



Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

OFFICIAL REPORT
(Hansard)

Youth Justice Review Team

10 March 2011

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Lord Morrow (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Lord Browne
Lord Empey
Mr Paul Givan
Mr Conall McDevitt
Mr David McNarry
Mr Alban Maginness
Mr John O'Dowd

Witnesses:

Mr John Graham)
Ms Kathleen Marshall) Youth Justice Review Team
Ms Stella Perrott)

The Chairperson (Lord Morrow):

I welcome the members of the Youth Justice Review Team: John Graham, Stella Perrott and Kathleen Marshall. I advise you that the session will be recorded and reported by Hansard. I invite the team to brief the Committee on progress to date. After that, there may be some questions.

Mr John Graham (Youth Justice Review Team)

Good afternoon, everyone. Thank you for inviting us to come and tell you about progress on the youth justice review. We started this at the back end of last year, and we are due to report by the end of June. We are probably halfway through the process by now. We are still listening and talking to people, and learning about what happens in Northern Ireland. If you recall, Lord Morrow, we spoke to you at the beginning of the process and said that, at the halfway point, we would come back and tell you where we had got to. That is pretty much where we are now.

I will tell you briefly what we have done and to whom we have spoken. I will say something about the work that we commissioned from the reference group; we can draw on that group, and it has been very helpful in working on our behalf. I will also speak about issues that have been drawn to our attention by the people whom we met and to whom we spoke over the past couple of months.

Not surprisingly, we have been speaking to the usual suspects. We spoke to: politicians and officials, not only from the Department of Justice but from all Departments that are relevant to the issue of youth crime and antisocial behaviour — Health, Social Services and Public Safety, Education, and Employment and Learning; and agencies that are directly connected with youth crime such as the Youth Justice Agency and agencies with wider scopes, such as public health trusts, and so on. We also spoke to children and young people, and their families, and recently we started to talk to people who live in communities that are affected by crime and antisocial behaviour. We consider that to be a very important aspect of our work, partly because Northern Ireland is not our place of birth, we did not grow up here, and it is not a country with which we are fully cognisant. We need to know about your history, your communities and their experiences. So it was very important for us to try to ensure that we place the review in its rightful political and historical context.

We have undertaken a number of visits. We have been to Hydebank Wood and to Woodlands Juvenile Justice Centre, with which we were very impressed; I will return to that issue in a minute. We also sat in a youth court on a number of occasions, and, latterly, two of us have so far managed to observe a youth conference. We hope that the third member of the team will get an opportunity to do that in the not too distant future.

We have also begun to open up discussions with some academics in Northern Ireland, who will be able to tell us about what we know and do not know and about what the research evidence tells us. We are arranging a seminar to bring those academics together. We have not done that yet, but when we next come to Northern Ireland in a couple of weeks' time, we will talk to those people, who I am sure will be able to help us to construct the evidence base that we need to support what the review will say.

We are also using the reference group in a particularly useful way, not only for commissioning work but as a sounding board for some of the issues that have been raised and for some of the solutions that we might want to recommend. That has been helpful, and we will probably do it again. As I said, we commissioned papers from that group. We asked the group to look at youth justice reform south of the border, and it provided a paper on that. We asked it to look at what is known about the age of criminal responsibility, and it also produced a paper on that. We asked one of the professors on the reference group to review the literature on what is known and not known about some key aspects of youth crime and youth justice in Northern Ireland, and we also commissioned a paper on criminal records. Again, I will come back to the issue of criminal records in a minute.

We feel that we have a duty to try to reflect back to the Committee, through the review, what the people of Northern Ireland consider to be the key issues. We feel that it is a problem and an area that you own, and it is for you to decide what to do about it. It is our duty to help you to do that by reflecting back, as honestly and as accurately as possible, drawing on our experience of what happens in other countries and from having worked in the field for a long time, to ensure that we provide an informed review that takes you one stage further.

The overall narrative of the review will be that some very good things have happened in Northern Ireland over the 10 years since the Good Friday Agreement, some of which have happened in the area of youth justice policy. Northern Ireland needs to build on those developments.

We identified at least two matters of which you should be rightly proud: Woodlands; and the

introduction of youth conferencing in 2003. People from the United Kingdom and beyond are interested in visiting and emulating those two examples. Indeed, recently, people from Westminster came to look at youth conferencing. Those examples should be applauded and built on. It should not be the case that those issues have been dealt with, the box has been ticked, and we now move on. We can expand on those strengths, and there are great opportunities to do things better.

Having spoken to a wide variety of people, I want to tell you about some of the issues that they raised. Those are not necessarily issues that we identified ourselves — although we have done some of that — but issues that have been reflected back to us. On that basis, the response of Committee members will be interesting as to whether those issues resonate with your experiences and views and whether there are other issues that you think that we missed and need to address.

There is a view that the earlier one can intervene, the better. That is also the case in other countries. If young people at risk can be identified early, and there is an investment in services and interventions for those young people, a great deal of harm and cost can be saved further down the line. A number of people raised the idea of developing a long-term strategic approach to early prevention and intervention.

Given the nature of youth justice and youth crime, it is important to ensure a joined-up approach, so that all the agencies that are involved in interventions and supporting young people at risk are working together. At the same time, the right direction must come from the top down, which should be a strategy that is equally joined up. It is not an issue for only the Department of Justice. Early intervention and prevention is about supporting families, strengthening schools, identifying problems with young people early and doing something about them. That requires a multi-agency, multi-problem strategic approach, from the top and at the local level.

A number of people suggested that the age of criminal responsibility is too low, and questions were raised as to whether it should be higher. Virtually everybody to whom we spoke raised an old chestnut with which I am sure that you are familiar: delay, and avoidable delay in particular. My view and that of the team is that avoidable delay is particularly important for young people, because the notion of time is very different in a young person's life. Time passes in a very

different way for young people than it does for adults. Children and young people are keen to have those kinds of issues dealt with quickly and to move on. They live for the day, and a period of three months seems far longer for a young person than for an adult. In our view, the problem of delay is first and foremost a problem for the youth justice system. It is not about just looking at the adult system and then applying those solutions to the youth justice system. In our view, it should be the other way around.

We are concerned by a number of other issues that have been raised with us. One of those is the long periods of time that children and young people seem to spend on remand in Northern Ireland, and another is the use of an adult prison for holding 16- and 17-year-olds. You will be familiar with that from the prisons review, which recommends that that should be stopped and that all juveniles should be kept separate from adults. That, of course, complies with international norms and standards, but it presents serious, practical issues. It is all very well to have the vision to take 17-year-olds out of Hydebank, but it cannot be done overnight. We feel that our responsibility is to find a way in which that can be done over a period of time, so we will try to signpost how that might be achieved. That may have resource implications, and we are mindful of the fact that we are all working in an economic climate that is not particularly conducive to radical change. Therefore, we must be careful of that in providing you with a potential direction to achieve that recommendation from the prisons review.

I mentioned youth conferencing, which has been around for seven or eight years. This would be a good time to take stock. As I said, youth conferencing is recognised internationally as innovative and productive in Northern Ireland and something of which you should be proud. That does not mean that there are not things that need to be fixed. It has been drawn to our attention, for example, that the more often a young person comes before a youth conference, the less likely it is to have any impact. Thus, we will address the use of conferencing on a number of occasions. Equally, the effectiveness of a youth conference is often determined by whether a victim is present. If a victim is present, we have the essence of a full restorative approach. The more we can ensure that direct victims participate in youth conferencing, the better.

The final issue that I want to mention at this stage is the rehabilitation and reintegration of offenders back into their community, which is not to say that those are the only issues. However,

I do not want to take up the Committee's time with some of the other issues that have also been drawn to our attention, but about which I am not sure that we have a good enough grip to put before the Committee. In the context of the rehabilitation and reintegration of offenders, we need to look at the way in which legislation dating back to the mid-1970s facilitates that process. That legislation is currently being reviewed on the other side of the water, and I suggest that this may be an opportunity to do the same in Northern Ireland.

The context in which that needs to be considered is the economic position that is affecting young people's education, training and employment chances. The Committee is familiar with NEETs — young people not in education, employment or training. Over the past 12 months, the number of young people who are NEET has begun to increase, and that figure is likely to get worse. Young people who have a criminal record as the only entry on their CV have virtually no chance of getting a job. Yet, ironically, we know that one of the most powerful ways to help young people to desist from crime and antisocial behaviour is to give them stable employment. At this time and juncture, given the economic situation that we face and the difficulties in accessing the labour market, particularly for that group of young people, it is time to look at the Rehabilitation of Offenders Act 1974. In doing so, we should look, in particular, at the way in which criminal records are used, in part, as a barrier to gaining access to employment.

I do not know whether either of my colleagues would like to add anything, but that is all from me at this stage.

The Chairperson:

Thank you. You said that the best or the only way forward was to have a new Rehabilitation of Offenders Act. Is that right?

Mr Graham:

I do not believe that the Rehabilitation of Offenders (Northern Ireland) Order 1978 differs much from the equivalent legislation introduced in England and Wales a few years earlier. In England and Wales, there is what is called the rehabilitation revolution, through which resources are being directed into reintegrating not only young people but adults who offend. As part of that, the criminal record is one aspect of the legislation that needs to be looked at.

The Chairperson:

You also said that you felt that the way forward was a full restorative approach. Can you elaborate on that?

Mr Graham:

The achievements in youth conferencing in Northern Ireland are admirable and are partly to do with your heritage and history. The idea of using a mechanism that is based on restoration and conflict resolution in the youth justice system resonates very powerfully in Northern Ireland. That is a principle and an approach that can also be used outside the youth justice system with children and young people who are at risk of engaging in crime and antisocial behaviour. It can and already is being used in children's homes, so it can be built on there to resolve conflicts and problems to do with behaviour. It can be used in schools and in local communities, and, to some extent, it is already being used. It seems to us that you have already gone down that route. It is a journey that has been taken already, and it seems to be something that is successful and something to be proud of. From our point of view, that looks like something that you could readily build upon.

The Chairperson:

I thank that we would all agree on that. The one way to keep youth, for want of a better word, out of trouble is to provide employment. Undoubtedly, those with idle hands get into mischief. In the present economic climate, that might not be possible in the short term, so that is more of a long-term strategy than a short-term quick fix. The community may not understand and appreciate fully the full-time restorative approach, and I might be part of that community. There is a view abroad that we will go to every length to look after the criminal but that we do not show the same enthusiasm for looking after the victim. Do you subscribe to that view?

Mr Graham:

The restorative approach does exactly that. It places the victim at the centre. It is the victim who participates at the centre of a youth conference. The victim has a much greater say in a youth conference than they would have in court. The whole idea of restoration is to provide some kind of closure for the victim. It is about providing compensation for victims and ensuring that

victims have their say and have some kind of influence on how the situation should be resolved. For me, it places the victim at the heart of the system, and that is one of its great strengths.

The Chairperson:

Victims will always be at the heart of the system by virtue of the fact that they are victims.

Mr Graham:

It is a question of whether that is symbolic or real. The idea of restorative justice is that the victim has a real role to play and actually participates in proceedings. Indeed, in some cases, they run the proceedings. In the youth conference that I attended yesterday, the victim was an indirect victim. She was the manager of a store from which the offender had shoplifted a significant amount of goods. They had a value in the region of £1,500, so it was a lot of money. The manager of the store decided that she wanted to talk to the offender about that, and, in so doing, she clearly developed a relationship with that offender, who was a young woman. In building that relationship, she was able to understand why that young woman had done what she had done and that that young woman was not just a thief but a thief who had no parental support. She had no father, and her mother was not prepared to stand by her side at the conference. The young woman had got into trouble with a group of older men. They were not juveniles; they were men in their early 20s, and she was not well equipped to resist. In understanding that, it enabled the store manager to get a much bigger picture of what the theft comprised.

The issue was then to try to find a way of closing the situation so that the young person did not do it again and so that she understood the impact of the crime on the store. The manager explained at length how stealing from a store is not just an anonymous offence; it actually impacts on people. She mentioned that a young disabled man worked in that store, and he was very upset about the fact that someone had stolen goods. He felt that he was responsible for performance in that respect and that he may lose his job as a consequence of that crime. In understanding that and putting it across to the young woman, it made the young woman think again. It made her understand the consequences of her behaviour in a way that sometimes does not happen when people go to court.

If you are unsure about your youth conferencing system in Northern Ireland, I suggest that you

go and see how it works for yourselves. Maybe some of you have already been to a conference. I certainly was impressed. I know that Kathleen has not yet been to a conference, but Stella has. Do you want to add anything?

Ms Stella Perrott (Youth Justice Review Team):

I was very impressed with how the conference was conducted and the expectation on everybody to behave very well in the conference, even when the offence related to aggression and when victims might also be distressed. I was very impressed with the way in which the conference organiser explained what the conference was about so that everybody understood their role in the conference and so that the young person understood their role and the offence. That was in contrast to what happens in the courts, as the court procedure seems to go over young people's heads. In the conference that I attended, the young person found it very difficult to talk about his offence and the detail that was required of him to run through the events of that day. There was a requirement on him to articulate what he thought the impact of his behaviour was from another person's perspective and a requirement on him to articulate his feelings, which were shame at what he had caused other people to feel.

I have no idea what that young person's future behaviour will be like, but I certainly felt that that was as good an opportunity as any for him to truly reflect on the impact of his behaviour. I felt that there was a greater chance that he would do that in a conference than there would have been if he had gone through the court experience, which was fairly incomprehensible. Therefore, we have been very impressed with this development in Northern Ireland, and I think that communities can be confident in it. Perhaps they do not know enough as yet. That is something that may need to be addressed.

Ms Kathleen Marshall (Youth Justice Review Team):

I have not been to a youth conference, but we were out in the communities yesterday looking at some of the work being done by community-based restorative justice projects. There was one older gentleman there who described himself as a conservative in all senses of the word, and he was completely converted to the restorative approach. He gave a very clear and detailed account of something that had happened in his community. He said that when they had engaged with a young perpetrator, the outcome for the victims was very empowering and much more satisfying

than it would have been had the anonymous young perpetrator been packed off to a court and had the rest of his life affected. Victims, too, are often aware at some level that some of those young people are going to pay very seriously for even relatively minor crimes, which leads back to the issue of rehabilitating offenders. They want to do what is best for their community.

I was very impressed by the passion with which that gentleman spoke about how he, along with other people in his community, had been converted to the restorative approach. The fact that people realise what it means is a real sign of hope. It is very challenging for young offenders to face up to the people whom they have hurt, to apologise, to understand the impact of their behaviour and to be embraced again by the community. It is a very powerful peacemaking process.

The Chairperson:

You talked about a young offender who stole a considerable sum of money from a store, and you said that the manager then interviewed her and talked her through the gravity of what she had done. What age was she?

Mr Graham:

She was 16.

The Chairperson:

Was she under parental control?

Mr Graham:

As I pointed out, her father had disappeared, and her mother was not prepared to stand by her side at the conference. Apparently — I have no idea whether this is correct — the mother had certain mental health problems. There are children who find themselves in those circumstances.

The Chairperson:

Should parents rather than society be responsible for people of that age?

Mr Graham:

Absolutely. Parents should be responsible.

The Chairperson:

Should they be in court?

Mr Graham:

That is a different question.

The Chairperson:

It certainly is. During the interview, did the manager impress upon the young lady the gravity of her actions?

Mr Graham:

I spoke to the manager of the store afterwards, and she said that, before the meeting, she had no idea what was going to happen. She was a bit nervous about attending the meeting, because she had never done anything like that before. At the end of it, she said that she was so glad that she had taken part. That was not just because she understood why the young woman had got into that situation, but because she had her say. She had been able to explain to the young girl the implications of her act in such a way that that young girl really understood the damage that she had done and the harm that she had caused. So, the manager made the offence as well as its repercussions and implications real. That is the image that remains in my head. At the end, the store manager even suggested that the young woman should work in her store for a couple of months as part of her reparation to the community, which, in that case, was specifically the store. She even suggested that that might be one of the measures that should be included in her plan.

The Chairperson:

I think that that last part was a good idea.

Mr Graham:

It made a direct connection in that young woman's mind between the act and paying the price for that act.

Mr McDevitt:

I was very struck by what you said about the concept of time for a young person or child. I understand your point about putting a child on remand for an apparently short period of time, because, in a child's mind, that is an eternity. Do you have an opinion on whether that is an effective form of punishment for a child? Is it the case that the more time that has elapsed since the offence, the less meaningful the punishment to a young person? Does it affect their ability to understand what it is that they are being punished for?

Mr Graham:

I do not know how many of you in this room have children of your own. I have three children — well, they are not children anymore; they are in their twenties. However, when they were young, if they did something wrong, there was absolutely no point in my punishing them three months later. They would not have been able to make the connection between the reason that they were being punished and the offence that they had long forgotten about. If your son or daughter throws a stone through a window, you deal with it then and there. That makes sense. If a young person commits an act, you disapprove and punish, and it is over. That does not happen in the youth justice system.

Mr McDevitt:

That is certainly my experience as a parent. Children are entitled to due process, full equality and representation and all their rights, particularly because they are children and are, therefore, more vulnerable than the average adult. How do you balance that and speed up justice to such an extent that it is more effective in the child's mind without shortcutting justice?

Mr Graham:

I am really glad that you asked that, because we had exactly that discussion last night and this morning. It is a difficult issue, and, at this stage, we do not have the answer. It would be folly of me to suggest that we know how to precisely balance the requirements of due process with the requirements of an efficient and inexpensive process of delivering justice. It is a very difficult issue that all criminal justice systems must deal with. However, if we are talking about getting the right balance, I will say that it appears to us that the balance in Northern Ireland is tipped in

the wrong direction, towards rather longer delays than there should be.

Mr McDevitt:

Thank you for that, and I very much look forward to your final thoughts on the matter.

When answering Lord Morrow's first question, you talked about the Rehabilitation of Offenders Act 1974. That seems to be rather old legislation, particularly given that we are dealing with children. What specific changes or amendments would you like to see made to that legislation?

Mr Graham:

We are not at the stage where we could tell you what we think those changes should be. We have not even discussed recommendations among ourselves at this stage, let alone agreed on what they should be. At the moment, we are trying to identify issues, and one of the issues around rehabilitation — it is only one, there are others — is criminal records. However, another one is ensuring that we have a joined-up approach to reintegration that starts on the day that a young person receives a sentence. There are ways in which a reintegration strategy can be delivered much more effectively. Before we have anything to say on that, we would need to know a little bit more about practice in Northern Ireland.

Mr McCartney:

Thank you very much for your presentation. You outlined the emerging issues earlier. When the Minister introduced the review to the House, he said that your terms of reference could be extended, if necessary. Have any of the emerging issues made you look at the terms of reference to see if they should be broadened, or are you happy enough that they will allow you to do what you set out to do?

Mr Graham:

We have had discussions with others who raised the same point. Some non-governmental organisations (NGOs) were concerned that our terms of reference were not sufficient to address some of the issues that they were concerned about. Our view was that our terms of reference are sufficiently broad to enable us to do what we need to do, and that is the message that we gave to

others. At this stage, we are not minded to come back to you to suggest that they should be changed.

Mr McCartney:

We have before us a comprehensive list of the groups that you met. Do you have many more groups to meet, and do you have enough time to meet them before June?

Mr Graham:

I am really thankful that you asked that. When the review was set up, there was an underestimation of the time required to undertake a review of what is effectively an entire criminal justice system — it just happens to apply to one specific age range. It starts at a point before arrest and finishes with post-custodial reintegration, and a review of such a system is a very difficult and complex task to undertake. In an ideal world, we would have preferred to have had longer to do the work. However, we asked for an extension, and we have received that extension. At the moment, our view is that we will do our best to deliver on the basis of the timescale that we were given and that we agreed to. Therefore, we are not likely to come back to you and ask for a further extension, unless, over the next two or three months, something happens that drastically alters that view. However, that is where we stand at the moment.

Mr McCartney:

Can you give me some indication of the work of the reference group and of the relationship between it and yourselves?

Mr Graham:

The relationship is very good. Some eight or nine people sit on the reference group, and, as I said, we have commissioned a number of pieces of work from them. We have received four of those pieces of work already. The first piece of work was on the age of criminal responsibility. The second was on youth justice reforms south of the border, in the Republic of Ireland. The third was on custody for 17-year-olds. We are particularly interested in what we do with 17-year-olds if they are not going to go to Hydebank. I think that I mentioned earlier that there are some difficult and practical issues that need to be addressed. Therefore, we asked one of the reference group members to look at that in detail. Say, for example, that an extremely violent 17-year-old

has committed extremely violent acts in the juvenile justice centre and, as a consequence, has ended up in Hydebank. What would happen to that young person if Hydebank were no longer available? It is a serious issue. If there were only two or three people like that, what would happen? Would a new facility be built? Of course not. Therefore, we have to find cost-effective ways of addressing that. That is what we hope the paper will help us to do.

The fourth paper is on non-criminal records in the context of the rehabilitation of offenders, which we have already spoken about. There will be another paper, which we have not yet received, but it will bring together all the research evidence. A final paper, which we have also not yet received, will look at the interface between care and custody and the way in which young people who are in the care system enter the criminal justice system and too often end up in custody.

Mr McCartney:

I notice that you met district judges on two occasions. Did they perform a representative role or did they provide personal views?

Mr Graham:

I understand that they gave their personal views. It has probably not been mentioned in the list, but we also met district judges as part of our observation in youth courts. Therefore, we have had more than just a couple of meetings with district judges.

Mr McCartney:

Is there any plan to meet a representative group of the judiciary? Lord Empey has said on a number of occasions, particularly with respect to Hydebank, that people have been sent to prison under the assumption that facilities are available but the prison governor has said that they are not available. Therefore, there is a gap between the sentence that is being handed down and the reality. Is there any view to meeting the judiciary on that level or will it happen through individual judges reporting back into the system?

Mr Graham:

I am not quite sure what you mean by “meeting the judiciary”.

Mr McCartney:

I mean meeting a representative body. Is it the district judge's task to report back to his colleagues who deal with handing down sentences? Have you heard only the personal reflections of judges?

Mr Graham:

I will take that back and give it more thought. We have had meetings with the Law Commission and the Law Society, and, as you have noted, we have had meetings with individual district judges. If there are any judicial associations or committees — in addition to the Justice Committee and the Criminal Justice Board, with which we have also had meetings — that you feel we should consult, I would really like to hear about them. That would be helpful. Thank you.

Mr McNarry:

Good afternoon. I have great belief in young people for the future, particularly for our future here in Northern Ireland. I am glad to say that many superb people work with them. I am impressed with what you are hoping to do and the challenges that you are hoping to meet, and those remain to be seen.

I am never sure what is stage-managed for people like you. I can read from CVs etc about the skills that you have. However, a lot of things are stage-managed for politicians, and one sometimes finds that they are not too close to reality. Do you find that things are perhaps laid on for you? I ask that because, although the level of engagement is tremendous, it is a question that I find difficult to answer. Given what you are doing, how close can you get to young people, particularly those who are outside the net? I am sure that we all find — certainly I do — that those are the most difficult people to get to, yet they are the people whom we are all trying to reach. Will you give us your thoughts on that?

Mr Graham:

Absolutely, and we also have that concern. I shall start by saying something about our independence, which is critical to this. I head an independent NGO in London, and I understand

how important it is not only to be independent but to be seen to be independent, so I am fiercely protective of the review team's independence. When we were set up originally, we had Paula Jack, who is the current director of the Youth Justice Agency, on the review team, and I felt — indeed, to her credit, so did Paula — that that presented a conflict of interest and undermined the extent to which we would be perceived to be independent. On that basis, I asked Paula to stand down, and she willingly obliged. Indeed, I am sure that, if I had not asked her, she would have suggested it.

The way in which we present ourselves as fiercely independent helps people to see the review as an opportunity to say what they really think. Often, we ask people to tell us what they think needs to change on the grounds that it is an opportunity for them to have their say. If they have that opportunity and we are totally independent, why would they want to do anything other than say what they really feel and think?

That is one thing. My second point —

Mr McNarry:

It does not always work that way with me. In Northern Ireland, we have sometimes seen industries grow out of the Troubles. That is what they become: industries. People become so reliant on their jobs that I do not think we always get underneath the issues.

Mr Graham:

I agree, and I was just about to come to your point about stage management, which, in a review of this kind, is always a risk. I have visited many prisons in my time, and there are many good governors out there who are very good at showing you what they want you to see, rather than what you want to see. That does not apply just to prison governors; it applies across agencies and institutions that work in the field. So, I am very much aware of that, and I am sure that Kathleen, as a former Children's Commissioner in Scotland, will have had similar experiences. However, being aware of it does not necessarily mean that we will always be able to manage it satisfactorily. We try to do that by using sources of information and evidence from as many different sides and places as we possibly can. That is why we have been trying to get hold of research and some decent statistics and why we have been trying to talk to different people in

different situations, most importantly, ordinary people in communities, because I think that that is where you get the best feel for what the real issues are, what people's concerns are and what can be done about them. Those people often come up with the best solutions. It is not about us coming along and imposing solutions. On the contrary —

Mr McNarry:

I think that that is important. My work takes me into communities. There is the question: how can I help? There is also the aspect of dealing with the exasperation of those communities with young people. Their patience runs out, and out of that comes an expectation that legislators such as us are going to be able to do something about it. There has to be a high degree of leadership to take us back to the people who work with the young people. I have a great reliance and dependence on some of those people. Some of them I would not give tuppence for, but most of them are pretty good. That is where I hope that you will take us.

Mr Graham:

I hope that we will take you there, too. It is certainly our intention to do that. I am aware of not wanting to raise public expectations unduly, and there is only so much that one can do in a short period of time. We have only six months to deliver the review, so we try to manage those public expectations. However, on the basis of conversations that we have had with people outside of government, it seems that there are very high expectations for the review. They expect the review to lead to real change.

Mr McNarry:

I know this question is almost impossible to answer, but your response might give me some hope: how many chances do you think society is expected to give to young people engaged in repetitive criminal activity before giving up on them?

Mr Graham:

My personal view — this is not the review's response — is that it is not about giving young people chances. It is about trying to do whatever you can to turn that young person around. That is where I would come from, and I, personally, would never give up on a young person. If you give up on a young person, in my view, you are giving up on the society in which that young

person lives. You must never give up on a young person. That is my personal view; it is not something that the review team is necessarily going to be addressing. It is a different issue altogether.

Mr McNarry:

I appreciate that it is not the opinion of the review team. I think that your personal remarks are quite luxurious, but I respect them as your personal views. However, to come back to the issue, we might be looking to your report, which we all await with anticipation, for some sort of template and some guidance on how to bring society with us. Society may not be just as patient as you are; it gives up rather quickly.

Mr Graham:

I agree with you. Believe you me, we have also experienced that. There are people who will give up on children and young people if they continue to offend, and I believe that it is our duty to try to articulate an alternative way. I think that alternative way is about finding constructive alternatives that are in the interests of the people who are saying that. That is the key.

Lord Empey:

Mr Graham, I am not sure that you necessarily picked up on the point that Mr McCartney made about the judiciary. The point we had made was that courts were sending young people to institutions such as Hydebank, and we were concerned that they had an exaggerated idea of the services that could be provided there. Furthermore, we felt that it would be helpful if, as part of their induction, judges are brought to the institutions to which they are sending people so that they can know what is at the other end of the sentence. It is not rocket science, but we just felt that it might be useful for that to be part of the induction process so that judges are aware of where they are sending people and of what is actually available there, not what is supposed to be available. The two things are very different.

I want to pose a question to you and your colleagues. Quite obviously there are local contexts for youth justice throughout these islands, but the problem is not unique to this part of the world. To what extent have you examined international practice, albeit with the caveat that there are always local issues and adaptations that are necessary? It is not exactly a unique problem. As the

Chairperson indicated, if we wait for the market to soak up young people from unemployment, it will take years, particularly in the current economic climate. Are other interventions required at that level?

Mr Graham:

First, I will address your point about Hydebank Wood. If you start from the position that 16-year-olds and 17-year-olds should not be held in Hydebank Wood because they are juveniles, and if you achieved that overnight, the issue of how young people are treated in Hydebank or of what kinds of services they receive as juveniles would not arise. That is the position that the Prison Review Team reached. As I mentioned, we have had discussions with the team about that, and we take the same position. Nevertheless, as I also mentioned, certain things have to be put in place before that outcome can be achieved, and it may take quite a long time to do that. I agree that, in that time, it is important to ensure that judges fully understand what they are doing when they send a young person to Hydebank. I can only agree with that. If you could get district judges to go along and see Hydebank for themselves, that may help, but we can also articulate that in our review.

Lord Empey:

That would be helpful.

Mr Graham:

The second point was about international practice. Kathleen and I recently visited a very innovative facility in Rotterdam in the Netherlands for two days. That was an opportunity that we utilised. It actually came about as a result of some other work that I am doing. Nonetheless, the opportunity arose for us to look at the facility, which is the equivalent of a young offender centre, and to talk to the people who work in it. We think that there are lessons that could be learnt from what we saw in Rotterdam. So, that is one example of international practice that we are drawing on.

I would say that all three of us can also draw on international practice in a different way. Both my colleagues have extensive experience of the system in Scotland. My experience is primarily in England and Wales, but it also includes leading two Council of Europe committees to different

recommendations; one on the prevention of the crime and the other on youth justice. In leading those two committees, I met people from lots of different countries and found out about their systems. We have, therefore, access to a lot of international best practice. Where we feel elements of that international best practice may be useful in Northern Ireland, we will draw attention to them in our review, but with the proviso that it is understood that you cannot just take what is happening in one country and put it in another. Practice always has to be adapted, and, even then, it may not be appropriate. So, although one can draw on international best practice, one has to do so judiciously.

Mr A Maginness:

I welcome you to the Committee. I listened very carefully to what you said, and I am very impressed by the direction in which you are going. I certainly commend and hold up the youth conferencing system here as an exemplar. I think that it is a great achievement by the Youth Justice Agency here.

Mr Graham, there is, however, a tension or, perhaps, a potential contradiction in something that you said about justice for young people. You said justice should be timely, but I think that, by necessity, justice will always be a bit slower than the response of a father or mother in dealing with a child. Our summary justice is not really summary. However, delay is an issue, and a very important one. I have some experience, from many years ago, of dealing with juvenile cases in the courts, and the one thing that always struck me was the delay; there was report upon report, people were not available and so forth. It was a meaningless exercise. How do you remedy that? I am not certain that it can be done that well, and I am interested to know exactly how you would do it.

Mr Graham:

I am not in a position to give you the answers now, but I will say that, first of all, we will not be talking about delay but about avoidable delay. It is important to make that distinction, because sometimes justice requires time, and some delay is necessary. It is about avoidable delay. Secondly — I think that I mentioned this earlier — it is also about getting the right balance between being able to respond reasonably quickly to an offence and ensuring that due process is in place and that young people have everything necessary to be able to take advantage of those

rights and safeguards. There is a need to get the right balance between speed and justice.

My view, and that of my colleagues, is that the balance is wrong here. We are not in a position today to be able to tell you what can be done about it. Much is being done already in discussing the issue. There have been delay working groups for the past few years, and although there has been a great deal of discussion and there seems to be a consensus that it is an issue that needs to be tackled, with people having great knowledge about the problem and how to address it, our view is that thought is not being turned into action.

We are grappling with the issue of moving on from the knowledge that there is a big problem but a difficulty in implementing a solution. However, I believe that we will come up with some constructive ideas as to how that could be taken forward, because it is so central to our review.

Mr A Maginness:

How do we fare in dealing with young people compared with other jurisdictions on these islands?

Mr Graham:

It would probably be unfair to compare Northern Ireland with other jurisdictions without knowing whether we are comparing apples with apples or apples with pears. There is a danger in making those comparisons. If we were to make a comparison with, for example, England and Wales, we would find that the delays here are considerably longer. We can provide you with much anecdotal information to illustrate that, but I am sure that you are already aware of the matter.

We came across cases in which young people were still awaiting an appearance in court and were remanded in custody awaiting trial sometimes for over a year since an offence was committed. I do not think that that would be found very often in England and Wales, if at all. There are serious issues about delays, but for me it is not so much what the issues are — there is consensus that there is a problem with delay — but what we do about them.

Mr A Maginness:

Thank you very much; I wish you and your team well.

Lord Browne:

I want to follow on from Lord Empey's question and the answer that you gave him regarding other jurisdictions. Perhaps I should address my question to Kathleen. Is there anything in the Scottish system for dealing with young offenders that you think could be included in this report?

Ms Marshall:

We are aware of the difficulties of transplanting from one system to another, especially now in a time of economic difficulty. Trying to create an entire new architecture is possibly not a feasible option. Lessons can be learned about how to address due process issues within a different kind of system.

One difficulty is that there is a feeling that, if some young people are taken out of the formal criminal justice system, nothing happens. For communities, it is a genuine and legitimate fear that bad, disruptive and antisocial behaviour is ignored. That would not be good for young people or their communities. Some aspects of the Scottish system can be considered, such as how that can be addressed in a different way while still maintaining accountability, due process and consequences.

I am putting that question to some of the agencies that have a more intimate knowledge of the current architecture of the Northern Ireland system that is broader than the criminal justice system. I am asking what would happen if more young people were taken out of the formal criminal justice system. I am asking what resources and structures we could draw on to ensure that there was still an appropriate and proportionate response. We are thinking about and exploring issues such as that.

Lord Browne:

I do not want to labour the point, but you mentioned the Republic of Ireland. Did anything emerge about the way in which young offenders are dealt with there?

Ms Marshall:

We had a thought-provoking presentation and paper from the Republic of Ireland. Many things are happening down there, but the feeling was that in some ways the justice system there was

catching up.

Mr Graham:

I think that it is too early for us to say what lessons might be learned from south of the border.

The Chairperson:

We will stop there. I thank the team for coming today and bringing us up to speed on where it is. We look forward to the finished product. Did you say that you thought that the report would be available in June?

Mr Graham:

Yes; at the end of June.

The Chairperson:

We wish you well with it. Thank you for coming to speak to the Committee today.