

Further evidence submitted by District Judge (Magistrates Courts) Nicholas Crichton

1. Please note that I speak from the standpoint of family proceedings courts only. I have sat solely in family proceedings for the past 10 or 11 years, and I believe that I am still the only District Judge (Magistrates Courts) to do so.
2. I believe that issues of delay and the ability to get on with work efficiently without undue haste are closely connected to the commitment to prepare properly and to gain the confidence which comes from experience. In his oral evidence given on 9 November, Wall LJ said that "pro-active judicial management is absolutely crucial". I agree. A family judge must prepare in advance. He must have the confidence and experience to identify the issues. He must have the confidence to be proactive and to get everybody in the courtroom to focus on those issues. Only an experienced judge will say "I do not need an expert in this case". It is hard for an inexperienced judge to refuse an application for an expert.
3. I am certain of the need for greater judicial specialism. The skills required for sitting in family law are very different from those required in other branches of the law. There has been a steady move away from the adversarial approach, except in the most contentious cases. I believe that we need more judges sitting full-time, or at least for the greater part of the time, in family work. We need judges who are committed to family law and willing to undertake the considerable amount of preparation that is required, and who have a clear understanding of the needs of the children and families whom the courts seek to help. We would then be able to offer significantly greater judicial continuity which in turn would lead to a more efficient service and swifter conclusion.
4. At the present time in my court we have about 18 DJMCs who hold family tickets and who come to the court for some five to eight weeks per year for one or two weeks at a time. However hard they try I do not believe that this is sufficient to enable them to become confident in providing pro-active judicial case management. I believe that the situation outside London is much the same. Indeed, I believe that there are District Judges who hold family law tickets who cannot get very much work. The pressure of work at Wells Street is such that I would very much welcome another full-time resident family law DJMC.
5. The bench of DJMCs are all appointed from the ranks of criminal practitioners. I am confident in saying that no DJMC at present in post would want to sit full-time in family. However, I am also confident that there are many family law practitioners, both solicitors and barristers, who would wish to apply to sit full-time in the family proceedings court. I believe that we should be developing a job specification and advertising specifically for deputies to sit in the family proceedings court, without requiring them to sit in crime.
6. I appreciate that there may be an argument that if we follow these thoughts through to their conclusion we will be denying DJMCs who sit in crime the opportunity of having the wider experience of sitting in family law. I understand the point. I am more concerned to improve and develop the service for disadvantaged children and their families, but see no reason why the system cannot be sufficiently flexible to allow DJMCs who want to do the work to continue to do so.
7. It follows from the above that I agree with the view expressed by Munby J that there are not enough family law judges. Whenever these issues are discussed with practitioners there is always agreement on one issue—we need more courts and more specialist

judges. Two months represents 1% of a child's childhood. We must be available to hear cases and make decisions crucial to children's lives as close as possible to the optimum date, ie when all the information has been gathered and the case is ready to be heard. There are enough delays in waiting for assessments to be completed and reports prepared. The courts should not be adding to the delays because there are insufficient courts and judges available to hear cases when they are ready to be heard. Further delay is failing and sometimes harming the child. It also adds to the public expense in terms of longer time spent in foster care. It bears repeating that more full time experienced judges will mean greater judicial continuity and will lead to cases being decided more quickly.

8. Please see Munby J at p 32 of the transcript, and my own comments at p 59. There is a growing need for fact finding hearings, to decide whether or not allegations of domestic violence are true, the extent of the violence and its relevance to the issue of contact. These hearings often take as much as one, two or three days and need to be resolved quickly. Lack of judges and court time means that often they cannot be listed for months, and children are left in limbo.

9. In my oral evidence I referred to the value of legal advisers (formerly court clerks). As the Unified Courts Administration approaches there are increasing rumours that DJMCs may be required to sit without the benefit of legal advisers. I understand the point. Lay magistrates require the assistance of legal advisers, but DJMCs may not. However, legal advisers are of enormous value in assisting family courts in many ways. They have limited judicial powers which enable them to give directions and to case-manage. They free up the judge's time so that he can get on with hearing a case. They will have handled earlier directions hearings and will have some knowledge of what is going on in a case. They keep notes of evidence and note the judge's directions as and when they are made. They draw up orders with extreme efficiency. When I sit as a Recorder in county court I have to make a conscious effort to slow down and can work at only half the pace because I do not have that assistance. I believe that if DJMCs were to be deprived of the assistance of legal advisers they will be unable to work at the same speed, thereby increasing delays yet further.

Nicholas Crichton

District Judge (Magistrates Court)

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