisations representing victims and witnesses. We also suggest that consideration be given to means of sharing best practice between such groups. We see the Criminal Justice Issues Group as a body bringing together the judiciary, the heads of the main criminal justice agencies, the legal profession and the voluntary sector to promote good practice throughout the system** (see Chapter 15).

COURT ENVIRONMENT

- 8.48** Suggestions were put to us concerning the physical environment of the court. We recognise that most courts will continue to sit in courthouses constructed decades, or even centuries, ago. The Court Service has made significant progress in developing its estate of 24 buildings and there is an ongoing programme of new building and refurbishment. It keeps its accommodation strategy under review. Despite the improvements, some courthouses do not meet standards required for the delivery of modern public services. The Court Service is committed to improving its estate to provide accommodation and facilities that meet the needs of court users and are reasonably accessible. It is projected that some £50 million will be spent on maintenance, refurbishment and capital projects at courthouses over the next three years, including a new 15 courtroom facility in Belfast.
- 8.49** In working to develop and improve the court estate we note and welcome the commitments given by the Court Service in the Courts' Charter. We think it is important that the way the courts are built and furnished should conform to the principles of the criminal justice system which we have set out in this report. Court design has to pay due regard to the needs of the court users, and those administering the courts have a duty to ensure that they are aware of what those needs are. Specific attention should be paid to the needs of victims and witnesses who should be dealt with sensitively and may require segregated waiting areas. **We recommend that it should be an objective for all court buildings to have appropriate reception, waiting and consultation areas for those attending court, with adequate refreshment facilities and proper access for the disabled. Consideration should also be given to the need to accommodate and staff information points, witness support facilities and other community services as considered appropriate in the local area.**
- 8.50** All those attending court need to be able to see and hear the proceedings in a safe and secure environment. This is not only about the design and acoustic facilities in court but also about the manner of proceedings, ensuring for example that the defendant is present in the courtroom when the proceedings begin and that speech is directed towards all those in court. Preventing the intimidation of witnesses and victims should be a high priority when addressing layout and procedures. Flexible courtroom facilities, which allow modifications

according to the type of case being heard, can be useful. For example, while there is a strong case for a non-intimidating environment in youth courts, a key requirement for certain vulnerable witnesses may be special screening in the courtroom. With these considerations in mind, **we recommend that the layout of courtrooms should take account of the needs of the judge and those attending court to have good lines of sight and be able to hear the proceedings. Courtrooms should have the appropriate degree of formality, and be designed to minimise the risk of jury or witness intimidation. We also recommend research into audibility, layout and procedure in the courts throughout Northern Ireland to highlight any simple improvements that might be made. We note the importance of those participating in court speaking clearly.**

- 8.51** We endorse the approach to continued improvement in facilities at courthouses and recognise that this will be an incremental process. **Local court user groups will have a role in making suggestions for and monitoring improvements in facilities with reference to agreed standards.**

LANGUAGE AND DRESS

- 8.52** We have considered the dress worn and language used in court in view of the need to ensure that the environment is not overly intimidating and that the court ethos is reflective of modern society. We consider that there is merit in being able to identify the judiciary, lawyers and court officials within a court but that this purpose could be served by wearing white bands (“tabs”) and a simple black gown to reflect the wearer’s position within the system, i.e. judge, Queen’s Counsel, junior barrister and solicitor. In our view the wearing of wigs is archaic, serves no useful purpose and can contribute to the discomfort that some members of the public feel about attending court. Whilst traditional robes may be appropriate on ceremonial occasions, **we recommend the simplification of dress worn in court and an end to the wearing of wigs except on ceremonial occasions.**
- 8.53** The Woolf Report on the civil justice system in England and Wales¹⁵ identified a number of ways in which the civil justice system could help to ensure access to justice. One of these was that the system should “be understandable to those who use it”. The report indicated that the system of justice and the rules which govern it should be broadly comprehensible not only to an inner circle of initiates but to non-professional advisers and, so far as possible, to ordinary people of average ability who are unlikely to have more than a single encounter with the system. It also advocated the removal from the language used in courts of words and expressions that were meaningless or confusing to non-lawyers. We agree with the thrust of

¹⁵ *Access to Justice* (1998), final report to the Lord Chancellor on the civil justice system in England and Wales, London: HMSO.

the recommendations of the Woolf report, that the proceedings in court should be comprehensible to non-lawyers. **We recommend that steps be taken to ensure the language used in the criminal courts is easily understood by lay people.**

8.54 We note the human right of everyone charged with a criminal offence to have the free assistance of an interpreter if he or she cannot understand or speak the language used in court. This right is upheld by the courts in Northern Ireland. If a judge believes that a defendant cannot understand or speak English an interpreter must be made available. The Northern Ireland inter-agency group on vulnerable or intimidated witnesses has found that there can be some difficulty in obtaining translators for different parts of the criminal justice system. Court Service data, however, indicate that there is rarely demand for the services of an interpreter in court.¹⁶ Nevertheless it is in the interests of justice that interpreters should be readily available and **we endorse the work that is currently under way in drawing up a common list of interpreters to be used for victims, witnesses and suspects.**

8.55 The demand for the right to conduct court business in Irish was made during the consultation process. The Administration of Justice (Language) Act (Ireland) 1737 provides that the official language of the courts is English. As noted above, interpreters are only provided if a defendant cannot understand English; an individual appearing in court does not have a right to choose to use Irish. The position is similar in England where a translator is only provided when a person with insufficient command of English is on trial. However in Wales the Welsh language may be spoken by any party, witness or other person who desires to use it, subject to rules of court to give prior notice.¹⁷

8.56 In the Belfast Agreement the Government gave a commitment to promote the use of Irish in public life. Since the Agreement the Government has announced its intention to sign the *Council of Europe Charter for Regional or Minority Languages*. In specifying Irish under the Charter the Government has undertaken to eliminate any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language and intended to discourage or endanger the maintenance of it.¹⁸ Under Part III of the Charter specific measures are proposed to promote the use of Irish in public life. **We recommend that consideration of the use of the Irish language in courts be taken forward in the wider context of the development of policy on the use of Irish in public life generally.**

16 In the period between January 1998 and June 1999 there were only two instances when the services of an interpreter were required in court.

17 Welsh Language Act 1993 section 22.

18 *Council of Europe Charter for Regional or Minority Languages* Part II.

SECURITY AND POLICE PRESENCE

- 8.57** The need to secure the courts and the safety of those attending is of paramount importance. We recognise the difficult conditions in which the courts have operated in Northern Ireland in the past. It is clear to us that there has been a requirement for police attendance at court entrances for security and public order reasons. We understand this need and believe that appropriate security measures must continue in line with the assessment of the security risk.
- 8.58** We have heard some disquiet about the impression created by the numbers of uniformed police inside courthouses. Some people felt this to be overbearing, although it is worth mentioning that one focus group was agreed that the police on duty were the most friendly people at the courts.¹⁹ On our visits to courts there was a relatively high visibility of police, who on occasion were responsible for directing people entering the court building. Increasing normalisation of society will enable the police presence at court to be reduced on a phased basis. **In line with the assessment of security risk, the Court Service should assume full responsibility for security at its courthouses, for jury keeping and for the reception and provision of information for court users.** While this will reduce the burden on the police, the Court Service will require additional resources to enable it to take on these tasks.
- 8.59** As we have noted, research we carried out found that fear of intimidation was a significant factor in deterring attendance at court. This is a serious problem that must be addressed by the Court Service, in conjunction with the police, who will remain responsible for dealing with any incidents. **We recommend that the Court Service should have the responsibility, in consultation with the police, for drawing up policy in relation to countering intimidation of jurors, witnesses, victims and other members of the public on court premises and for ensuring that the policy is implemented.**

ETHOS OF THE COURTS

- 8.60** The courts in England and Wales and Northern Ireland have traditionally been identified with the symbols of the head of state. The traditional conceptualisation has been of the monarch as the source and fountain of justice, with the Sovereign's Majesty deemed always to be present in court. It was perhaps in recognition of this that the practice of displaying a Royal Coat of Arms behind the judge's chair evolved. In Northern Ireland, as in England and Wales, practice varies on displaying the Royal Coat of Arms on the outside of courthouses. In Northern Ireland some 50% of courthouses do not display the Royal Coat of Arms on the outside of the building. It is also practice for the Union flag to be flown at courthouses on days when the flag is flown on Government properties that are the responsibility of the

¹⁹ Dunn, Morgan and Dawson, Research Report 12.

Secretary of State for Northern Ireland.²⁰

8.61 The Belfast Agreement makes a firm commitment to partnership, equality and mutual respect and makes securing the confidence of all parts of the community an aim of the criminal justice system. All parties to the Agreement acknowledged the sensitivity of the use of symbols and emblems for public purposes and the need to ensure that they are used in a manner that promotes mutual respect. One possibility would be to match the Royal Coat of Arms with an Irish symbol; but this would, in our view, risk introducing a political element into the court environment. We also considered the removal of all symbols, but felt that this could be misinterpreted as being inconsistent with Northern Ireland's constitutional position. On the other hand, we are conscious that the presence of the Royal Coat of Arms in a prominent position in the courtroom could be regarded by some as off-putting and inconsistent with the need for court proceedings to take place in a neutral environment.

8.62 It is with these considerations in mind that we make the following recommendations. **We recommend that there should be no change in the arrangements for displaying the Royal Coat of Arms on the exterior of existing courthouses. However, in order to create an environment in which all those attending court can feel comfortable we recommend that the interior of courtrooms should be free of any symbols. We recommend that the flying of the Union flag at courthouses should continue to be in line with flag flying practice at other government buildings which are the responsibility of the Secretary of State for Northern Ireland. These practices would become subject to any decision of the Assembly on devolution of responsibility for courts administration.** We look to a future when these issues can be addressed on an agreed basis to the satisfaction of all parts of the community. In time it may be more fitting to move towards symbols that emphasise the separation of the courts from the executive.

8.63 We do not recommend any change to the names of the Royal Courts of Justice or the Crown Court. We note that the form of the jurors' oath in Northern Ireland was brought into line with that in the rest of the United Kingdom in 1996 and makes no reference to the Monarch. The declaration of "God Save The Queen" on entry and exit of judiciary to some of the Crown Court venues and county courts in Northern Ireland occurs at the discretion of the judge and has no statutory basis. We note that in Scotland a shout of the word "Court" only is made on the opening and closing of courts. In England and Wales the practice varies. **We believe that the declaration of "God Save The Queen" on entry of the judiciary to the court is unnecessary and we recommend that this practice should end.**

20 Other public buildings in Northern Ireland are responsible for their own arrangements.

COURT STRUCTURE AND JURISDICTION

- 8.64** Under the current system most of the business handled by county courts is civil, their criminal jurisdiction being limited to appeals from magistrates' and youth courts. The courts at the tier below, the magistrates' court, and the tier above, the Crown Court, deal with criminal cases at first instance. Combining the jurisdiction of the county court with the Crown Court might on the face of it have merit. It could allow a more flexible use of court sittings and judiciary, facilitating the exchange of innovative ideas between civil courts and criminal courts in integrated court settings and perhaps facilitating career progression for resident magistrates (who we propose elsewhere should be re-titled district judges (magistrates' courts)). However, given that the county courts have a mixed civil and criminal jurisdiction, an arrangement which works and which was not raised with us during the consultation process, we do not feel that it is appropriate for us to make any recommendation on this issue. Nevertheless, it has been a number of years since the court structure in Northern Ireland was last examined and there may be a case for a review of the court structure and the jurisdiction of the various courts.
- 8.65** Some respondents to our consultation process suggested that there should be a Northern Ireland or all-island Supreme Court. Such ideas came from two distinct perspectives. The first was that there should be a constitutional court to interpret a Bill of Rights, while the second was concerned with the establishment of a final court of appeal. Both suggestions would involve removing cases from the jurisdiction of the House of Lords by reconstituting supreme judicial authority in a new court. Clearly the questions raised by such proposals go beyond our terms of reference and we make no recommendation on them.