

Derry City and Strabane District Council Draft Response to NI Assembly 'Criminal Justice (Committal Reform) Bill' Consultation

Do members agree with the intention of this new legislation to speed up justice through improving the operation of the criminal justice system by reforming committal proceedings?

Derry City and Strabane District Council welcomes the opportunity to respond to the NI Assembly consultation on the Criminal Justice (Committal Reform) Bill. Council believes that the Bill will enhance the existing judicial process and improve the operation of the criminal justice system. Council notes that the Bill is a significant element to 'speeding up justice' that is a key priority in the Programme for Government and directly relates to Outcome 7 'we have a safer community where we respect the law and each other.' One of the indicators for this outcome is the average time taken to complete criminal cases and it is hoped that this Bill will contribute to the delivery of this indicator. Council recognises the speed that cases progress through the system matters to victims and witnesses, their families and their communities and can help offenders to better understand the implications of their actions. A slow justice system leads to a lack of confidence in the system for victims, witnesses and offenders. Indeed, the Outcomes Delivery Plan (December 2019) showed a negative change with the average time taken to complete criminal cases rising from 143 days in 2014/15 to 167 days in 2018/19.

Council agrees that the Bill supports The Fresh Start Panel recommendation that *'the Department of Justice should use the measures already available to it to abolish committal proceedings in respect of those offences most frequently linked to paramilitary groups, including terrorist offences and offences which tend to be committed by organised crime groups'* (Recommendation A11).

The Bill also delivers on recent recommendations made by the NI Audit Office (March 2018), the Criminal Justice Inspectorate for NI (November 2018) and the Gillen Review (May 2019). Council is hopeful that the enactment of the Bill will reduce the time taken to complete criminal cases in NI to below the 2014/15 baseline of 143 days, lead to increased confidence in the criminal justice system and ultimately provide a better process for witnesses, victims and offenders.

Council acknowledges the significant work already carried out by Department of Justice officials and the consultations already undertaken to get the Bill to this stage.

Council looks forward to the implementation of the Bill and will monitor the impact that the new legislation is having for victims, witnesses and offenders.

Do members agree with the proposal to abolish oral evidence within the traditional committal process?

Council agrees that the proposal within the Bill to abolish oral evidence within the traditional committal process will speed up the court procedure for victims, witnesses and perpetrators. The proposal will negate the requirement for witnesses to have to give oral evidence at the committal hearing at a Magistrates' Court and then again at the Crown Court. The experience of giving oral evidence can often be traumatic and daunting, particularly under cross-examination, and can have a significant impact, often negative, on victims and witnesses. Those providing evidence often feel that they are on trial and to have to go through this process on at least two occasions is extremely unnerving and intimidating for many individuals. The proposal aims to minimise the impact on victims and witnesses, so that they have to give oral evidence only once at the Crown Court. The Bill will retain the current process of written evidence being given through the preliminary inquiry at the Magistrates' Court hearing but remove oral evidence being given through the preliminary investigation and mixed committal. In essence this means that oral evidence will be provided once, at the Crown Court trial. The removal of this requirement also delivers on the recommendation in the Fresh Start Agreement that 'oral evidence pre Crown Court trial should be removed' and the Department's intention to eradicate the traditional committal process entirely will see the implementation of the commitment in the NI Audit Report of 2018 on avoidable delay in the criminal justice system.

Do members agree with the proposal to repeal section 10 of the Justice Act (Northern Ireland) 2015?

Section 10 of the Justice Act (Northern Ireland) 2015 provides that a Magistrate's Court will directly commit an accused to the Crown Court if they indicate, prior to a traditional committal hearing, an intention to plead guilty. Whilst Council recognises the benefits to victims, witnesses and defendants of 'fast-tracking' cases in which the accused wishes to plead guilty the issue occurs where the defendant changes this plea when the case goes to the Crown Court as this necessitates a return to the Magistrates Court. This then presents significant operational risks, concerns and difficulties.

Council recognises that if the Bill is enacted then section 10 of the Act becomes obsolete, in any case, as the offences will go directly to the Crown Court to be heard and they will be unable to revert to the Magistrates Court as the committal hearing has already been eradicated. Council also accepts that the proposal to repeal section 10 has been agreed after extensive consultation with relevant criminal justice organisations and has been agreed by the Criminal Justice Board.

Do members agree with the proposal to extend the list of offences to which direct committal will initially apply?

The Fresh Start Panel Report recommended that the Department of Justice will work closely with justice organisations to identify suitable offences to be added to the list of offences which can be directly transferred to the Crown Court. The Criminal Justice (Committal Reform) Bill supports the delivery of this recommendation by extending the list of offences that go directly to the Crown Court. In its November 2018 Report the Criminal Justice Inspectorate for NI (CJINI) also recommended that DoJ should ensure that rape, serious sexual offences and child abuse offences should be added to the list of specified offences under the Justice Act (NI) 2015. The proposed Bill will ensure that related offences can be transferred to the Crown Court together with specified offences. This list of offences will apply to both adult and youth cases and will include terrorism related offences and serious sexual offences.

While Council accepts that these offences should now be heard in the Crown Court it does have concerns that Clause 4, Sub-section 4 of the Bill allows the Department to designate additional offences to which direct committal under the legislation will apply, in the future, by way of an Order. Adding or removing offences by way of an Order does not require primary legislation or Assembly approval but would be shared with the Justice Committee.

It is the reduced level of scrutiny and potential lack of transparency that Council is highlighting when expressing concern with the Department being able to add or remove offences by way of an Order. This process does not require debate in the chamber but will obviously be notified to the Committee.

Any other issues?

None

Email completed response to:

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