



**Northern Ireland
Assembly**

COMMITTEE FOR JUSTICE

MINUTES OF PROCEEDINGS

WEDNESDAY 18 FEBRUARY 2015
Room 21, Parliament Buildings

Present: Mr Alastair Ross MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Stewart Dickson MLA
Mr Sammy Douglas MLA
Mr Tom Elliott MLA
Mr Paul Frew MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Mr Patsy McGlone MLA
Mr Edwin Poots MLA

In Attendance: Mrs Christine Darragh (Assembly Clerk)
Mr Keith McBride (Senior Assistant Assembly Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Ms Leanne Johnston (Clerical Supervisor)
Ms Marianne Doherty (Clerical Officer)

Apologies: None.

The meeting commenced at 2.03 p.m. in public session.

1. Apologies

As above.

2. Draft minutes of the meeting held on 11 February 2015

The Committee approved the draft minutes of the meeting held on 11 February 2015.

3. Matters Arising

- i. An issue was raised regarding a briefing paper provided by the Department of Justice on the Lands Tribunal for Northern Ireland Fees for Non-Domestic Rating Valuation Appeals.

Agreed: The Committee agreed to request clarification from the Department of Justice regarding the recommendation contained in its briefing paper that the Committee note the responses to the consultation on the review of fees charged by the Lands Tribunal for non-domestic rating valuation appeals.

4. The Justice Bill – Oral evidence from the Department of Justice on Part 1 - Single Jurisdiction, Part 7 - Violent Offences Prevention Orders, and Part 8 - clauses 72 – 76 (Jury Service), and clause 82 (Defence Access to Premises)

Ms Karen Pearson, Deputy Director, Criminal Justice Policy and Legislation Division, Ms Angela Bell, Jurisdictional Redesign Branch, Ms Amanda Patterson, Head of Criminal Justice Policy Branch and Mr Graham Walker, Justice Bill Manager, Department of Justice joined the meeting at 2.08 p.m.

Ms Pearson outlined the purpose of clauses 1 to 6 and Schedule 1 of the Bill, which cover a Single Jurisdiction for County Courts and Magistrates' Courts, the main issues raised in the written and oral evidence received by the Committee and proposed amendments the Department intends to bring forward at Consideration Stage.

2.11 p.m. Mr Paul Frew joined the meeting.

A question and answer session followed covering issues including: the potential impact of the provisions on the Public Prosecution Service and work being undertaken to address this; whether travel costs for young people would be provided and if not, why not; whether implementation of the single jurisdiction proposals are linked to the proposed reduction in the number of courthouses; whether courthouse closures could be a consequence of the proposals; whether the single jurisdiction proposals place too much emphasis on administrative savings rather than court users; what safeguards will be put in place for victims, witnesses and defendants; the views of the judiciary and in particular the Magistrates' and County Court Judges on the proposals; the requirement for robust guidance that protects the needs of victims, witnesses and defendants; the purpose of the Directions to be provided by the Lord Chief Justice and the Department of Justice; whether the Attorney General's suggestion to include in the Bill a duty to have regard to the benefit of justice being administered locally would provide an additional safeguard; issues relating to the fact that County Court Judges will not have a jurisdiction under the proposals and could be allocated any area; the possible impact of the proposals on judicial independence; how the Lord Chief Justice currently gives direction regarding the distribution of court business; whether precedence/ priority will be given to particular types of cases such as family cases; and the nature of the consultation that will be undertaken on the Lord Chief Justice's Directions.

Agreed: The Committee agreed to request information from the Office of the Lord Chief Justice regarding the type of consultation exercise that will be undertaken on the Directions detailing the arrangements for the distribution of business among the County Courts and Magistrates' Courts and for the transfer of business from one court to another.

2.32 p.m. Mr Seán Lynch joined the meeting.

2.38 p.m. Mr Edwin Poots joined the meeting.

Ms Pearson outlined the purpose of clauses 50 to 71 of the Bill which cover Violent Offences Prevention Orders (VOPOs), the main issues raised in the written and oral evidence received by the Committee and proposed amendments the Department intends to bring forward at Consideration Stage.

A question and answer session followed covering issues including: concerns that the threshold for VOPOs will exclude many offences relating to domestic violence; whether there is a need to introduce Domestic Violence Prevention Orders as well as VOPOs; how VOPOs will prevent children from becoming victims of crime; patterns of reoffending for children aged under 18; the reasons for including children aged under 18 within the scope of VOPOs; whether there is scope to apply VOPOs differently for those aged under 18; and whether VOPOs will be disclosed on a criminal record check.

The departmental officials agreed to provide clarification regarding whether a VOPO would be considered and/or disclosed as part of a criminal record check.

Ms Pearson outlined the purpose of clauses 72 to 76 of the Bill which cover Jury Service and clause 82 that covers Defence Access to Premises, the main issues raised in the written and oral evidence received by the Committee and a proposed amendment the Department intends to bring forward at Consideration Stage.

A question and answer session followed covering issues including: how the provisions relating to Defence Access to Premises would work in practice; whether the provision would provide access to the relevant part of a dwelling or the entire dwelling; and what limitations if any would apply.

The briefing was recorded by Hansard.

The Chairman thanked the officials for their attendance and Ms Pearson, Ms Bell and Ms Patterson left the meeting.

5. The Justice Bill – Oral evidence from the Department of Justice on Part 2 - Committal for Trial, Part 8 clauses 77 and 78 - Early Guilty Pleas, clauses 79 and 80 - Avoiding Delay, clause 81 - Public Prosecutor’s Summons, clause 83 – Court Security Officers and Part 9 – Supplementary Provisions

Mr Graham Walker, Justice Bill Manager, was joined by Ms Maura Campbell, Deputy Director, Criminal Justice Development Division, Department of Justice at 2.43 p.m.

Ms Campbell outlined the purpose of clauses 7 to 16 and Schedules 2 and 3 of the Bill which cover Committal for Trial and the main issues raised in the written and oral evidence received by the Committee.

3.05 p.m. Mr Sammy Douglas joined the meeting.

A question and answer session followed covering issues including: the Assembly control mechanism that applies to the Order enabling the Department to amend the list of specified offences; when the criminal justice system will have the capacity to support the removal of committal proceedings entirely as proposed by the Director of Public Prosecutions; how the Department’s long term goal to abolish committal proceedings entirely will enhance access to justice and improve the criminal justice system; whether committal proceedings provide an effective filtering mechanism for cases; whether the provisions in the Bill will ensure cases are dealt with more speedily; what impact in terms of reduced delay and cost savings the Department expects as a result of these changes; whether the Department anticipates an increase in applications for a ‘no bill’; what other

processes are in place to filter cases; the purpose of committal proceedings; current numbers of preliminary investigations and preliminary inquiries; levels of attrition in relation to committal proceedings; existing protections for vulnerable witnesses and victims of sexual offences during committal proceedings; the value in retaining a mixed committals process; whether there will be an increase in applications for ‘no bill’ in the crown court; whether there is an opportunity to call witnesses at ‘no bill’ stage; and the resource requirements for the PPS in preparing for the committal process.

The officials agreed to provide further clarification regarding the number of cases that go to preliminary investigation and of those cases how many in which the trial did not proceed.

Ms Campbell outlined the purpose of clauses 77 and 78 of the Bill which cover Early Guilty Pleas, the main issues raised in the written and oral evidence received by the Committee and a proposed amendment the Department intends to bring forward at Consideration Stage.

3.37 p.m. Mr Patsy McGlone left the meeting.

A question and answer session followed covering issues including: what protections and safeguards there are to ensure that children and vulnerable adults make informed decisions in respect of early guilty pleas; the use of registered intermediaries; support available for people who do not speak English; the purpose of the court being required to state the maximum discount it could have awarded when imposing a sentence if a guilty plea had been lodged “at the earliest opportunity”; the regulations to be provided by the Law Society; the penalty to a solicitor who contravenes the provisions; whether the issue of client/solicitor confidentiality arises; whether the provisions provide for plea bargaining; the definition of ‘earliest reasonable opportunity’ in which to submit an early guilty plea; whether a defendant can change their mind in respect of an early guilty plea; whether an early guilty plea prevents an injured party from having their ‘day in court’; whether there are issues for victims and their families with the court indicating the possible sentence if a guilty plea had been made at an earlier stage; and whether the duty should be placed on the advocate rather than just the solicitor.

Ms Campbell outlined the purpose of clauses 79 and 80 of the Bill which cover Avoidable Delay in Criminal Proceedings, Clause 81 that covers Public Prosecutor’s Summons, Clause 83 that covers Powers of Court Security Officers and Part 9 that covers Supplementary Provisions, the main issues raised in the written and oral evidence received by the Committee and the proposed amendments the Department intends to bring forward at Consideration Stage.

A question and answer session followed covering issues including: the purpose of clause 86; in what circumstances the Department would use the provision; what limitations apply to the power provided to the Department by Clause 86; whether clause 86 gives the Department the power not to enact certain provisions or parts of the Bill; and in relation to clause 79 what was meant by “just outcome” and what would be examples of an “unjust outcome”.

The officials agreed to provide further information in respect of the powers contained within clause 86 of the Bill.

The briefing was recorded by Hansard.

The Chairman thanked Ms Campbell for her attendance and she left the meeting.

6. The Justice Bill – Oral evidence from the Department of Justice on new policy amendments relating to PACE (NI) – Fingerprint and DNA Retention

Mr Graham Walker, Justice Bill Manager, was joined by Mr Ian Kerr, Policing Policy and Strategy Division, and Mr Gary Dodds, Police Powers and HR Policy Branch, Department of Justice at 3.54 p.m.

Mr Kerr outlined the proposed amendments relating to the Police and Criminal Evidence (NI) Order 1989 (PACE) and Fingerprint and DNA Retention.

4.02 p.m. Mr Alban Maginness left the meeting.

A question and answer session followed covering issues including: how many people in Northern Ireland have their details held on the DNA and fingerprint databases; how many of those for whom records are held have not had any conviction; who has responsibility for destroying records in accordance with the retention scheme; why the Department intends to make provision for the retention of biometric material taken from persons who have accepted a prosecutorial fine; whether the retention of a DNA sample would be disclosed on a criminal record check; the percentage of the population for which DNA records are held and how this compares to Great Britain; maximising the ability of the police to retain as many DNA records as possible; the rationale for removing the indefinite retention of DNA samples; the position regarding the use of a DNA sample in relation to a second unrelated offence to that for which the DNA sample was originally obtained; processing costs associated with obtaining DNA samples; the use of dental records; the potential impact on investigatory capability of the loss of indefinite retention; the purpose of the amending provisions; whether the operation of the National Crime Agency will result in an increase in the number of DNA records and fingerprints; and access to the DNA records of individuals who have committed offences overseas.

The briefing was recorded by Hansard.

The Chairman thanked the officials for their attendance and they left the meeting.

The Committee noted the Department of Justice's proposed amendments relating to Lands Tribunal Salaries, the creation of an offence of causing or allowing serious physical harm to a child or vulnerable adult and sexual offences against children.

7. Draft Statutory Rule: The Civil Legal Services (Appeal) Regulations (Northern Ireland) 2015

The Committee considered a proposal by the Department of Justice to make a Statutory Rule to establish a procedure for appeals against decisions on applications for funding by way of Civil Legal Services and provide for the establishment and composition of independent Appeal Panels.

Agreed: The Committee for Justice considered draft Statutory Rule the Civil Legal Services (Appeal) Regulations (Northern Ireland) 2015 and recommended that it be affirmed by the Assembly.

8. Draft Statutory Rule: The Civil Legal Services (Disclosure of Information) Regulations (Northern Ireland) 2015

The Committee considered a proposal by the Department of Justice to make a Statutory Rule to provide for the disclosure of information which is furnished to the Department of

Justice in connection with an individual seeking or receiving civil legal services. The Regulations also require the provision of information from suppliers to the Director of Legal Aid Casework and waive the rules of privilege and confidentiality.

Agreed: The Committee for Justice considered draft Statutory Rule the Civil Legal Services (Disclosure of Information) Regulations (Northern Ireland) 2015 and recommended that it be affirmed by the Assembly.

9. Draft Statutory Rule: The Criminal Legal Aid (Disclosure of Information) Rules (Northern Ireland) 2015

The Committee considered a proposal by the Department of Justice for a Statutory Rule to make provision for the disclosure of information which is furnished to the Department of Justice or any court in connection with the case of an individual seeking or receiving representation under a criminal aid certificate granted under Part 3 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 as amended by the Legal Aid and Coroners' Courts Act (NI) 2014. The Regulations also require the provision of information from suppliers to the Director of Legal Aid Casework and waive the rules of privilege and confidentiality.

Agreed: The Committee for Justice considered draft Statutory Rule the Criminal Legal Aid (Disclosure of Information) Rules (Northern Ireland) 2015 and recommended that it be affirmed by the Assembly.

10. Draft Statutory Rule: The Civil Legal Services (Cost Protection) Regulations (Northern Ireland) 2015

The Committee considered a proposal by the Department of Justice for a Statutory Rule to make provision for the circumstances in which costs protection will apply and when it will not apply in civil cases in which legal aid has been a feature. The Regulations set out the periods in which the limit on liability under an order for costs against a person receiving funded services as part of civil legal services apply.

Agreed: The Committee for Justice considered draft Statutory Rule the Civil Legal Services (Cost Protection) Regulations (Northern Ireland) 2015 and recommended that it be affirmed by the Assembly.

11. SL1: Amendments to the Police Act 1997 (Criminal Record) (Disclosure) Regulations (Northern Ireland) 2008

The Committee considered a proposal by the Department of Justice for a Statutory Rule to enable AccessNI to search for details of an individual's criminal record on the Police National Computer. The Rule also sets out the details of the information that AccessNI can provide in relation to convictions on a basic check, the details of convictions and cautions that can be disclosed on standard and enhanced checks and details of what can be disclosed and the databases from which they can be disclosed.

Agreed: The Committee agreed that it was content with the proposed Statutory Rule.

12. SL1: The Lands Tribunal for Northern Ireland – Fees for Non-Domestic Rating Valuation Appeals

The Department of Justice had provided information on a proposal for a Statutory Rule to amend the fees charged in the Lands Tribunal for Northern Ireland for non-domestic rating valuation appeals and for all admin services to achieve full cost recovery.

Agreed: The Committee agreed to defer consideration of the proposal for the Statutory Rule on the Lands Tribunal for Northern Ireland fees for non-domestic rating valuation appeals until the next meeting.

13. Correspondence

- i. The Committee noted correspondence from the Department of Justice regarding the timetable for the introduction of the Mental Capacity Bill.
- ii. The Committee noted correspondence from the Department of Justice providing a copy of its third annual report to the Public Accounts Committee on its Report on Managing Criminal Legal Aid.
- iii. The Committee considered a response from the Department of Justice to concerns raised by Radox in relation to the procurement of drug testing in Northern Ireland prisons.

Members noted that there would be an opportunity to discuss the issue when NI Prison Service officials attend the Committee meeting on 4 March 2015.

Agreed: The Committee agreed to forward a copy of the response to Radox for information.

- iv. The Committee noted a response from the Minister of Justice regarding his decision to close the NI Law Commission and providing a copy of the Report of the Independent Review of the Commission.
- v. The Committee noted correspondence from the Committee for the Office of the First Minister and deputy First Minister seeking views on the Children's Services Co-operation Bill which passed second stage on 26 January 2015.

Agreed: The Committee agreed to give further consideration to the issue when the response from the Department of Justice on the matter is available.

- vi. The Committee noted correspondence from the Committee for the Office of the First Minister and deputy First Minister providing a copy of a Research paper on the European Commission's Annual Work Programme and a copy of the UK Government's Explanatory Memorandum on the Commission's Work Programme.
- vii. The Committee noted a response from the Police Ombudsman to the Committee's request for clarification on whether the Ombudsman was currently investigating a complaint from a Mr W McMaster and a copy of a letter from the PSNI to Mr McMaster.

Agreed: The Committee agreed that all appropriate action had been taken by the Committee in relation to this matter and that, as civil proceedings against the Chief Constable are ongoing, it would not be appropriate to consider the matter further.

The Chairman advised the Committee that any further correspondence from Mr McMaster would be held in the Committee Office and Members would be advised accordingly.

- viii. The Committee considered correspondence from Mr Colin Stutt who has taken over responsibility from Mr Jim Daniell for the Review of Access to Justice Part Two and noted that a briefing by Mr Stutt on progress on the Review would be scheduled into the Forward Work Programme.

14. Chairman's Business

- i. The Chairman informed Members that a response had been received from the Department of Justice indicating that there had been slippage in the timescale for the Fines and Enforcement Bill and it was now unlikely to be introduced before June 2015.

The Chairman advised Members that arrangements would be made for him and the Deputy Chairman to meet with the Minister of Justice to discuss the legislative programme, the timing of the Fines and Enforcement Bill and its sequencing with the Mental Capacity Bill.

- ii. The Chairman advised Members that he had accepted an invitation to meet with the Organisation for Economic Cooperation and Development to discuss the overarching themes of the first phase of its Strategic Review of Public Sector Reform in Northern Ireland.

15. Any Other Business

None.

16. Date and Time of next meeting

The next meeting will take place on Wednesday 25 February 2015 at 2.30 p.m. in NIACRO's offices in Belfast.

The meeting was adjourned at 4. 34 p.m.

Mr Alastair Ross MLA
Chairman, Committee for Justice