

DRAFT



Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

MINUTES OF PROCEEDINGS

WEDNESDAY 17 SEPTEMBER 2014
Room 21, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Alban Maginness MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Mr Keith McBride (Senior Assistant Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Miss Leanne Johnston (Clerical Supervisor)

Apologies: None.

The meeting commenced at 2.08 p.m. in public session.

1. Apologies

As above.

2. Draft minutes of the meeting held on 10 September 2014

The Committee approved the draft minutes of the meeting held on 10 September 2014 subject to one amendment.

3. Matters Arising

- i. The Committee noted a Forward Work Programme for September and October 2014 which would be updated to reflect the discussions at the earlier strategic

planning meeting. Any decisions arising from the planning meeting would be presented to the Committee for ratification at the meeting on 24 September 2014.

Mr Patsy McGlone joined the meeting at 2.11 p.m.

4. Legal Aid Reform - Proposals to change Crown Court Remuneration Arrangements for Solicitors and Counsel Representing Defendants - Oral Evidence from the Bar Council of Northern Ireland

Mr Gerald McAlinden QC, Mr Gavan Duffy QC, and Mr Michael Forde, the Bar Council of Northern Ireland joined the meeting at 2.13 p.m.

The Committee noted an interim report providing an assessment of the impact of the Department of Justice legal aid reform package provided by Criminal Justice Inspection Northern Ireland.

Mr McAlinden QC outlined the Bar Council's position regarding the Department of Justice's proposals to change the remuneration arrangements for solicitors and counsel representing defendants in Crown Court cases.

Mr Tom Elliott joined the meeting at 2.23 p.m.

Mr William Humphrey joined the meeting at 2.27 p.m.

A detailed question and answer session followed covering issues including: previous predictions made by the Bar Council in relation to the likely impact of the 2011 fee cuts and whether this impact had been fully realised; whether the full impact of the 2011 cuts has come through the system and can be properly assessed at this stage; whether the existing service to defendants can be provided at a reduced cost; the costs associated with a public defender system; the impact of the economic recession on the legal professions; the effect of the Department's proposed cuts on the legal professions; the earnings range for barristers; whether there are too many barristers and QCs in Northern Ireland; the role of senior counsel; the level of engagement between the Bar Council and the Department of Justice regarding the proposed changes; whether the proposed reductions would reduce the quality of representation; the Bar Council's assertion that the proposals should be postponed until the end of the 2014/15 financial year; how savings can be made without implementing further cuts to remuneration arrangements; inefficiencies in the judicial system; the difference in the legal aid spend per capita in Northern Ireland to that in England and Wales; whether the Department's proposals should be subject to an Equality Impact Assessment; the areas in which the Bar Council are in agreement with the Department of Justice; the cost of expert witnesses; and the impact of delay in the system.

Mr Patsy McGlone left the meeting at 3.23 p.m.

The Bar Council agreed to provide the Committee with further information regarding the proposals it has made to the Department of Justice.

The Chairman thanked the representatives of the Bar Council for their attendance and they left the meeting.

5. Legal Aid Reform - Proposals to change Crown Court Remuneration Arrangements for Solicitors and Counsel Representing Defendants – Oral Evidence from the Law Society for Northern Ireland

Mr Alan Hunter, Chief Executive, Ms Arleen Elliott, Junior Vice President, Mr Peter O'Brien, Assistant Secretary, Law Society for Northern Ireland and Mr Pearse MacDermott, McCann and McCann Solicitors, joined the meeting at 3.41 p.m.

Ms Elliott outlined the Law Society's position regarding the Department of Justice's proposals to change the remuneration arrangements for solicitors and counsel representing defendants in Crown Court cases.

A detailed question and answer session followed covering issues including: the assignment of counsel by solicitors; the impact of reduced fees on the quality of representation; the effect of the cuts imposed in England and Wales; the variance in the quality of barristers; the financial pressures faced by smaller Solicitors' firms; the impact of the economic recession on Solicitors' firms; the Law Society's assessment of the Department's proposals; whether the Department's proposals should be subject to an Equality Impact Assessment; the engagement between the Law Society and the Department on the proposals;

Mr Alban Maginness left the meeting at 4.10 p.m.

delays in the judicial system; delays in the disclosure of documents from the PPS; examples of overhead costs incurred by solicitors; comparison of the cost of defending a case to that of prosecuting a case; whether there are too many solicitors practising in Northern Ireland; the number of solicitor apprenticeship places; the evidence to support the Law Society's assertion of the devastating effects of the 2011 cuts to fees; the number of solicitors firms that have closed and individuals that have left the legal profession as a result of the 2011 fee cuts; when it is expected that the full impact of the 2011 cuts can be assessed; the need for the Department to carry out a full Regulatory Impact Assessment; and why the Law Society is unable to provide data to substantiate its position regarding the effects of the 2011 cuts to the fees;

The Chairman thanked the representatives of the Law Society for their attendance and they left the meeting.

The Chairman advised Members that the proposals for Statutory Rules to change Crown Court remuneration arrangements would be considered by the Committee when the Criminal Justice Inspection NI first staged assessment report on the impact of the Department of Justice legal aid reform package is available at the end of September.

Agreed: The Committee agreed that CJINI should attend a meeting to present the report.

Agreed: The Committee agreed to request a response from the Department of Justice to the issues raised by both the Bar Council and the Law Society.

Agreed: The Committee agreed to write to the Legal Services Commission to request further information regarding the number of cases/workload in relation to the feed list published each year.

Mr Raymond McCartney left the meeting at 5.01 p.m.

Agreed: The Committee agreed to commission a research paper on the number of solicitors and barristers in the legal profession over the last few years.

6. The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Consideration of Additional Amendments

The Committee considered the additional amendments being proposed by the Minister of Justice and Lord Morrow to the Human Trafficking Bill since the completion of the Committee Stage.

The Committee noted that work was still ongoing in relation to Clause 12 and that further consideration would need to be given to Clause 16 in the context of the proposed Legislative Consent Motion on a UK-Wide Anti-Slavery Commissioner.

Agreed: The Committee agreed that it was content to support the additional amendments that had been jointly agreed by Lord Morrow and the Minister of Justice.

Agreed: The Committee agreed that the Chairman should write to all MLAs outlining the Committee's position in relation to the additional amendments.

The Chairman advised Members that he would reflect the Committee's updated position during the Consideration Stage of the Bill.

Mr Tom Elliott left the meeting at 5.07 p.m.

7. The Justice Bill – Update on the Delegated Powers Memorandum and Written Evidence

The Committee considered a report from the Assembly Examiner of Statutory Rules on his scrutiny of the delegated powers contained within the Justice Bill in which he raised an issue regarding the regulation-making powers in clauses 79(2) and 80 and noted an update on the written submissions received in relation to the Bill and the proposed amendments.

Agreed: The Committee agreed to refer the issue raised by the Examiner of Statutory Rules to the Department of Justice for a response.

Agreed: The Committee agreed to publish the written responses received on the Justice Bill and the proposed amendments on the Committee's webpage.

Mr Tom Elliott joined the meeting at 5.09 p.m.

8. Access to Justice Review Part II

The Committee noted an agenda document provided by Mr Jim Daniell which is intended to stimulate discussion about matters covered in the Terms of Reference for the Access to Justice Review Part II and that he was due to attend the meeting on 22 October 2014 which would provide an opportunity to discuss the issues.

9. National Crime Agency - Revised Proposals for Operation in Northern Ireland and potential Legislative Consent Motion

The Committee noted revised proposals from the Minister of Justice in relation to the operational and accountability arrangements for the National Crime Agency in Northern Ireland which, if implemented, would require legislative changes.

10. AccessNI - Review of Fees

The Committee noted the Minister of Justice's proposal to increase the fee for AccessNI Enhanced checks from £30 to £33 which would be brought forward by a negative resolution statutory rule.

11. Consultation on Extension of Offence in Domestic Violence, Crime and Victims Act 2004

The Committee considered information provided by the Department of Justice regarding a targeted consultation on a proposal to extend existing legislation to include the offence of causing or allowing serious physical harm to a child or vulnerable adult with a view to including a provision in the Justice Bill.

Agreed: The Committee agreed to consider the matter further when the results of the targeted consultation are available.

12. Attorney General for Northern Ireland's Draft Human Rights Guidance for the Northern Ireland Courts and Tribunals Service in relation to Support for Victims and Witnesses

The Committee considered the Attorney General for Northern Ireland's Draft Human Rights Guidance for the Northern Ireland Courts and Tribunals Service in relation to support for victims and witnesses as required by Section 8 of the Justice (Northern Ireland) Act 2008 and noted that the Attorney General's Office had liaised with Court Service officials in the development of the guidance.

Agreed: The Committee agreed that it was content with the draft guidance.

13. S.R. 2014/219 The Crown Court (Amendment) Rules (Northern Ireland) 2014

The Committee considered a proposal by the Department of Justice to make a Statutory Rule to amend the Crown Court Rules (Northern Ireland) 1979 to ensure compliance with the EU Directive on the Right to Interpretation and Translation in Criminal Proceedings (2010/64/EU).

Agreed: The Committee for Justice considered Statutory Rule SR 2014/219 The Crown Court (Amendment) Rules (Northern Ireland) 2014 and agreed that it was content with the Rule.

14. S.R. 2014/220 The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2014

The Committee considered a proposal by the Department of Justice to make a Statutory Rule to amend the Rules of the Court of Judicature (Northern Ireland) 1980 to ensure compliance with the EU Directive on the Right to Interpretation and Translation in Criminal Proceedings (2010/64/EU).

Agreed: The Committee for Justice considered Statutory Rule S.R. 2014/220 The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2014 and agreed that it was content with the Rule.

15. S.R. 2014/221 The Magistrates' Courts (Amendment No.2) Rules (Northern Ireland) 2014

The Committee considered a proposal by the Department of Justice to make a Statutory Rule to amend the Magistrates' Courts Rules (Northern Ireland) 1984 to ensure compliance with the EU Directive on the Right to Interpretation and Translation in Criminal Proceedings (2010/64/EU).

Agreed: The Committee for Justice considered Statutory Rule S.R. 2014/221 The Magistrates' Courts (Amendment No.2) Rules (Northern Ireland) 2014 and agreed that it was content with the Rule.

16. S.R. 2014/222 The Criminal Appeal (Amendment) (Northern Ireland) Rules 2014

The Committee considered a proposal by the Department of Justice to make a Statutory Rule to amend the Criminal Appeal (Northern Ireland) Rules 1968 to ensure compliance with the EU Directive on the Right to Interpretation and Translation in Criminal Proceedings (2010/64/EU).

Agreed: The Committee for Justice considered Statutory Rule S.R. 2014/222 The Criminal Appeal (Amendment) (Northern Ireland) Rules 2014 and agreed that it was content with the Rule.

17. SL1: Amendments to Order 22 and Order 106 of the Rules of the Court of Judicature (Northern Ireland) 1980

The Committee considered a proposal by the Department of Justice to make a Statutory Rule under powers conferred in sections 55 and 55A of the Judicature (Northern Ireland) Act 1978 to allow the Northern Ireland Court of Judicature Rules Committee to make a technical amendment to update references in Order 22 of the Rules of the Court of Judicature (Northern Ireland) 1980 and to make an amendment to Order 106 of the Rules of the Court of Judicature (Northern Ireland) 1980 to remove the current rules' requirement that a solicitor is anonymised in proceedings under the Solicitors' (Northern Ireland) Order 1976 in prescribed circumstances.

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

18. SL1: Civil Legal Services (Appeal) Regulations (Northern Ireland) 2015

The Committee noted a proposal by the Department of Justice to make a Statutory Rule under powers conferred by the Legal Aid and Coroners' Courts Bill (once it has achieved Royal Assent) to establish a procedure for appeals against decisions on applications for funding and to provide for the establishment and composition of independent appeal panels and the Department's intention to undertake a targeted consultation on the draft Regulations.

19. SL1: The Civil Legal Services (Disclosure of Information) Regulations 2015 and The Criminal Legal Aid (Disclosure of Information) Rules 2015

The Committee considered proposals by the Department of Justice to make two statutory rules which will be necessary as a result of the Legal Aid and Coroners' Courts Bill to make provision for the disclosure of information in respect of persons in receipt of civil legal services and persons in receipt of criminal legal aid by legal representatives and the Legal Aid Agency and provision to permit the disclosure of information for the purposes of the investigation and prosecution of offences, subject to safeguards to protect the rights of the assisted person.

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

20. Correspondence

- i. The Committee considered a response from the Minister of Justice in relation to possible funding streams for Autism NI's Young People, Autism and Criminal Justice Project currently funded by the Big Lottery Fund.

Agreed: The Committee agreed to forward a copy of the Minister's response to Autism NI for information.

- ii. The Committee noted a copy of correspondence from the Department of Justice to the Committee for Employment and Learning regarding issues raised in relation to the prison education budget, the restructuring of education provision in prisons and the delivery of arts programmes by the Prison Arts Foundation.
- iii. The Committee noted a response from the Department of Justice regarding the provision of mainstream funding for the NI Safety and Lifeskills Partnership RADAR Initiative.
- iv. The Committee noted an invitation from the Minister of Justice to a reception for International Law Enforcement Forum Conference Delegates on 29 September 2014 in Parliament Buildings.

Agreed: The Committee agreed that Members should advise the Clerk if they wish to attend the event.

- v. The Committee noted the Department of Justice Annual Report and Accounts for the Year Ended 31 March 2014.
- vi. The Committee noted correspondence from the Prisoner Ombudsman providing a copy of the Investigation Report into the circumstances surrounding the death of David Brown whilst in the custody of Maghaberry Prison in December 2012.
- vii. The Committee considered correspondence from seven individuals regarding the PSNI Equal Pay Claim and asking the Committee to write to the Minister of Finance and Personnel, the NIO, the NI Policing Board, the Department of Justice and the PSNI to urge them to review the position on this matter. The Committee noted that it had agreed at the meeting on 10 September 2014 to write to the Minister for Finance and Personnel and the Minister of Justice requesting an update on the matter.

Agreed: The Committee agreed to forward the letters to the organisations referred to.

- viii. The Committee noted an invitation from the Ulster Farmers' Union to a conference on the issue of rural and agricultural crime which has been organised in partnership with the PSNI and with the support of the Department of Justice.

Agreed: The Committee agreed that Members should advise the Clerk if they wish to attend the conference.

- ix. The Committee considered correspondence from a Mr Smyth in relation to a complaint about Probation Board officials and his dissatisfaction with the investigation of his complaint by the Probation Board.

Agreed: The Committee agreed to write to Mr Smyth to advise him that, as he had exhausted the Probation Board's appeals mechanism, he may wish to write to the NI Ombudsman in relation to his complaint.

- x. The Committee noted further correspondence from a Mr Jenkins in relation to an alleged case of perjury in the High Court.

- xi. The Committee noted further correspondence from a Mr W McMaster regarding his complaint in relation to the PSNI and the Office of the Police Ombudsman which indicated that he was now pursuing a court case against the police.

- xii. The Committee noted Forensic Science Northern Ireland's Annual Report and Accounts 2013 - 2014.

- xiii. The Committee noted the Police Service of Northern Ireland Police Pension Accounts for the year ended 31 March 2014.

- xiv. The Committee noted the Police Service of Northern Ireland Annual Report and Accounts for the year ended 31 March 2014.

- xv. The Committee noted the Police Rehabilitation & Retraining Trust Annual Report and Accounts for the year ended 31 March 2014.

21. Chairman's Business

None.

22. Any Other Business

None.

23. Date and Time of next meeting

The next meeting will take place on Wednesday 24 September 2014 at 2.00 p.m. in Room 21, Parliament Buildings.

The meeting was adjourned at 5.23 p.m.

Mr Paul Givan MLA
Chairman, Committee for Justice