

HM Courts and Tribunal Service
HMCTS Property Directorate Consultation
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By email only: estatesconsultation@justice.gov.uk

Dear Sirs,

Proposal on the future of Medway County and Family Court

We recognise the difficulty facing the court service with the imminent expiry on the lease at Medway County Court. We are concerned however, that the proposals as set out may adversely affect vulnerable court users.

APIL's long standing position is that there should be full and fair access to justice. We believe that the proposals, if implemented as planned, may make access to the courts difficult for some. We do not answer the questions put provide our general comments.

Administration and distribution of court business

We understand from our members that the current practice in the South East circuit is for multi-track personal injury cases to be listed for a standard pre-trial review hearing before the multi-track trial takes place. These trials are usually listed twice a year around April and October. The standard directions for the pre-trial hearing means that all parties are required to attend court. It is not unusual for 20 to 25 cases to be listed on a pre-trial review day. Operating in such a way means that the parties have the opportunity to narrow the issues in a case and where possible agree settlement. From the consultation paper it appears that all work from Medway County Court will be listed at Maidstone. We are concerned about the courts administrative capacity and that there may be a temptation to list work at other surrounding courts such as Dartford, Canterbury or even Brighton and Hove, if Maidstone becomes too busy. This will have a serious impact on vulnerable court users. The process of going to court is already extremely stressful and daunting for injured people, who are

already vulnerable and likely one-time users of the system. Increased travelling times and the requirement to attend a court somewhere unfamiliar is likely to increase stress and may even deter injured person from bringing a claim entirely.

The administration of cases should be paramount, but the proposals could result in significant additional burden on Maidstone staff. Following the recent round of court closures, we are concerned that Medway staff may have become overwhelmed with work. Care must be taken to ensure that Maidstone can provide an efficient and well-run service to meet the needs of all of their users, as it has already taken on extra work following the closure of Tunbridge County Court in the 2016-17 financial year. There must be adequate provision of services to deal with the increased workloads that are expected, including sufficient staffing levels required to deal with the influx of new cases.

Many of the courts that remain open following the recent court closures are already under huge strain, and this is already causing delays to the resolution of cases. It is extremely important that the quality of service throughout the courts does not suffer further and that there is efficient administration of justice. Undue delay will cause stress and concern for the injured person.

Litigants in person will also be disadvantaged if the proposals are implemented as planned. Currently, if a litigant in person is confused or unsure how to comply with directions for example, they can call the local court or even attend in person and someone will be on hand to discuss how to proceed. This helps to reduce the strain on the courts and cut down on delays to other cases later in the process, as the litigant in person will understand what they need to do so will comply with time limits and will not take up more than their allocated time at hearings by asking questions. With increased workloads on Maidstone, it is highly likely that the litigant in person will no longer be able to obtain the support they require and they will simply be left to their own devices. If they are unsure what to do, further court delays will occur.

Temporary arrangements

Care must also be taken so that if the proposals do go ahead, transitional plans are in place to preserve efficient access to the courts. Hearings that have already been scheduled months in advance could be at risk. If the court closes before the scheduled date for a hearing, the parties stand to lose their date and venue and we are concerned they will be pushed to the back of the queue. This will cause distress to the injured person. Plans must be implemented to ease the transition.

Whilst greater use of technology is to be welcomed in the court process, the Government must recognise that in some circumstances, attendance at court will be unavoidable. During the recent pandemic, the use of remote hearings has been unprecedented. However, we would express caution because there are certain issues and procedures within the personal injury claims process that require the parties to attend in person and there must be provision for this.

It is also imperative that there is proper infrastructure (broadband coverage etc) in place to ensure that there is no reduction in access to justice. Some areas of England and Wales have significant issues with broadband coverage. It is important that if there is increased use of video links etc, that there is sufficient technical infrastructure available both generally and

specifically within the court service which is fully resourced financially in order to allow this to happen.

It must also be recognised that vulnerable people, such as the elderly and people for whom English is not their first language, who may require extra assistance. Also, poorer households who may not have easy access to the internet, will be disproportionately affected by online hearings.

In relation to litigants in person it is particularly important that they can feel that they can come to the court and be able to get help from someone to explain the process. If a litigant in person can meet with someone to alleviate their concerns and explain how to comply with directions and so on, then this will help to reduce any delays potentially caused by the litigant in person further down the line.

About APIL

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation which has worked for 30 years to help injured people gain the access to justice they need, and to which they are entitled. We have more than 3,000 members who are committed to supporting the association's aims, and all are signed up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives, paralegals and some academics.

We hope our comments prove useful to you.

Yours faithfully,

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