

**CHIEF JUSTICE'S
TASKFORCE
ON
GENDER BIAS**

REPORT

for

**THE COMMITTEE ESTABLISHED TO CONSIDER THE ISSUES OF
"WOMEN'S ACCESS TO JUSTICE" AND "THE ENVIRONMENT OF
THE COURTS"**

prepared by

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This Report reflects the collective view of the Committee but does not in all respects necessarily reflect the views of individual members.

This Report does not include references to some initiatives already being undertaken by the Ministry of Justice and members of the Judiciary in addressing a number of the observations made. Rather, it has anticipated a response to the identification by the Committee of certain deficiencies and/or situations of a systemic nature which require review. It is hoped that this will be done in a collaborative sense following publication of the main Report.

Chairperson - Mr Brian Easton, Executive Director, Office of the Attorney General

1. COMPOSITION OF COMMITTEE

Brian Easton	Executive Director, Office of the Attorney General (Chair)
Carol Bahemia	Director, Legal Aid Western Australia
Cassandra Goldie	Legal Aid Western Australia (replacement for Carol Bahemia)
Lindsay Robbins	Senior Assistant Crown Counsel (Crown Solicitor's Office - Ministry of Justice)
Sue Lightfoot	Crown Prosecutor (Office of the Director of Public Prosecutions - Ministry of Justice)
Magdeline Fadjar	Senior Member, Immigration Review Tribunal WA
Karen Merrin J.P.	Brewer Street Legal Service
Val Marsden	National Committee on Violence Against Women
Barbara Kelly	Country Women's Association
Anne Matacz	Attorney General's Office

2. TERMS OF REFERENCE

2.1 The terms of reference for the Committee specifically concern access to justice and the environment of the courts.

2.2 The Committee's task was to identify how the Western Australian legal system may work in a manner that disadvantages women in the above two areas and to suggest possible solutions. The particular aspects facing Aboriginal women and the critical topic of restraining orders are the subjects of in-depth studies by other task force sub-committees and therefore references to them have been deliberately restricted to avoid unnecessary overlap. Since this Committee's interim report, we became aware of the "UK Charter", and the Ministry of Justice's "Justice Charter". The "UK Charter" addresses many of the problems that individual committee members had identified as key issues in relation to the court environment and the Ministry's Charter points to significant and encouraging new developments for the Western Australian justice system.

3. FOCUS OF THE COMMITTEE

3.1 The Committee was concerned to focus directly on the practical disadvantages faced by women, rather than to pursue a comparison of the different degrees of access to justice available to men and women or a theoretical analysis of problems for women.

3.2 The Committee did, however, acknowledge the reality that women were more disadvantaged than men as a group, because of the more typical nature of their economic dependency and child rearing responsibility, which resulted in less mobility and greater emotional and financial stress to them. Single mothers face greater demands in this context.

3.3 The Committee also acknowledged that, generally, women were more likely to be placed in the lower socio-economic group as a result of child bearing and associated responsibilities.

3.4 The Committee met between 13 September 1993 and May 1994.

Members visited the following Courts and Tribunal:

Supreme Court - to observe a sexual assault trial; the court environment and the holding cells.

District Court - to observe the court environment.

Perth Court of Petty Sessions - for a meeting with Magistrates Kenneth Moore and Ivan Brown; to observe restraining order applications and the general court environment.

Joondalup Court Complex - to observe the court environment.

Family Law Court - for a meeting with the Executive Officer; a conducted tour and explanation of the court environment.

Immigration Review Tribunal - for a conducted tour and explanation of the Tribunal environs by Ms Fadjar, Senior Member of the Immigration Review Tribunal WA.

Country Courts were not visited because of financial and time constraints placed on the Committee. However the Committee canvassed and received information from the following:

- Port Hedland Women's Refuge;
- Broome Women's Refuge;
- Country Women's Association;
- Port Hedland's Stipendiary Magistrate (telephone interview); and
- Women's Refuge Multicultural Services

Also, some Committee Members had separately visited courts in a number of country locations as part of their job requirements.

4. ACCESS TO JUSTICE

4.1 Status of Women Appearing in Court

Women need to have access to the justice system for a variety of reasons, including:-

(i) Supreme and District Courts

- (a) as witnesses/victims. In these courts women often appeared as victims of sexual assault or domestic violence. The continued growth in the area of sexual assault complaints is said to be 'disturbing' (DPP Annual Report 1992/93).
- (b) as defendants on social security fraud charges. Members of the Committee considered that some cases did not necessarily reflect greed but resulted from desperation caused by the emotional and financial burdens on single mothers.

(ii) Inferior Courts -

- (a) as defendants on social security fraud charges.
- (b) as offenders for minor offences or as applicants for restraining orders arising from actual or threatened domestic violence.

4.2 Cost of Access

4.2.1 Legal Aid Programs and Community Legal Centres are established to provide legal assistance to those with insufficient means to access the legal system themselves.

4.2.2 In Western Australia, limited resources result in legal aid being used for criminal defendants charged with the more serious offences in the criminal calendar such as homicide, sexual assault, armed robbery, grievous bodily harm and serious assaults. As these offences are largely committed by men, it follows that more men than women are represented by Legal Aid. However unintentional, the reality is that women often do not have legal representation when appearing in court and this points to a form of discrimination.

The following comment provided by the Legal Aid commission includes an extract from an Issues Paper on 'Gender Bias in Litigation Legal Aid' which is relevant in this regard.

"The gender bias in legal aid is largely, if not solely a function of distribution of aid amongst law types - people applying for aid in criminal matters have a greater expectation of approval and a large majority of applicants in criminal

matters are men." It appears that Legal Aid Commissions are currently operating a gender - neutral system of approving legal aid applications, other than in family law - the end result, however, is that because criminal matters receive the most approvals and expenditure, women are not receiving as much legal aid as men. However unintentional, this is a form of indirect discrimination.

The Justice Charter issued recently by the Ministry of Justice espouses a number of principles and practices that it is committed to follow in new policy directions in Western Australia. In partnership with the judiciary, planning initiatives being undertaken in courts' accommodation and courts' practice together with legislative changes being proposed by Government in the coming session of Parliament offer some encouraging signs. However, the urgent need for change is clear in the interests of a just and equitable society. It is obvious from the evidence brought forward to this committee that a considerable amount of work needs to be done by both Government and Judiciary if the challenge is to be met.

4.2.3 Assistance for women is available from independent community groups such as the Country Women's Association. In a brief report from Ms Kelly, the Association expressed the view that in isolated areas both men and women suffered added difficulties in accessing justice. Small town situations and isolated living circumstances often brought their own particular set of access difficulties. The Committee felt that these are compounded for women because of their more typical situation of economic dependency.

4.2.4 Private law firms are under-utilised. General lack of confidence, knowledge and support and their status in the lower socio-economic group are factors that can deter women from approaching "high powered" legal firms in St George's Terrace which they see as unwelcoming and predominantly male staffed. In any event lack of money often precluded such services.

4.2.5 The main alternative for women is the Community Legal Centre. Attached is a list of legal centres available in Perth distributed by the Family Court Counselling Service of W.A. The Committee heard from Ms Merrin (Brewer Street Legal Centre) that those centres are seriously under-resourced. This means that their main client group, viz women, is adversely affected as a direct consequence.

4.2.6 The Committee heard that lack of resources at these centres meant that the good will, commitment and dedication of workers had often been exploited and sometimes resulted in their "burning-out". Lack of planning for career opportunities for workers compounded this problem as they could not move on to other areas at appropriate times.

4.2.7 Specialist women's legal services and centres can serve a vital role in improving women's access to justice. They provide advice, information and referral on legal matters that affect women. Such specialist services, while assisting individual women, also function to help courts dominated by male lawyers to appreciate the female perspective.

4.2.8 The use of para-legals is one possible solution towards improving and enhancing women's access to justice. Para-legals are persons without formal legal qualifications who are engaged in legal activities under the supervision of a lawyer; they usually have some training or skills in legal matters and may be deployed to assist victims. Employment as a para-legal is a

career path particularly attractive to women who do not have formal legal qualifications, but who wish to use their potential to move beyond basic clerical duties within appropriate organisations. The five para-legals involved in Legal Aid's Client Services Section are all women. The current Government has made in its "Justice Charter" (attached) a "strong commitment" to extend to victims of crime "court companionship and emotional support; advocacy and referral to other services" (p.7).

4.2.9 Persons unable to afford legal representation can use the Duty Counsel Scheme. Under this scheme two to three lawyers are rostered on duty daily at the Perth Central Law Courts. Duty Counsel are also available at other metropolitan courts. These counsel provide limited legal advice and then refer the client to apply for legal aid if the matter is more complex. Should the Duty Counsel be unable to deal with the demand at a particular session they are at liberty, under legal aid, to use the services of any other lawyer who happens to be in the court vicinity. Presently Legal Aid Western Australia is operating a three month pilot scheme at the Central Law Courts to assist women in applying for restraining orders.

4.2.10 The voluntary Court Welfare Women's Group attends at all courts to give moral support to any person when requested until 1.00 pm daily. The group is not funded by the Government. No training is given to volunteers and none can be enforced. This group is to be distinguished from the Victim Support Service.

Volunteer Support Workers at the Immigration Tribunal must participate in a short training course to ensure that visitors to the Tribunal are not given a "layperson's" advice on the law. Lack of legal training may cause a volunteer to deter a person from continuing with an application which has legal merit. "Information referral training" is also mandatory for women's refuge workers.

4.2.11 The Country Women's Association Report noted that for country women the telephone was crucial in their access to justice. Their particular difficulties arise from isolation and lack of family or community support. The inherent isolation associated with country living can mean their economic and emotional dependency on husbands is far greater than for city women, and ready access to Courts and the legal system is denied them. Country women would rather not face a local or regional Court where they may know the presiding Magistrate or Justice of the Peace socially.

4.2.12 Fewer financial resources available to women meant in reality that they were less able to take advantage of legal services; less able to retain quality counsel; and therefore their accessibility to equal justice, as a gender group, before the law was seriously undermined.

Recommendations

- That the use of support workers such as para legals be greatly expanded to improve women's access to justice.
- That more resources be made available for women to access information about and support from the legal system.
- That the need for specialist women's legal services and centres be acknowledged and supported.
- That Community Legal Centres be supported more to cater for needs of women, including 9am - 9pm office hours; toll free number to a lawyer.
- That Community Legal Centres be resourced to provide better for the demands for legal advice to women and the provision of court representation for them.
- That a system be developed whereby complainants, defendants or applicants for restraining orders are provided with a list of organisations or persons who could be of help to them (such as provided by the attached list from the Family Court).
- That a community legal education system (particularly for schools) be developed to deal with a vast lack of knowledge by women in relation to their rights and protection of them. The dissemination of information should be discreet (to avoid conflict between the sexes) and should be available in community languages.

5. COURT ENVIRONMENT

5.1 General

Women are disadvantaged in a variety of ways once they have become involved in the court system. Examples are court administration, court facilities, court culture and the court proper.

Any consideration of the court proper must begin with an acceptance that most people who visit court for whatever reason are often emotionally disturbed by the experience.

The Sub Committee found that the NSW "ABC documentary" *So Help Me God* produced by Jenny Brocky portrays an excellent understanding of the emotional ordeals that some women experience when they access the Court system. It is strongly recommended that other sub committees of the Chief Justice's Task Force on Gender Bias view this video.

5.2 Court Precincts

5.2.1 Women often have the practical difficulties in dealing with child care responsibilities and their own emotional stress surrounding a court visit.

5.2.2 Members of the Committee visited several Inferior and Superior Courts in and around the metropolitan area and also drew on the experiences and observations of members of the Committee in relation to country courts in the north and south of the State.

5.2.3 The practical deficiencies for women in and around Court precincts included:

(i) Lack of child care facilities

Lack of these facilities is of concern, especially for women seeking restraining orders. It is understood that the Women's Refuge Multicultural Service wrote to the Chief Magistrate and received a positive response with an invitation for representatives to meet with him.

An excellent childcare facility exists at the Family Court. Four committee members visited this facility and believed it could serve as an excellent model for other Courts. The Ministry of Justice has committed itself to a review of child minding facilities in courts ("Justice Charter" p13). Obviously a woman appearing before the courts and concerned about her child will be distracted. Her ability to participate at her best possible level will be seriously undermined.

(ii) Lack of specifically defined areas or entries for the accused, the defendant or applicant

Offenders/victims often have one central entry point to most courts resulting in lack of separation from persons who have harmed them or with whom they are in domestic conflict. The milling around/jostling of defendants and victims outside court buildings is evident throughout the State but is more acute in country areas. Port Hedland and Kununurra have been observed by some Committee members and are cited as particular examples. The Committee found there has been a general lack of sensitivity to this problem in court planning in the past.

The Ministry of Justice has made this a planning priority ("Justice Charter" p.12).

The Committee notes that no provision has been made in the new multi-million court complex at Joondalup. (See "case study: Joondalup" p.9)

(iii) Court Decor

Court decor in WA is generally imposing, bleak and not user friendly, particularly in the Supreme Court. Initially the Family Courtrooms were informal but the Committee were informed on their visit to the new Family Court complex that the increased

formality in their new courtrooms was because experience had shown that informality had created a general lack of respect.

Members of the Committee were invited to visit the Immigration Review Tribunal's hearing room. The decor of the Tribunal had been carefully considered in an effort to present a pleasant, non-threatening atmosphere yet the dignity of the Tribunal has still been maintained (photographs attached).

A balance needs to be struck between court decor and the purpose for which the court is being used. Modification of the Supreme Court could be made without detracting from its dignity.

(iv) No appropriate refreshment facilities

Witnesses and defendants often have considerable waiting periods outside the courtroom area. Women appearing in court and who bring their children with them would benefit from proper refreshment facilities within the court environment. The Family Court had viewed refreshment areas as inappropriate because of the potential hostility between parties that appear in court and objects in an around the refreshment area may be used as missiles. This is possibly somewhat of an over-reaction.

Sir Charles Gairdner Hospital has had, since its inception, a large well maintained coffee shop and newsagency within its environs. This recognises that hospital visitors may well have long waiting periods. Court visitors do not have these same facilities.

(v) Holding cells

Members of the Committee visited the holding cells at the Supreme Court and noted their archaic features. It was felt that this situation demands immediate attention and the particular needs of women addressed as part of that action.

(vi) Lack of information in preparing a person for formal Courtroom procedures.

Most courts offer no information for the court visitor as to what they may expect in court even in relation to basic courtroom procedure.

Information booths exist in the Supreme and Central Law Courts to direct people where to go, but no literature is provided to assist them in relation to procedure.

The Family Court counselling area has a well stocked information stand displaying helpful literature.

The "UK Charter" was developed to ensure that court users are treated in a sympathetic and friendly way and that the court system at all times has its customers in mind. It is encouraging to note that the Ministry of Justice has made the following commitments to:

"provide clear and prominent signs within all Court and Tribunal facilities to direct and inform users."

"provide users of the Court system with information on Court protocol and processes they will be involved in by means of explanatory brochures and supplementary oral information".

A pilot survey undertaken in Wales identified tea, toys, toilets and telephones as four of the key needs of users that are often ill met. The Western Australian situation is clearly consistent with that found in Wales.

(vii) Inadequate para-legal assistance

Women who lack self confidence need assistance in maintaining their resolve to pursue their legal rights or cope with the distressing nature of a Court appearance. These women needed assistance in "walking through" the system. This is confirmed in the ABC documentary.

Some community services will ensure women clients are accompanied to Court - e.g. Sexual Assault Referral Centre, Fremantle Financial Advice and Welfare Service and most refuges. However, very little support is available to women who must go to Court.

The Women's Refuge Multicultural Service uses a model of an outreach support service that could be adopted for all women. The service provides information, advocacy and support via three workers in an office, whose role is to co-ordinate, administer, select, support, train and liaise with a group of 17 ethnic support workers (ESW). The ESW, who are all at least bi-lingual and bi-cultural, work on a one to one basis with women of their own ethnic background, for varying periods of time from as little as a few hours to irregular contact over a year or two, depending on how complex the issues and/or how difficult the attitude and behaviour of the former spouse.

(viii) Examples of additional problems in country locations

In Port Hedland, no public toilets are available at the Courthouse. A woman and/or her children must use the facilities at the nearby hotel.

It was reported that Port Hedland is not well served with public telephones. Women in low incomes families who cannot afford their own phone, have to rely on either themselves or their children running to the nearest phone box to ring Police when a breach of a restraining order is occurring. This can often be a distance in kilometres and the public telephone is often out of order. Proper maintenance of these facilities would greatly assist women in country areas as this is often their only means of communication.

(xi) A Case Study: Joondalup Court

The Committee has decided to include a separate report on its visit to the newly opened Joondalup Court. Many of the criticisms and short comings attributed to the Supreme and Central Law Courts are due to the age of the buildings and the social context in which they were designed. A report on the Joondalup

Court provides an opportunity to assess how contemporary court design and use are meeting the needs of women customers in 1994.

Members of the Sub-Committee visited the newly opened Joondalup Court. While it is an attractive and apparently user-friendly building it is obvious that its planning gave little consideration to the particular needs of women using this facility. The project scope for this development referred to a population catchment of 450,000. The design of this building did not acknowledge the need or provide for child-care facilities.

However there were many positive aspects of the new design, which include:-

- the separation of the registry from the courtrooms;
- interview rooms in the registry to discuss sensitive or confidential court applications;
- subtle separate seating areas for victims and offenders;
- fast tracking of restraining orders because of the close proximity of the police station (situated in the adjoining complex);
- restraining orders listed for 9.00am and invariably heard in a closed Court. Applicants are allowed to take a person in with them;
- provision of a remote witness service is available for restraining order applicants;
- special position of a Security Information Officer to provide information and assistance and to ensure that the Court business flows smoothly;
- excellent Court acoustics;
- use of natural light in the Court house;
- light tones in the Court decor;
- Duty Counsel - To ensure the smooth running of the Court, if the Registrar is aware that there are heavy bookings on a particular day he will contact the Perth office of Legal Aid who will send out an extra duty lawyer for that day.
- The holding facilities for women are in accordance with the standards prescribed by the Royal Commission into Aboriginal Deaths in Custody.
- The capacity for the development of two additional Courts.

The negative aspects of the court complex are:

- No child-care/baby facilities included in the original design. The Court management has allocated one small room for baby changing facilities and for use by Victim Support Services. This room is off the main waiting area for the Courts and a person would only be aware of it if informed by the Security Information Officer.
- In the original design there was no allocated area for the Court Welfare service. The Court management have since made a provision for these women.
- There are no refreshment facilities available in this new Court complex.
- A public telephone has been installed outside the Court but there are frequently problems with the availability of change.
- There is only one entrance/exit for each Courtroom. A separate exit through a central processing area would be desirable.

The effective management of the Joondalup Court is highly dependent on the goodwill of its staff and management. (We make this comment because it is the personal attitude, sensitivity and flexibility of the Court management and staff which help to overcome some of the shortcomings in the actual Court design/physical environment.)

There are many improvements and positive aspects in the design of the Joondalup Court as outlined above, however, there are two key areas of need identified in the "UK Charter" that have not yet been addressed in the design of the Joondalup Court, ie. childcare facilities and the provision of refreshment facilities. It was noted that the "Justice Charter" has drawn attention to the need for an examination of the demand for child minding facilities.

Recommendations

- That the need for provision of a support service for women be recognised as crucial and that support workers such as para-legals be available to assist women/young girls who appear in court as applicants in restraining orders, or as victims or as witnesses where appropriate.
- That provision of child care facilities be acknowledged by the relevant authorities as an essential service in courts. The Family Court facility should be followed as a model. The provision of suitably trained persons to be available for children during the time parents are present in the court should be of the highest priority.
- That the immediate redefinition of areas in courtroom precincts for witnesses/defendants and applicant/respondents be more practicable. More appropriate planning of new court buildings or those to be renovated particularly in the country areas should be undertaken to address this problem.
- That proper refreshment facilities be made available. The refreshment machine in the Supreme Court is not considered appropriate. The coffee shop facility at Sir Charles Gairdner Hospital is a desirable model.
- That there be access to toilet facilities within the court environment in country areas.
- That information booths similar to the one housed inside the counselling area of the Family Court, be made available immediately in every court foyer in full view and contain essential information for the court visitor.
- That staff at information booths in the Superior Courts be trained to ensure they are sympathetic and helpful to court visitors.

5.3 Court Proper

5.3.1 General

Consideration was given to the design and layout of the court; the gender make up of the court; court procedure and court culture. Identified areas of concern are -

5.3.2 Superior Courts

(i) Court Layout

Very little thought has been given to the feelings of victims (witnesses) in sexual assault cases in the way the Court has been planned.

Members of the Committee visited a sexual assault trial and observed the positioning of the witness box in relation to the dock in which the accused sat while the victim gave evidence. The deep embarrassment and humiliation to a victim witness because of her exposure when recanting intimate sexual details of a violation upon her was obvious. In one Court of the Supreme Court the witness box was built to hold the witness aloft and jugged out to enhance maximum visual exposure to the jury, the general public and the accused. Some witness boxes allow the person to be viewed fully by the assailant. The Committee heard from one prosecutor that when a victim of a sexual assault case entered the witness box (in a country court) she raised her hand to the side of her face to protect her face being exposed to the accused. The male judge who did not understand the reason for her effecting this position told her in a rather irritating way to "put your hand down". There appears to be a considerable lack of female psychological perspective in relation to this situation. The Committee could see no rationale for denying an adult sexual assault victim access to the remote witness facility currently used for child sexual assault victims.

(ii) Personnel

Court officers such as the judge, his associate, the usher, the court police, the defence counsel and prosecutors are predominantly male particularly in the District Court where the ushers and associates are generally drawn from the elite sections of the armed forces and most appointments follow word of mouth recommendations.

Generally court planners, who are men, underestimate a woman's sense of modesty. Coupled with the type of exposure outlined above, this compounds the general feelings already described by these women.

(iii) Acoustics

Women are comparatively non-assertive and speak quietly and because they are not assisted in court by a microphone can feel discounted. The microphone before a witness in the witness box is for recording purposes only and not voice amplification.

(iv) Sentencing

The complex sentencing structure has posed problems for women - they are unable to ascertain or do not know who to ask when an offender will be released. This is particularly important for victims of violent or sexual offences.

Recommendations

- That a less exposed and enclosed witness box for victims in sexual assault cases be provided in relevant courts.
- That an immediate review of recruitment practices in relation to court personnel be undertaken.
- That a Judicial education program be introduced in relation to an awareness of the female victim perspective as victims/witnesses in sexual assault cases.
- That voice amplification facilities be installed in all courts.
- That a system to advise relevant persons of an offenders release date be established.

5.3.3 Inferior Courts

(i) Restraining Orders

Interim orders may be made in chambers, the substantive order in open court.

There appears to be an inconsistency in the use of the magistrate's discretion when granting interim restraining orders. The Committee visited a restraining order court and spoke with several magistrates about restraining order applications and procedures. A clear divergence of views exists between magistrates as to how they approached decisions in granting restraining orders. Most notably, in an *ex parte* application, one magistrate may accept the word of the woman applicant while another magistrate would prefer to hear the male person's explanation. The Committee understands that in relation to restraining orders Magistrate McGuire has coordinated a special committee to deal with this issue.

Experiences in the Pilbara region showed that restraining orders were dealt with in an open court either at the beginning or end of the court proceedings. This is basically reflected in the metropolitan and outer metropolitan areas.

This procedure often necessitated the woman sitting in a busy waiting area and quite often her spouse or the person whom she was seeking to restrain was in near proximity. While this is a harrowing experience for many women it can be more so for Aboriginal women as very often other members of her partner's family are present and deliberately intimidating.

By the time her application is heard the woman has become extremely distressed and nervous. She has to reveal, in an open courtroom, intimate details that are embarrassing and humiliating. Together with other environmental facts discussed above the woman often breaks down.

The Committee found that this public forum procedure was a further degradation to the woman.

While many magistrates are sensitive to the needs of women who are applying for restraining orders, the early and private hearing of a restraining order application and the opportunity to have a support person accompany the women should not be left to the individual discretion of the magistrate.

Solicitors are able to bring into the court an articulated clerk or any other support person without reference to the magistrate but it appears that the same latitude is not afforded to an unrepresented person.

The restraining order procedure was compared with the procedure adopted at the Immigration Review Tribunal with its informal inquisitorial procedures and its calming pleasant "user friendly" decor. The Committee was informed that the latter procedure tended to result in a more visibly relaxed applicant.

(ii) Judgment Debtors

The Local Court sometimes reveals a difference in treatment by male magistrates of women judgment debtors as opposed to men. An example was given of the way a male magistrate had treated a 34 year old married man, with a family, with some degree of sympathy that he should find himself in such an uncomfortable situation, while he treated a single female parent in similar circumstances in a childlike manner.

While the Committee acknowledged that State Government instrumentalities were entitled to payment of outstanding monies it considered that further research was required into how this problem ought to be pursued. Perhaps resources ought to be utilised to attack the cause - poor financial management of money by women already in dire financial circumstances because of their socio-economic position and because of the additional financial burden of raising children.

Recommendations

- That applications for restraining orders be heard in chambers or in a closed court.
- That amendments be made to the Justices Act to the effect that magistrates have no discretion to exclude a person accompanying an applicant for a restraining order.
- That a Financial Management education program be introduced to assist single mothers in particular.

5.3.4 Culture and Language

- (i) The Committee had the benefit of a report from one of its members which contained an overview of her experience within the Court system in and around the Pilbara region. She has observed Aboriginal women while a Justice of the Peace and as a refuge and support worker for women. Her observations were:-

- The experience of Aboriginal and Torres Strait islander women illustrate that not all women have equal access to and equality before the court system. They confront a system completely alien to their culture and traditions.
 - The judicial system, in the main, does not take into account cultural differences and tribal law as mitigating factors.
 - The court does not fully recognise Aboriginal kinship; the extended family role; and that in some circumstances these women are unable to say the name or talk to, or about, a particular person in court or anywhere else.
 - Aboriginal women are frightened of the judicial system, simply because they do not understand it and find it very hard to access. The language within the court is foreign to them and they find it hard to deal with something they cannot comprehend.
 - Aboriginal women have expressed the view that when called as a witness they often feel like the accused and are offered little or no support. Aboriginal women find it "shame" to talk about personal matters in this atmosphere. Often they speak softly and slowly and are afraid of making a mistake when giving evidence in case they are punished.
 - Because of the history of Aborigines in the white man's legal system Aboriginal women find it hard to be assertive and it leads them to believe that the evidence they give is not of equal value.
 - Sadly all women are largely left to cope alone with the stress of new and frightening emotions that are generated by the court experience.
- (ii) The Women's Refuges Multicultural Service provided the following information in relation to the difficulties experienced by women from non-English speaking backgrounds (NESB) as they access the justice system.

While it is acknowledged that all women experience gender bias in their access to justice, the following problems are experienced by NESB women:-

- language - even when a NESB woman's grasp of English is quite good, the emotional trauma experienced when attending court may cause her to forget the English she would normally be able to use. Language problems can generally be solved with the aid of an interpreter, but in most cases (the exception being the Court of Petty Sessions Perth) the court will not pay for interpreters. Courts generally refuse to book interpreters even if the matter has to be adjourned on more than one occasion for this reason alone.

- culture/religion - often arguments are put that a number of NESB women have a cultural background that includes violence; and that there is a certain cultural submissiveness on the part of some ethnic groups.
 - NESB women have the additional burden of finding lawyers who are prepared to work with interpreters and are not influenced by anti-foreigner beliefs or sentiments. Such prejudices by members of the legal profession are often not overt or even conscious and may manifest themselves in extreme delays in achieving settlement in any matter or in the attitude that the women are greedy if they want an equitable settlement for themselves or their children.
- (iv) The following points or difficulties experienced by NESB women were also expressed by a woman working in the Port Hedland area (some of these points are slight duplications of the above):
- Police and the judicial system are not trusted due to experiences in their own country.
 - When English is not their first language it makes the procedure of getting a restraining order (or any other contact with Police or judiciary) more traumatic.
 - There are entrenched prejudicial attitudes evident in many of the male and female counter officers who deal with Asian women. They are stereo-typed and attitudes tend to be negative towards them.
 - The use of the telephone by NESB women is often difficult particularly if they are in an emotional state, which hampers the enforcement of restraining orders.
 - There is a great stigma in going to a women's refuge, but there are no alternatives.

5.3.5 The area requiring the greatest attention observed by members of the Committee was the need for a woman victim or offender to be "walked" through the system. Friendly faces or a person who has time to explain the Court system and the options available to women are sadly lacking.

This problem is exacerbated for women in country areas or remote areas where no services are available within their reach. Special attention ought to be given in those situations.

Recommendations

- That the particular difficulties and needs experienced by Aboriginal and NESB women as they access the criminal justice system be recognised and accommodated in all courts' procedures, planning and practices.
- That special attention be given to the needs of women in country or remote areas where they have additional difficulties in accessing the criminal justice system.
- That the Judiciary be educated on the Aboriginal female perspective in courtroom situations.
- That para-legal staff be provided to assist these women with Court procedure and to offer them emotional support. This need became the dominant and recurring message to Committee members in the absence of adequate information and support resources to assist and guide women in particular through the maze of the court (and more generally legal) system.

CONCLUSION

This report has considered only two aspects of the legal system in relation to determining whether gender bias exists. That consideration, by necessity, has been a practical one. While the Committee was confined to commenting on these two issues it was evident during our meetings that members believed a systemic gender bias existed within our whole legal system.

The fact that gender bias exists may not be intentional but a product of the historical evolution of laws and practices and procedures that have been developed largely by white Anglo-Saxon males. It could not be expected that they would necessarily be sensitive to or even aware of the female perspective in relation to, for example, the effects of being visually and psychologically exposed in court to a person who had perpetrated a sexual assault on her, or of the practical problems facing a woman attending court with her children, nor an awareness of the special problems that face other cultures. In relation to access to justice it is apparent that a legal system which is so costly will impact disadvantageously on women because of the reality that they form the major lower socioeconomic group in Australia. The Committee learnt that only 9% of women in Australia in 1989/90 received more than \$30,000 per year in income, in comparison to 33.3% of males. (see ABS "Women in Australia" P.170 attached).

Underpinning all of these problems is the fact that women are not equally represented at all levels of the judicial system. Consequently the system cannot take proper account of the female perspective - a perspective of half the adult population of Australia. In order for a proper account of this perspective to happen, the level of participation of women at all stages of the judicial system needs to be increased; and a commitment given by those presently in decision-making positions within the legal system, to be educated to a responsible level of awareness of the female perspective.

Successive Governments have enacted laws to protect victims of crimes. In order for women victims to receive that level of protection immediate practical steps need to be taken to ensure that they have access to those rights.

It is the Committee's view that women's needs are not being met under the current judicial system. They need services that they can afford; they need assistance to help them "walk through" the system; they need the provision of child care facilities, refreshments and toilets within the courtroom environment; they need to know that when they enter a court to testify as a victim/witness in a sexual assault case that their physical and psychological exposure to the accused will be minimised.

Until these basic needs are seriously acknowledged and solutions brought forward, women will continue to be disadvantaged because of their gender and will, generally, lack a confidence in the judicial system.

The Justice charter issued recently by the Ministry of Justice espouses a number of principles and practices that it is committed to follow in new policy directions in Western Australia. In partnership with the judiciary, planning initiatives being undertaken in courts' accommodation and courts' practice together with legislative changes being proposed by Government in the coming session of Parliament offer encouraging signs for change. The challenge for necessary change is clear in the interests of a just and equitable society.

RECOMMENDATIONS

- **The provision of a support service for women is crucial.** Support workers such as para-legals should be available to assist women/young girls who appear in court as applicants in restraining orders, or as victims or as witnesses where appropriate.
- **Provision of child care facilities is essential.** The Family Court facility should be followed. The immediate provision of a suitably trained person to be available for children during the time parents are present in the court.
- **The immediate redefinition of areas in courtroom precincts for witnesses/defendants and applicant/respondents.** More appropriate planning of new court buildings or those to be renovated particularly in the country areas to address this problem.
- **Proper refreshment facilities should be made available.** The refreshment machine in the Supreme Court is not considered appropriate. The coffee shop facility at Sir Charles Gairdner Hospital is a model.
- **A system whereby defendants or applicants for restraining orders are provided with a list of organisations or persons who could be of help to them** (such as provided by the attached list from the Family Court).
- **Development of a community legal education system particularly at school level** to meet the problem of a vast lack of knowledge by women in relation to their rights and protection of them. The dissemination of information should be discreet (to avoid conflict between the sexes) and should be available in community languages.
- **Access to toilet facilities within the Court environment in country areas.**
- **Establishment of information booths** similar to the one housed inside the counselling area of the Family Court, should be made available immediately in every court foyer in full view and contain information for the court visitor.
- **The immediate retraining of staff at information booths in the Superior Courts** so they are sympathetic and helpful to court visitors.
- **The provision of a less exposed and enclosed witness box for victims in sexual assault cases.**
- **An immediate review of recruitment practices in relation to court personnel.**

- **Judicial education in relation to an awareness of the female victim perspective as victims/witnesses in sexual assault cases.**
- **Installation of voice amplification facilities.**
- **The establishment of a system to advise relevant persons of an offenders release date.**
- **That applications for restraining orders be heard in chambers or in a closed court.**
- **That amendments be made to the Justices Act to the effect that magistrates have no discretion to exclude a person accompanying an applicant for a restraining order.**
- **Provision of Financial Management education to single mothers.**
- **That the particular difficulties and needs experienced by Aboriginal and NESB women as they access the criminal justice system be recognised and accommodated.**
- **That special attention be given to the needs of women in country or remote areas where they have additional difficulties in accessing the criminal justice system.**
- **Judicial Education into how Aboriginal and NESB women relate to different situations in the Courtroom area depending on their status.**
- **Para-legal staff to assist these women with court procedure and to offer them emotional support.**

Shopfront Lawyer Office	Law Society House, 33 Barrack Street, Perth	221 5711
Legal Complaints	Legal Practitioners Complaints Committee Law Society	222 6522 221 3222
Financial Advice and Welfare Service	Cnr Parry & High Streets Fremantle	430 2290

FAMILY COURT OF WESTERN AUSTRALIA

150 Terrace Road
PERTH WA 6000

GPO Box 9991
PERTH WA 6848

TELEPHONE: (09) 224 8222

MAIN REGISTRY

For document filing, general enquiries. Open weekdays 9.00 am - 3.30 pm.
Level 1.

CHILDMINDING CENTRE

Weekdays 9.00 am - 1.00 pm, 2.00 pm - 4.30 pm. Level 3.

FAMILY COURT COUNSELLING SERVICE INFORMATION FORUM

Please contact the Counselling Service on (09) 224 8248 or 008 199 228
(tollfree) for an appointment. Level 3.

COLLECTOR OF MAINTENANCE

Weekdays 9.00 am - 3.30 pm. Level 1.

CENTRES

- Legal Advice Bureau
The following community centres have a legal advice bureau staffed by volunteer lawyers at the times specified below.
- Amadale Information and Referral Centre
Telephone: 497 1406
Legal advice by appointment.
- Nollamara Uniting Aid
Telephone: 344 3840
Monday night only 7.00-8.00pm by appointment.
- Lofus St Community Centre
99 Loftus St, Leederville W.A. 6007
Telephone: 328 3098
Legal advice (Tuesday 6.00-8.00pm by appointment).
- Lockridge Community Group
39 Dianna Cres, Lockridge W.A. 6054
Telephone: 279 1133
Legal advice (Mondays fortnightly 7.00-9.00pm by appointment).
- University Law School
8 Parkway Nodlands W.A. 6009
Telephone: 380 2945
Open during University terms.
Legal advice (Tuesday and Wednesday 7.00-9.00pm by appointment, no phone advice).
- Duncraig Information & Care Centre
29 Wandoo Rd, Duncraig W.A. 6023
Telephone: 448 5111
Legal advice (2nd and 4th Thursday each month, 6.00-8.00pm by appointment).
- Citizens Advice Bureau
33 Barrack St, Perth 6000
Telephone: 221 5711
Monday-Friday by appointment.
- Fremantle Telephone: 335 4540.
• Sepia Crt, Rockingham W.A. 6168
Telephone: 527 6671.
Legal advice (Thursday 2.30-3.30pm by appointment only).

LEGAL

COMMUNITY

CENTRES

LEGAL

COMMUNITY

Legal Advice can also be obtained from the following services:

- Legal Aid Commission

Perth	261 6222
Fremantle	335 7108
Midland	274 3327
Bunbury	(097) 212 277
Broome	(091) 921 888/921 413
South Hedland	(091) 723 733
Child Support Unit	261 6553

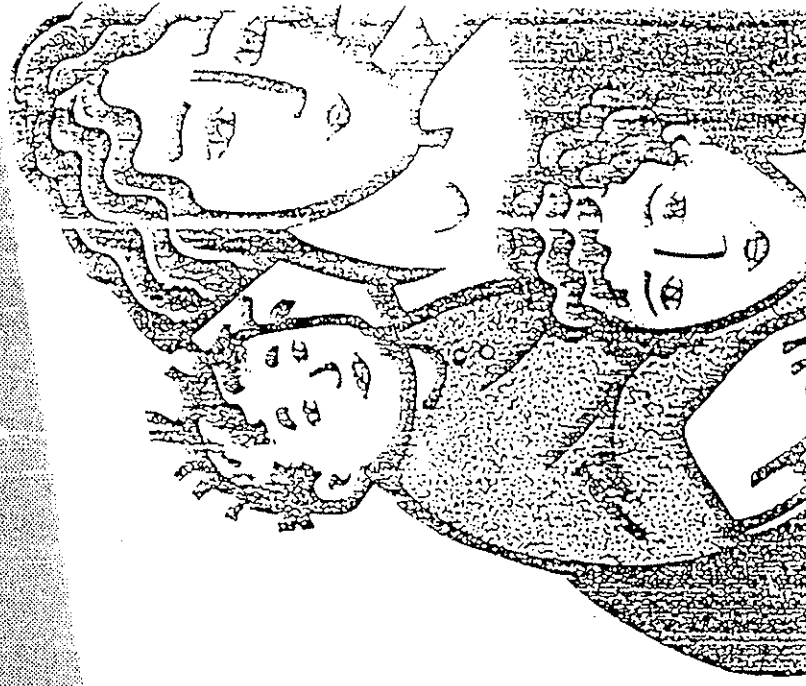
- Aboriginal Legal Service

Telephone: 265 6666

- Consumer Affairs Ministry

Telephone: 222 0666 (metropolitan)
008 199 117 (country).

Telephone advice available on consumer matters.



COMMUNITY LEGAL CENTRES

CENTRES

What is a legal centre?

Community Legal Centres provide legal advice to the community. These services are all independent of government control and are not part of the Legal Aid Commission of W.A. They each elect a management committee from their community and are staffed by both paid workers and volunteers.

There are some services which specialize in certain areas, such as the legal problems of youth, migrants, tenants or social security claimants. Most services are free.

Who can use the service?

Anyone in the community who cannot afford the cost of private legal services.

How can you use the services?

Services are open at different times depending on the availability of staff and their level of funding. Phone the legal service which you think will be able to help you and find out when they are open and when you can make an appointment.

Law Reform

Most Centres offer free talks and advice to local community groups.

Their common aim is to promote an understanding of the law to anyone who wants to use it.

Apart from helping anyone with immediate problems, Legal Centres are concerned about changing laws which are unjust. They are involved in campaigns which promote the rights and freedom of disadvantaged groups and individuals.

If you think you have a legal problem, feel free to contact the Legal Centre nearest you and they will be able to help you or refer you to someone who can.

COMMUNITY

CENTRES

W.A. Community Legal Centres

The following services give advice, assistance and advocacy on the legal matters mentioned below.

- **Financial Advice and Welfare Service**
Cnr Parry & High Sts, Fremantle W.A. 6160
Telephone: 430 2290
Advice on welfare, finance and consumer matters. Low cost legal service.
- **Sussex St Community Law Service**
29 Sussex St, East Victoria Park W.A. 6101
Telephone: 470 2676
Advice and advocacy on most legal and social welfare matters. Phone for an appointment. After hours legal advice (Monday 5-8pm, Thursday 6-8pm by appointment).
- **North Perth Migrant Resource Centre**
66 Angove St, North Perth W.A. 6006
Telephone: 328 5890/328 2699
Advice on most legal matters, specialized service for migrants.
- **Gosnells District Information Centre**
2240 Albany Hwy, Gosnells W.A. 6110
Telephone: 398 1455/398 1466
Advice on most legal matters. Family/ neighbourhood mediation service.
After hours legal advice (Thursday evenings by appointment).
Child Support Scheme Service for Social Security recipients.
Financial counselling and welfare rights service.
- **Brewer St Welfare Rights & Advocacy Service**
69 Brewer St, East Perth W.A. 6100
Telephone: 328 1751/328 6982
Advice and advocacy on welfare, social security and consumer matters.

LEGAL

COMMUNITY

CENTRES

• Tenants Advice Service

96 Parry St, Perth W.A. 6000
P.O. Box 8437, Perth 6849 Stirling St.
Telephone: 328 6278

Telephone advice on residential tenancy matters. 1.30-4.30pm Monday-Friday.

• Youth Legal Service

57 Short St, Perth W.A. 6000
Telephone: 227 4140

Advice on most legal matters, specialist service for youth under 25 years.

After hours legal advice (Tuesday 5.30-7.30pm by appointment).

• Kwinana/Rockingham Community Law Centre

Peel Crt, Kwinana W.A. 6167
P.O. Box 187, Kwinana W.A. 6167
Telephone: 413 2050

• Bunbury Community Legal Service

101 Victoria St, Bunbury W.A. 6230
Telephone: (097) 913 206

• Consumer Credit Legal Service

Ground Floor, 33 Barrack St, Perth 6000
Telephone: 221 3122.

Legal advice on consumer credit or debts matters available by appointment.

LEGAL

COMMUNITY

Swindles sap court deposits

AROUND £1 MILLION worth of funds paid into court between 1988 and 1992 was the subject of attempted or successful fraud, according to a report from the government's financial watchdog, the National Audit Office.

The NAO found that there were 54 separate incidents during the period affecting the court funds office - which is supposed to look after funds deposited in the courts for children, the mentally ill and other litigants.

Police began to investigate the frauds after they became larger and more serious in

1991 and consultants later concluded that several of the incidents 'may have been carried out by or with the assistance of members of the CFO'. It was not possible to identify those responsible.

Procedures in the office were then reviewed and changes to prevent new frauds were implemented.

However, because of the complexity of the CFO's work and because there is insufficient evidence to identify the perpetrators and anyone who helped them, the NAO is still concerned that 'unavoidable risks' remain for money paid into court.

-'Control of private assets by court funds office: incidence of fraud', report by the comptroller and auditor general, from the NAO, Buckingham Palace Road, London SW1W 9SP.

Jonathan McLeod

Clerks and justices oppose reforms

JUDICIAL independence may be sacrificed at the altar of managerial efficiency if government plans to reform the magistrates' courts go ahead as planned.

The stark warning has come from both magistrates and justices' clerks who are now preparing for a series of emergency meetings next month to rally opposition to the government's proposals.

Their concerns stem from proposals in the February 1992 white paper, A new framework for local justice.

Among other things, it suggested that justices' clerks would no longer be accountable to magistrates in their area, but instead to a proposed chief clerk who would in turn be responsible to the Lord Chancellor.

The white paper creates the potential of interference by central government in judicial decisions, and so crosses one of the dividing lines of powers which is a fundamental safeguard of a democratic society, argues a

discussion paper from magistrates in the north east sent to their judicial colleagues across the country.

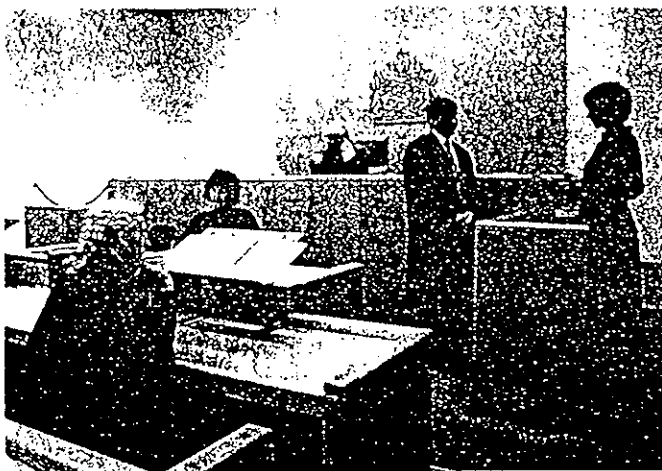
There is also concern that new working conditions for justices' clerks, including management targets, cash limits, performance appraisal and short-term contracts, will militate against the quality of their work.

Given the clerk's natural concern for his job and for his potential promotion prospects, together with all the external pressures on him, we believe it is unrealistic to suppose that these factors will not influence his advice to magistrates, the paper prepared by the north eastern regional group of chairmen of Benches and magistrates' court committees, says.

We favour change which will improve efficiency, but believe that the government's proposals far exceed what is necessary to achieve this.

Jonathan McLeod

Courts fall down on charter test



COUNTY COURTS are consistently failing to meet the standards laid down for them in the courts charter, according to a survey of 819 people using 35 courts in England and Wales.

The study, by the National Consumer Council, found some courts have not met the most basic requirements such as telling people how to get to the court or of the facilities available.

Court users also expressed concern about poor facilities and lack of privacy once they got there.

The courts charter (see [1992] *Gazette*, 25 November, 3) promises to send people maps of the court's location, details of parking and public transport, the types of facilities on offer and a contact name and number for more details.

But the NCC survey found that a staggering 90% of users had not received bus and rail information, 88% had not been given a map, 92% had not been told of the facilities and 77% had not been told whom to contact in case of problems or queries. As many as 81% of people wanted to receive more information as a matter of course before attending court.

More than half of all court users were unhappy about the lack of privacy afforded by the court, and of the 12% who wanted to make a

complaint, 76% did not know a formal procedure existed.

Awareness of the existence of the courts charter was itself very low, with 86% of users not having heard of it, and a third of those who had not having read it.

The NCC wants a nationwide network of court users' committees to be set up and consulted over the provision of court services. A pilot in Bargoed, Wales, has identified tea, toys, toilets and telephones as four of the key needs of users that are often ill met.

It also wants the LCD to promote the charter through a poster and leaflet campaign to produce a consumer guide to making a complaint with provision for compensation if complaints are upheld.

NCC director Ruth Evans said: 'Our evidence suggests that the courts charter is not being consistently or properly implemented. The LCD and all courts should review the extent to which they are meeting the charter promises.'

The Lord Chancellor's Department said that the NCC's findings were not a fair judgment and did not reflect the current situation in the courts.

-'CourtWatch - implementing the courts charter', £3.50 NCC, tel 071-730 0191

Jonathan McLeod

Courts charter marks new dawn

FROM 4 JANUARY next year the names of chief clerks at courts throughout the country will be displayed prominently. The idea behind this, 'outing', is not to penalise chief clerks but to give Sean Citizen somebody to turn to when things go wrong. The proposal is central to the Courts Charter – a new dawn in responsiveness to the public – published by the Lord Chancellor's department this week.

The charter promises: 'If we make a mistake we will apologise. We will tell you what went wrong and how the service is being put right.' There is however a get out clause to avert the wholesale lynching of chief clerks. 'Occasionally', it explains, 'because of the way people exercise their rights in conducting a case, some standards may not be reached'.

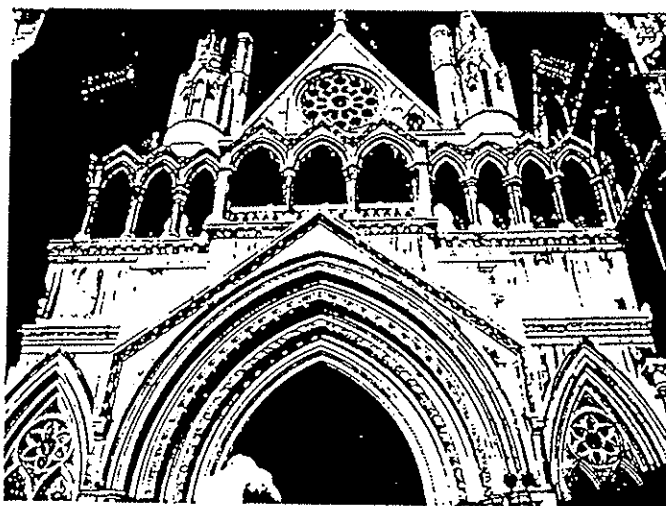
Despite this, the charter appears to be a genuine attempt to make the courts less off-putting to the unaccustomed citizen. Those called to court for any reason will be provided with comprehensive practical information in advance, relating to transport, and facilities at the court.

On arrival, they can expect 'courteous and prompt service' from court staff who will wear name badges. A maximum queuing time target will be displayed.

Standards of telephone service and written correspondence will also be polished up. Callers can expect an answer to telephone calls within 30 seconds and can expect a 'clear and helpful' response. Letters from the courts will bear the writer's name, section and telephone extension. The charter also contains measures aimed at ensuring

jurors' time is not wasted.

The charter will apply to all crown courts, county courts, the High Court and the Principal Registry of the Family Division and probate offices



from 4 January 1994. The magistrates' courts are excluded, but the charter points to the imminent establishment of an independent magistrates' courts' inspectorate which will be responsible for encouraging best practice at this level.

The charter sets out guidelines to be observed by courts in criminal and civil cases. For example, there should be no more than five weeks between the start of proceedings against an adult and a first appearance in the magistrates' courts.

Defendants in custody should not have to wait more than two weeks between

pleading not guilty and trial in the magistrates' court. And they should not have to wait more than eight weeks between a first hearing and committal for trial to the Crown Court. Under the charter, courts will aim to look at ways of reducing these waiting times further.

Each county court will offer a hearing date set within its own standards for waiting

time which will be displayed in the public area of the court building.

The aim of the Lord Chancellor's department is to bring waiting times in all courts down as far as possible. Other improvements in the offing, include reducing the number of times people have to attend court for hearings and widening the ambit of the small claims procedure to include straightforward housing disputes.

The charter was devised following a range of surveys and this research work is to continue.

Evelynne Gilvarry

Euro Razzall

TIM RAZZALL, chief executive of Frere Cholmeley, has been awarded the 'European Lawyer of the Year' title by the Institute of Lawyers in Europe. The award is in recognition of Frere Cholmeley's extensive

European branch network, with offices in Paris, Milan, Brussels, Monte Carlo, Berlin, Barcelona and Rome. These offices represent 25% of the firm's overall turnover. Frere Cholmeley was the only British firm invited to mount a stand at the government's EC presidency conference in September.

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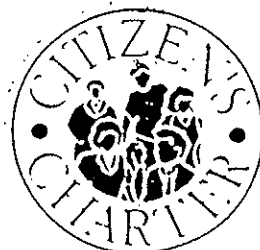
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'I suppose you sassenachs think Rumpole of the Bailey sufficient enough to advertise your legal system!'

The Courts Charter

55



RAISING THE STANDARD

Foreword

The Prime Minister launched the Citizen's Charter in July 1991 to raise the standards of public service and make them more responsive to your needs.

The Courts Charter sets the standard of service you can expect from staff who work in the courts; explains what will happen when you come to court and what you should do if something goes wrong. The Charter also tells you what is being done to improve the service in the courts and the steps being taken to make it easier for you to carry out business in the courts.

The departments most directly concerned with the courts, the Lord Chancellor's Department, the Law Officers' Departments and the Home Office, are committed to raising standards and improving performance.

THE AUSTRALIAN INSTITUTE
OF
JUDICIAL ADMINISTRATION INCORPORATED
95 BARRY STREET
CARLTON SOUTH, VICTORIA 3053



Lord Chancellor



Attorney General



Home Secretary

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The Charter

This Charter tells you what to expect when you come into contact with the courts and what you can do if something goes wrong.

The Courts

The main work of the courts is to try criminal cases, to decide civil (non-criminal) disputes and to settle family matters. The diagram on the inside cover gives you a simple explanation of the courts in England and Wales. In general:

- All criminal cases start in the magistrates' courts. They also deal with some civil cases such as certain family law matters.
- The Crown Court deals with the more serious criminal cases.
- County courts hear most civil disputes while some difficult or specialised cases are dealt with in the High Court.

Standards of Performance

The courts will achieve the standards of service and performance set out in this Charter. Some courts will provide an even better service and will publish these standards locally.

We will display all standards in the public area of the court building.

We will carry out regular surveys of court users to find out how we can continue to improve the standards to make sure they meet your needs.

The standards in this Charter will apply to all Crown Court Centres, county courts, the High Court, the Principal Registry of the Family Division and Probate Offices from 4 January 1993.

Magistrates' Courts and Youth Courts

Standards of performance in the magistrates' courts and youth courts (which have replaced the juvenile courts and deal with criminal cases where defendants are under 18 years of age) are the responsibility of the local committees of magistrates. The committees manage these courts and appoint Justices' Clerks to run them on a day-to-day basis. Because of this, sections of the Charter do not directly apply to magistrates' courts. We are, however, continuing to make changes which will help the committees improve the standards of service they offer.

- We will set up an independent inspectorate during 1993 to monitor the standard of service, increase efficiency, ensure value for money and encourage best practice among magistrates' courts. The inspectorate will publish their reports.

We will introduce legislation as soon as possible to:

- Improve accountability and management by streamlining and reducing the number of courts' committees. The committees will publish reports on the past year's performance and their plans for the years ahead.

- Allow magistrates' courts committees to invite competitive tenders from the private and public sectors for the provision of certain support services, for example, building maintenance.
- Introduce a system for linking pay with performance for senior staff.
- Enable the Audit Commission to report on the courts' activities.

Crown Prosecution Service

The Attorney General is the superintending minister of the Crown Prosecution Service. The Crown Prosecution Service is a nationwide service set up in 1986 to prosecute virtually all criminal cases in England and Wales. It decides independently whether criminal proceedings begun by the police should be continued. It must consider in each case whether there is sufficient evidence to provide a realistic prospect of conviction and whether prosecution is in the public interest. If the Crown Prosecution Service decides to proceed it prepares and conducts the case for the prosecution.

Court Users

You may come into contact with a court in a number of ways. You may be a:

- victim of crime
- witness giving evidence
- member of a jury
- defendant in a criminal case
- party in civil or family proceedings
- relative or friend of someone involved in a case
- member of the public wanting to observe justice in the courts.

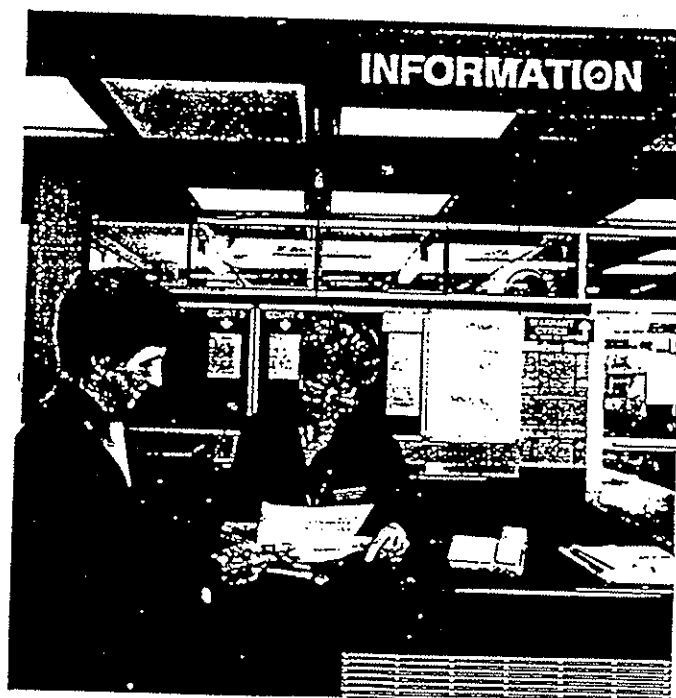
When Things Go Wrong

We will display the name of the Chief Clerk and the procedure for dealing with complaints in all courts.

If we make a mistake we will apologise. We will tell you what went wrong and how the service is being put right. Occasionally, however, because of the way people exercise their rights in conducting a case, some standards may not be reached.

Leaflets will be available in court telling you how to contact the Crown Prosecution Service.

If you have any suggestions for improvement please write to the Chief Clerk or tell court staff.



Coming to Court

You will only be called to court when necessary. This may be, for example, as a juror, defendant or witness. If we ask

you to attend court, we will send you:

- A map showing where the court is.
- Details of public transport and car parks close to the court.
- The date of the hearing and the opening hours of the court building.
- Details of facilities such as canteens, vending machines, a children's room and special arrangements for people with disabilities. (We will also tell you if these facilities are not available.)
- The name and telephone number of a person at the court whom you can contact for information. They will also help if you have special needs such as a disability or wish to wait in an area separate from other people involved in your court case.

When you arrive at the court you will find:

- Court staff who are available 30 minutes before the first scheduled hearing.
- Clear signposting.
- Courteous and prompt service from court staff who will wear name badges.
- Staff who will answer your questions; for example, about courtroom locations.



When you go to the public counter:

- If you ask, we will discuss 'business of a confidential nature' out of the hearing or other members of the public.
- A maximum queuing time target will be displayed. This will include average queuing times for the quiet and busy periods.

When you telephone the court we will give you:

- An answer to your call within 30 seconds.
- The name of the court.
- The name of the person dealing with your query.
- A clear, helpful response.
- Help and assistance if the person you want to speak to is unavailable.

When you write to the court we will:

- Reply to or acknowledge your correspondence (normally by

second-class post), within ten working days.

- Send you letters which give the writer's name, section and telephone extension.

Where possible, court staff will advise on technical procedure and help you fill in forms. They cannot, however, give legal advice. For this please consult a solicitor, Citizens Advice Bureau or Law Centre. If you wish to find out more about Legal Aid you should contact the Legal Aid Board for their booklet *A Practical Guide to Legal Aid*. See page 15 for their address and telephone number. The Legal Aid Board will be producing their own Statement of Charter Standards in 1993.

Criminal Business

Hearings in the Magistrates' Courts

The magistrates' courts hear nearly two million criminal cases a year.

Once a case has been brought against a defendant the magistrates' court and everyone involved in the case, such as the police and the Crown Prosecution Service, will work within the following guidelines:

- There should be no more than five weeks between the start of proceedings against an adult and a first appearance in a magistrates' court. The period for

children and young people in a youth court is three weeks.

- For a defendant in custody there should be no more than two weeks between a plea of not guilty and a trial in a magistrates' court. The period is eight weeks for a defendant on bail.
- For a defendant in custody there should be no more than eight weeks between a first hearing at a magistrates' court and committal for trial to the Crown Court. The period is 12 weeks for a defendant on bail.

We will continue to look at ways of reducing these waiting times.

Hearings in the Crown Court

The Crown Court deals with over 100,000 criminal cases a year. Once a case is sent to the Crown Court the following guidelines are used:

- If a defendant is in custody the trial should start within eight weeks of the case being committed for trial to the Crown Court.
- For a defendant on bail the trial should start within 16 weeks of committal for trial to the Crown Court.
- It should take no longer than four weeks between a case resulting in conviction and sentence being passed.

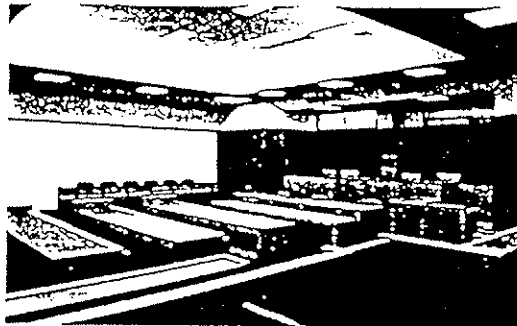
Performance is monitored against targets which are set annually. The results are published each year in the Court Service Annual Report.

Waiting time before a trial is kept to a minimum, but there can be many causes of delay which courts cannot control, for example:

- The people involved may not be ready for a trial because fresh evidence is produced.
- Witnesses may be unable to attend court
- Cases ahead of yours may take longer than originally expected

Jurors

The jury in a criminal case decides whether or not the defendant is guilty. As a juror you are usually required to attend court for about ten working days. If a trial is likely to last longer you will be asked if this will cause any difficulty



- In normal circumstances we will give you at least four weeks' notice of your call for jury service (a jury summons).
- We will send you a leaflet with your jury summons explaining the juror's role. This will also tell you about exemptions from jury service.
- When you come to the Crown Court we will explain the jury procedure and in most courts we will show you a video which will explain your role in more detail.
- Courts outside London have a target that jurors should sit on trials for at least 70 per cent of the days that they attend court. In London the target is 85 per cent because there are more multi-courtroom centres and jurors can be switched to other cases more easily

The results of performance against these targets are published each year in the Court Service Annual Report

- To try to ensure that your time is not wasted, we provide special telephone lines in many courts for you to check whether you need to attend court on a particular day. Where this service is not available, we will try to make other arrangements so that you attend court only when necessary

On some days during your period of jury service you may be told to go home without joining a jury. Sometimes, because of the way in which cases develop, you may have to wait. This can happen because the defendant pleads guilty unexpectedly, or because there are legal arguments which have to be heard without the jury being present.

You can claim certain allowances for travelling expenses and loss of earnings while attending for jury service. Court staff will help you complete the necessary form.

- You will be sent a cheque for your claim within five working days of the end of your jury service. In special circumstances we will make payments before the end of your service for the days you have already served.

Victims and Witnesses

Giving evidence is a vital public duty. You can help us by keeping the police informed of any dates when it would be difficult for you to attend. If you are a defence witness you should inform the defendant's solicitors.



- If you are a witness in a criminal case, we will send you an order to attend court with a leaflet, *Witness in Court*, which explains court procedure.

The order to attend court has to be written in legal language. However, the style of our letters is being reviewed to make sure they are clear and easily understood.

As a witness you can claim certain expenses. If you have lost earnings you can, within limits, be repaid.

- If you are a defence witness your expenses will be paid within five working days of you handing in your expense claim at court.
- If you are a prosecution witness called by the Crown Prosecution Service you should send your claim to them at the address shown on the form. They will pay you by cheque within five to ten working days of receiving your completed claim form.

It is the responsibility of each side to keep witnesses informed as the case develops, although it is often difficult to tell how long a trial will last. To make sure prosecution witnesses do not wait longer than necessary, you will be asked to come to court either in the morning or afternoon of the day when you are likely to give evidence.

- In the majority of cases, as a prosecution witness you should not be required to wait for more than two hours before being called to give evidence. As the case progresses the Crown Prosecution Service will tell you about any significant developments such as a defendant pleading guilty.

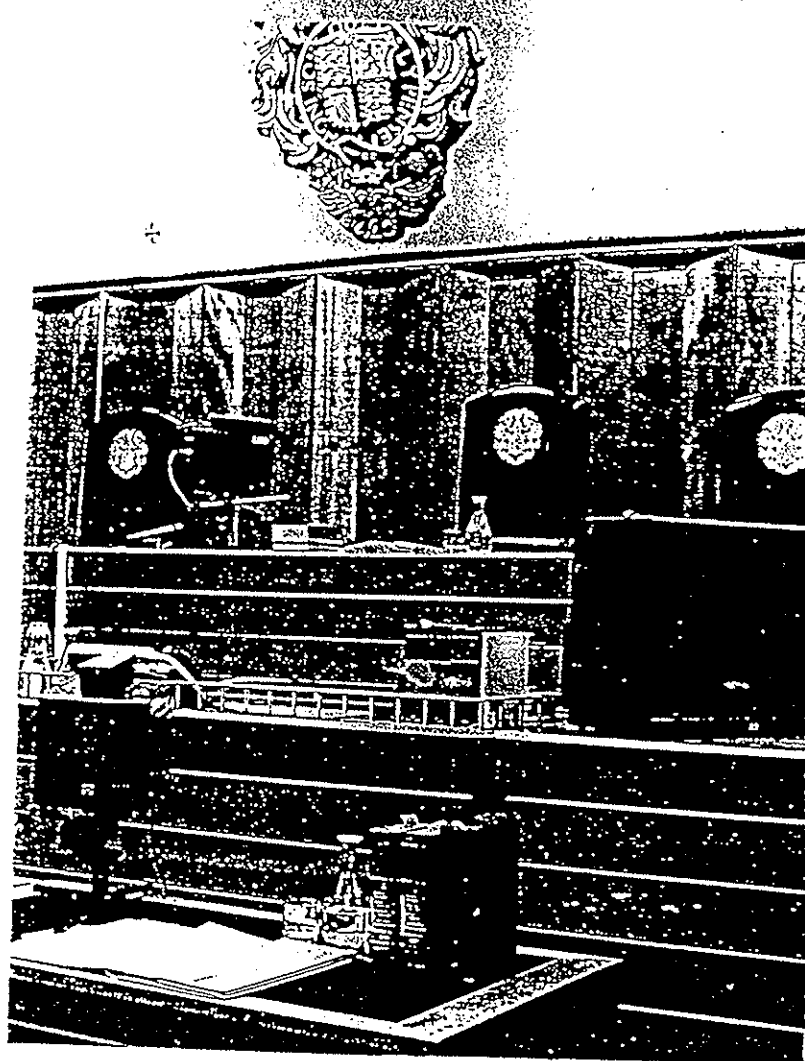
Comprehensive guidance and training are planned for Crown Prosecution Service staff on all aspects of witness and victim care. The guidance will cover contact with victims and witnesses at court: keeping the police informed of developments so that they, in turn, can inform victims or their bereaved relatives. It will also cover the need to ensure that full information is put before the court in relation to compensation, and will include advice on liaison with Victim Support.

If You Are a Victim of Crime

The police should give the local Victim Support co-ordinator your name and address, unless you ask them not to. Victim Support is a voluntary organisation providing help and advice to victims of crime and their relatives. You can contact them at the address on page 16. Volunteers give confidential and free practical help and emotional support. They will advise on insurance and compensation and provide help at court. There are nearly 400 local Victim Support schemes in England and Wales. This includes a growing number which are based in court buildings.

If you are worried about appearing in court, we will show you a courtroom before the case starts. You may then familiarise yourself with the layout. Whenever possible you will be provided with a place to wait away from the other side involved in your court case.

Your family and friends may wish to be at the trial. We will help them and will try to arrange seats for them in court. If possible this will be away from the other side involved in your court case.



Video Links

Much has been done to reduce the stress felt in court by child witnesses. In certain cases of violence and sexual abuse, television links are used so children can give evidence from a private room rather than having to go into the courtroom. Video recordings of interviews with child witnesses may be played to the jury as the child's main evidence. There are Child Liaison Officers in court centres with television links. Part of their role is to show witnesses the court and equipment before the hearing.

Civil Business

The County Courts

Most civil proceedings, including debt, property repossession cases, family matters and bankruptcy work take place in the county courts.

Debt

By far the largest number of cases handled by county courts relate to debt recovery. The courts deal with more than three million debt claims each year. Known as default summonses they vary from other types of case in that no hearing is arranged unless the claim is disputed.

The person making the claim (the plaintiff) and the person against whom court proceedings are brought (the defendant) usually find themselves dealing with the courts when the plaintiff has tried unsuccessfully to collect money that has not been paid. The plaintiff starts the proceedings by asking the court to issue a default summons against the defendant.

- We will issue and send a summons to the defendant within ten working days of receiving the request for issue and the fee.

A summons, together with instructions explaining how to deal with it, is sent to the defendant. The defendant has 21 days from the date of dispatch to respond or 16 days if the defendant is a limited company. The defendant can dispute the claim, pay immediately or offer to pay the

amount claimed by instalments. If the defendant does not reply or does not pay in full, the plaintiff can ask for judgment. Even if the defendant offers to pay by instalments, the plaintiff may still ask for judgment. The defendant will be told by the court when and how to pay.

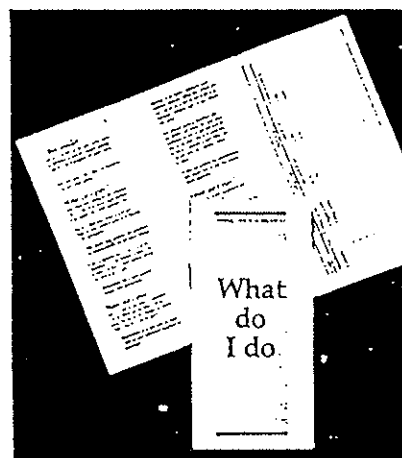
- We will send the judgment or order for payment to the defendant within ten working days of the plaintiff's request for judgment.

If the defendant disputes the claim, the case will be transferred to the defendant's local court and there will be a hearing or trial. If the plaintiff's case is successful, the court will order the debt to be paid.

- If the court orders the debt to be paid we will send the judgment to the defendant within ten working days of the hearing.
- We will send the defendant a leaflet, *Paying your Judgment*, with the judgment.

If the defendant still does not pay, the plaintiff can ask the court to take action to try to recover the payment (enforcing a judgment).

- We will issue enforcement proceedings within ten working days of receiving the plaintiff's request and the fee.



The most common method of enforcing payment is through a document called a warrant of execution. This authorises a bailiff to go to the defendant's property and demand payment.

- The bailiff will make a first visit within 15 working days of issue of the warrant of execution.

If the defendant does not pay, the bailiff may remove and sell items belonging to the defendant to meet the total debt and costs.

- Money received by the bailiff will be sent to the plaintiff within ten working days of receipt or clearance of any cheques.

The courts cannot guarantee the success of a warrant and trying to recover a debt in this way could take some time. The plaintiff may want a progress report.

- If the plaintiff asks for a progress report on a warrant, we will reply within ten working days of receiving the request.

If the bailiff cannot continue any further with the warrant because, for example, the defendant's belongings do not meet the total debt and costs, the bailiff will complete a final report.

- A final report will be completed within ten working days of the bailiff's final visit.

A computerised Summons Production Centre was established in 1990 to improve the service offered to plaintiffs issuing large numbers of summonses.

- Where plaintiffs can meet the requirements of the Summons Production Centre, we will issue and send summonses to defendants within 48 hours.

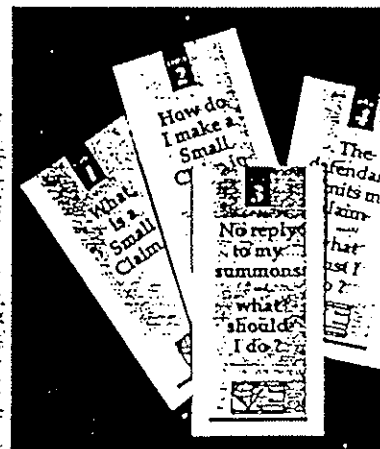
The service is being improved for plaintiffs who have large quantities of cases in several courts and use the Summons Production Centre. In the future they need only use one point, the County Court Bulk Centre at Northampton. This will enable local courts to concentrate on other matters, for example, serving the needs of small creditors.

Small Claims

The small claims procedure is a do-it-yourself, low cost and informal way of resolving disputes without using a solicitor. Most small claims are about goods or services supplied, money that people owe or for damage caused to property. Over 66,000 cases were dealt with in this way in 1991-92.

Leaflets are available to help both plaintiffs and defendants through the various stages of a claim. We will give you the forms you need and will be available to explain what to do next.

During 1991, the small claims procedure became available to many more people when the limit was increased from £500 to £1,000. Changes were also made in 1992 to improve and simplify procedures. Each side now has the right to be accompanied at any small claims hearing by someone who can speak on their behalf. The judge now has more responsibility for ensuring that both sides present a full account of their case.



Hearings in a County Court

- Each county court will offer a hearing date set within its own standards for waiting time. We will

display the standards in the public area of the court building.

Over the next few years we will:

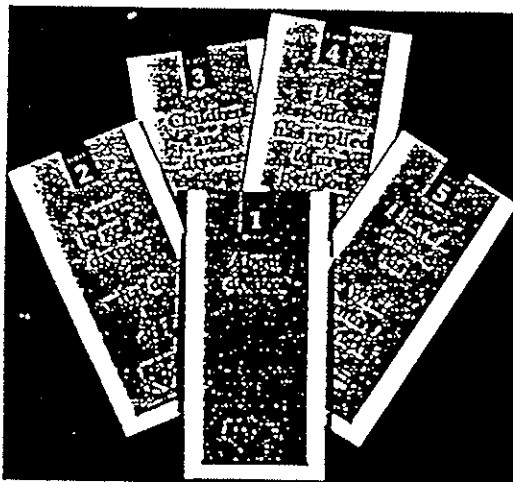
- Reduce the number of times people have to attend court for hearings.
- Relieve senior judges of the simpler work so they can concentrate on complicated cases.
- Adapt the small claims procedure for other civil disputes, such as straightforward housing disputes between landlords and tenants.



Family Business

Divorce

Court procedures are kept as simple as possible and several leaflets have been produced which explain the different stages of divorce proceedings.



If you seek a divorce, you must complete a petition giving reasons for ending your marriage.

- The completed petition must be sent to the court with the fee, or a fee exemption certificate. We will issue the divorce petition to your spouse and anyone else named in the petition, within ten working days.

You do not have to pay the fee if you can confirm that you are currently receiving income support or family credit or you are receiving legal advice and assistance from a solicitor under the Legal Aid Act 1988. If you are receiving any of these benefits you should complete a fee exemption form. You can get a form from a county court dealing with divorce and from the Principal Registry of the Family Division. The address of the Principal Registry of the Family Division is on page 16.

The judge will want to know about the arrangements you have made for children involved in the marriage. Your

spouse, or any person named in the petition, may wish to defend the case.

- If the judge confirms that you should have a divorce, we will send you and your spouse a decree nisi within ten working days of the judge's decision.

The decree nisi does not end your marriage. It tells you the earliest time and date when you can apply to make the divorce final by obtaining a decree absolute. You can apply for your decree absolute six weeks and one day from the date of your decree nisi. Your marriage ends only after you have applied for your decree absolute and it has been granted.

- When you are in a position to finalise the divorce and make your decree absolute, we will issue a decree absolute on the date we receive your application. If you go to court yourself, the decree absolute will be given to you on the same working day.

If you have lost your decree absolute and you know the petition number, you can apply for a replacement to the court that granted your divorce. If you don't know the petition number you should apply to the Principal Registry of the Family Division asking them to search through their records for the decree absolute. Information is usually reduced photographically and held on microfiche. This enables the records to be read quickly. The search covers any period of three years.

- If you can go in person to the Principal Registry of the Family Division they will give you the

results of that search on the same working day.

A search for a period of more than three years may take several days, as will a search through the records for 1940-45 which are not held on microfiche but are handwritten.

If you wish a search to be made covering a period of more than three years or cannot attend in person you should send your application to the Principal Registry of the Family Division by post. Telephone them for details of the fee you should pay and the information you need to send for the search to take place

Children and Families

The Children Act 1989 changed the law about the protection of children so the law is clearer and more closely meets the needs of children and their families. Leaflets telling you about these changes are available from a county court dealing with divorce and from the Principal Registry of the Family Division.



Children and parents involved in family cases can now expect:

Less formal arrangements for hearing their case.

Magistrates and judges who specialise in dealing with children.

All the proceedings in which they are involved to be heard at the same time, where that is appropriate.

Their case to be heard as quickly as possible.

Forms which are easy to understand.



Parental Responsibility

If you are the father of a child but not married to the mother, you may want the same legal responsibility for the child as the mother. Under the Children Act 1989 you may apply to the court to make an order giving you parental responsibility for the child. On the other hand, you and the mother may make an agreement known as a Parental Responsibility Agreement which will give you both equal responsibilities.

To become effective the Parental Responsibility Agreement must be recorded at the Principal Registry of the Family Division.

- The Principal Registry of the Family Division will record the Parental Responsibility Agreement within seven working days of receipt of the completed agreement and fee.

Probate

If you wish to administer the estate of someone who has died, you will need a document called a Grant of Probate. This allows you to administer the estate and distribute money or property to the people named in the will.

You may decide to use a solicitor or you may do the work yourself. The relevant forms and a leaflet explaining probate procedure are available from the Principal Registry of the Family Division or your local Probate Registry. Their address and telephone number can be found in the telephone directory. If you make the application yourself you will be interviewed by the court to confirm the details. You will be told how much you have to pay in fees and whether you need to pay inheritance tax. If this is the case you will be told how to pay the tax.

Once your interview has taken place and the fees and inheritance tax (if owed) are paid, you will be issued with a Grant of Probate.

- We will issue the Grant of Probate to you within eight weeks of receipt of your application.

Keeping You Informed

Every year annual reports are published by the three departments most directly concerned with the courts, the Lord Chancellor's Department, the Crown Prosecution Service and the Home Office. Statistical information showing the trends and volume of civil and criminal business within the Court of Appeal, the High Court, the Crown Court and county courts is also produced annually by the Lord Chancellor's Department in *Judicial Statistics*. These reports are published by HMSO and can be obtained from HMSO bookshops. The Crown Prosecution Service Annual Report is also available in main public libraries.

A number of leaflets have been produced which explain court procedures. Several received the "Crystal Mark" for clarity awarded by the Plain English Campaign.

- We will display leaflets in public areas of court buildings.

Court Open Days

From time to time open days are held to help you understand how courts work and to answer any questions. Open days take place throughout England and Wales so that more people can visit a court in



their area. Open days will be publicised in the local press and on the radio.

Customer Research

The results of a range of surveys have been used as a basis for this Charter. New surveys will be conducted in the future to help us to continue to offer the standards of service you need.

Publications

A range of publications is available to provide you with more information. Some of the most important are:

- *The Victim's Charter* – setting out the rights and expectations of people who are victims of crime (copies available from Room 153, Home Office, Queen Anne's Gate, London SW1H 9AT. Telephone: 071-273 2066).
- *Witness in Court* leaflet (copies available from Room 153, Home Office, Queen Anne's Gate, London SW1H 9AT. Telephone: 071-273 2066).
- *Children Act and the Courts* – 'A Guide for Parents' and 'A Guide for Children and Young People' (copies available by post from the Department of Health Stores, Health Publications Unit, No 2 Site, Manchester Road, Heywood, Lancashire OL10 2PZ).
- *A Practical Guide to Legal Aid* – a booklet explaining how legal aid works (copies available from the Legal Aid Board, 5th and 6th Floors, 29-37 Red Lion Street, London WC1R 4DP. Telephone: 071-831 4209).

Enquiry Points

If you want to know more about the services and facilities in particular courts you will find their telephone numbers and addresses under COURTS in the Yellow Pages directory.

If your enquiry is about the Courts Charter write to:

- The Court Service Secretariat
Lord Chancellor's Department
Trevelyan House
30 Great Peter Street
London SW1P 2BY
071-210 8832

If you want to contact the Principal Registry of the Family Division their address is:

- Somerset House
Strand
London WC2R 1LP
071-936 6000 [Switchboard]
071-936 6966 [Decree Absolute Searches
Department]

The address for the Crown Prosecution Service is:

- 4-12 Queen Anne's Gate
London SW1H 9AZ
071-273 8152

The address for the Victim Support National Association is:

- Cranmer House
39 Brixton Road
London SW9 6DZ
071-735 9166

