



**Northern Ireland
Assembly**

COMMITTEE FOR JUSTICE

MINUTES OF PROCEEDINGS

WEDNESDAY 8 OCTOBER 2014
Senate Chamber, Parliament Buildings

Present: Mr Paul Givan 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 Chris Hazzard MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Mr Edwin Poots MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Mr Keith McBride (Senior Assistant Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Miss Marianne Doherty (Clerical Officer)
Miss Anna McDaid (Assembly Bursary Student)

Apologies: Mr Patsy McGlone MLA

The meeting commenced at 2.13 p.m. in public session.

The Chairman welcomed Mr Sammy Douglas, Mr Paul Frew, Mr Chris Hazzard and Mr Edwin Poots to their first meeting as new Members of the Committee for Justice and advised Members that a copy of the entries in the Register of Members' Interests for the new Members of the Committee was in the tabled pack for information.

The Chairman advised Members that correspondence received from Lord Morrow MLA in relation to the Human Trafficking Bill would be considered as an additional Agenda item later in the meeting.

1. Apologies

As above.

2. **Draft minutes of the meeting held on 1 October 2014**

The Committee approved the draft minutes of the meeting held on 1 October 2014.

3. **Matters Arising**

- i. The Committee noted an updated Forward Work Programme for October and November 2014.
- ii. The Committee discussed the timescale for the introduction of the Mental Capacity Bill and the establishment of the Ad Hoc Joint Committee.

Agreed: The Committee agreed to request confirmation of the intended timescale for the introduction of the Bill from the Department of Justice.

- iii. The Committee noted correspondence from the Police Ombudsman for Northern Ireland providing clarification of the budget position in relation to his office following the oral evidence session with the Minister of Justice and officials at the meeting of the Committee on 1 October 2014.

4. **CJINI First Staged Report on an Assessment of the Impact of the Department of Justice Legal Aid Reform Package**

Mr Brendan McGuigan, Chief Inspector of Criminal Justice NI, Mr Bill Priestley, Lead Inspector and Mr Stephen Dolan, Inspector, CJINI joined the meeting at 2.16 p.m.

The Chairman thanked Mr McGuigan for the work that his office had carried out on the report to assist the Committee.

Mr McGuigan outlined the key findings of CJINI's first staged report on the Assessment of the Impact of the Department of Justice Legal Aid Reform Package.

A detailed question and answer session followed covering issues including: clarification of the number of lawyers and solicitors practicing in Northern Ireland; whether the number per head of population is too high; whether there was evidence to support the claims that levels of self-representation had increased in England and Wales; whether the Inspectors had spoken to the Criminal Cases Review Commission regarding potential impacts in England and Wales and if not, would they contact them; the cost of Appeals; whether there is evidence of reduced access to justice in England and Wales; whether there is an increase in personal litigants in England and Wales; whether there is concern amongst the judiciary regarding the standard of the quality of representation; the size of the decrease in the number of civil and criminal providers in England and Wales; the value of committal proceedings; whether the effect of the 2011 cuts in Northern Ireland have yet to be fully realised; the accuracy of projected legal aid costs; the impact on solicitors' firms; the types of legal firms affected; whether the reductions will reduce the number of legal practices; the human rights impact and implications of the cuts; increases in the use of judicial review; the value of an overall review of the criminal justice system; improvements in avoidable delay in the criminal justice system; whether the proposed changes are being driven by more than the current budgetary pressures; the responsibility of the legal professions to regulate the quality of representation; the fact that the proposed reductions in Northern Ireland are less than those imposed in England and Wales; and whether the model of delivery by solicitors firms has already been changing for some considerable time.

The briefing was recorded by Hansard.

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

The Committee agreed to consider Agenda item 8.

5. SL1 – Legal Aid Reform – Proposals to change Crown Court Remuneration Arrangements for Solicitors and Counsel representing Defendants

The Committee noted a response from the Department of Justice to the issues raised by the Law Society and the Bar Council during the oral evidence sessions on 17 September 2014, information provided by the Legal Services Commission on the number of cases/volume of work undertaken by those listed on the ‘Top 100 Solicitor and Counsel Payments’ list and further correspondence from the Bar Council and the Law Society in relation to the proposals to change the Crown Court Remuneration Arrangements for Solicitors and Counsel representing defendants.

The Committee discussed the proposals by the Department of Justice for Statutory Rules to change the Crown Court Remuneration Arrangements for Solicitors and Counsel Representing Defendants.

A number of Members indicated that they were not in a position to support the proposals at this stage with some stating further information was required and another highlighting that in his view the full impact of the 2011 reforms had not yet come through the system, it was therefore premature to make further cuts and consideration of the proposals should be deferred until the end of the financial year.

Other Members highlighted the financial pressures the Department of Justice faced and the Legal Aid bill continued to exceed the allocated budget, the fact that the Criminal Justice Inspection Report had found no evidence regarding access to justice being reduced adversely, the impact was on reducing fees for solicitors and counsel rather than affecting the public and the Committee had taken evidence and analysed the issue thoroughly.

Question: “That the Committee is content with the Department of Justice’s proposals for Statutory Rules to change the Crown Court Remuneration arrangements for solicitors and counsel representing defendants.”

The Committee divided: Ayes 6; Noes 4;

AYES

Mr Stewart Dickson
Mr Sammy Douglas
Mr Tom Elliott
Mr Paul Frew
Mr Paul Givan
Mr Edwin Poots

NOES

Mr Chris Hazzard
Mr Seán Lynch
Mr Alban Maginness
Mr Raymond McCartney

Agreed: That the Committee is content with the Department of Justice’s proposals for Statutory Rules to change the Crown Court Remuneration Arrangements for Solicitors and Counsel Representing Defendants.”

The Committee agreed to consider Agenda item 6.

6. PSNI Budget and Pressures

Chief Constable George Hamilton, Acting Deputy Chief Constable Alastair Finlay, David Best, Director of Finance and Support Services and Mark McNaughton, Head of Finance, PSNI joined the meeting at 3.28 p.m.

The Chief Constable outlined the position in relation to the PSNI budget cuts and pressures.

A detailed question and answer session followed covering issues including: an explanation of how the £51 million budget reduction was calculated; the number of police officers required by the PSNI; the basis on which the police budget is calculated; the work to be carried out by the legacy investigation branch and how its work will be prioritised; the position in relation to current historical investigation and cold case reviews; whether there are likely to be prosecutions in relation to historical case investigations; how the PSNI are tackling the illicit trade of tobacco products and the seriousness of the issue; an explanation of what a demand-led model of policing would be; on what basis prioritising the deployment of community officers would take place; communication with families who are waiting on a HET review; the timescale for the production of legacy related reports; the capacity of police to deal with widespread disorder; the profile of the police workforce; what budget is needed in 2015/16 to maintain ongoing work;

Mr Tom Elliott left the meeting at 4.12 p.m.

Mr Sammy Douglas left the meeting at 4.13 p.m.

the communication of how the police budget is used; the cost of successful public safety exercises; whether the impact of the cuts will result in a police force that will be unrecognisable; the resilience and capacity review; community policing; whether there are issues around Article 2 compliance in relation to the new legacy investigation branch; how legacy related investigations should be funded;

The Chairman left the meeting at 4.33 p.m. and the Deputy Chairman took the chair.

how budget restraints will affect response times; the cost of reducing preventative initiatives; the age profile of the PSNI; the effect of the budgetary constraints on intelligence-led investigations;

The Chairman resumed the chair at 4.38 p.m.

the impact of the National Crime Agency not being able to fully operate in Northern Ireland; the risk associated with terrorism and the pending release of dissident Republicans prisoners from Maghaberry prison in 2015 and 2016; tackling organised crime; the link between organised crime and terrorist groups; the number of police officers required in relation to the ongoing protest camp at Twadell Avenue in North Belfast and the cost of this level of policing; statutory responsibility for the investigation of historical institutional abuse cases; comparison of budgetary constraints being experienced by equivalent police forces in other jurisdictions; the cost of maintaining the police estate and opening hours of police stations; the cost of overtime; sickness levels of police officers; the cost of policing public events; the contribution from Treasury for security related matters;

Mr Seán Lynch left the meeting at 5.20 p.m.

Mr Chris Hazzard left the meeting at 5.23 p.m.

the financial and resource implications of a further inquiry into Kincora; the support given to the Border Agency's operations in Northern Ireland; and the capacity to police parades.

The briefing was recorded by Hansard.

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

The Committee agreed to consider correspondence received from Lord Morrow MLA in relation to the Human Trafficking Bill as an additional Agenda item.

7. Additional Agenda Item - Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

The Committee considered correspondence from Lord Morrow MLA regarding the introduction of a new Clause 10B to the Human Trafficking Bill, the purpose of which is to support those who wish to exit from prostitution. Lord Morrow indicated that, to provide the necessary time to put in place measures to support the implementation of Clause 10B, it would be helpful if there was a longer timeframe for commencement of the Human Trafficking Bill than the three months after Royal Assent currently provided for in the Committee's amendment to Clause 19.

Agreed: The Committee agreed to extend the timescale set out in its amendment to Clause 19 from three to six months and the Clerk would prepare a draft amendment to reflect this for consideration at the next meeting.

The Committee agreed to consider Agenda Items 7, 9, 10 11, 12, 13 and 14.

8. Legislative Consent Motion – Fee-Paid Judicial Pensions Scheme Following the Case of O'Brien

The Committee noted an update from the Department of Justice on the current position in relation to judicial pensions and in particular the O'Brien litigation, the position regarding the Northern Ireland Industrial Tribunal cases and confirmation that, at the request of the Minister for Employment and Learning, the Executive had agreed in principle to a Legislative Consent Motion to extend certain provisions of the Westminster Pensions Scheme Bill on the establishment of a pension scheme for fee-paid judicial office-holders to Northern Ireland.

9. SL1 Statutory Rules to support implementation of EU Regulation No. 606/2013 on Mutual Recognition of Protection Measures in Civil Matters and Directive 2011/99/EU on the European Protection Order

The Committee considered a proposal by the Department of Justice to make Statutory Rules under powers conferred by sections 55 and 55A of the Judicature (Northern Ireland) Act 1978; Article 47 of the County Courts (Northern Ireland) Order 1980; Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 and Article 34(11) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998; and Article 12 of the Family Law (Northern Ireland) Order 1993 to set out the procedure to be followed by

the Courts in Northern Ireland when dealing with outgoing and incoming applicants to support the implementation of EU Regulation No. 606/2013 on Mutual Recognition of Protection Measures in Civil Matters and Directive 2011/99/EU on the European Protection Order which will establish a mechanism to allow for mutual recognition of a civil protection measure ordered in another Member State.

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

10. Update on the Closure of the Police Negotiating Board and the Establishment of a Pay Review Body for PSNI

The Committee noted an update from the Department of Justice regarding the closure of the Police Negotiating Board and the establishment of the Police and National Crime Agency Remuneration Review Body which will consider matters relating to key terms and conditions for PSNI officers below the rank of Assistant Chief Constable.

11. Scheme Design Changes to Public Sector Pensions Act (NI) 2014 effected by Affirmative Process

The Committee noted information provided by the Department of Justice regarding modifications to the Public Services Pensions Act (Northern Ireland) 2014 and the police pension scheme which will be made by Statutory Rule subject to the affirmative resolution procedure.

12. Correspondence

- i. The Committee noted correspondence from the Department of Justice advising of the publication of the Interim Report on the Review of the National Referral Mechanism.
- ii. The Committee noted correspondence from the Department of Justice providing a copy of its consultation document on a draft Adult Safeguarding Policy which has been jointly developed with the Department of Health, Social Services and Public Safety and will issue shortly.
- iii. The Committee noted correspondence from the Department of Justice advising of the publication of the National Statistics Bulletin 10/2014 '*The Northern Ireland Prison Population: Receptions 2009 – 2012*'.
- iv. The Committee noted correspondence from the Department of Justice advising of the publication of Official Statistics Bulletin 11/2014 '*Court Prosecutions and Diversionary Disposals Statistics for Northern Ireland 2010 – 2012*'.
- v. The Committee noted correspondence from the Department of Justice advising of the publication of National Statistics Bulletin 12/2014 '*Northern Ireland Conviction and Sentencing Statistics 2010 – 2012*'.
- vi. The Committee noted correspondence from the Department of Justice providing a copy of the recently published National Crime Agency Strategic Assessment: '*The Nature and Scale of Human Trafficking in 2013*' which assesses the nature and scale of human trafficking throughout the UK, based on reporting from a

number of public authorities and NGOs, and highlights a range of issues across the UK and Northern Ireland.

- vii. The Committee noted the September 2014 Activity Report on the delivery of the Department of Justice's capital projects as detailed in the ISNI Delivery Tracking System.
- viii. The Committee noted an invitation from the University of Ulster to the TJI Conference on Transitional Justice in the Context of European Convention Obligations: Article 2 and the Package of Measures on 6 November 2014 in the Ulster Hall, Belfast.

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

13. Chairman's Business

None.

14. Any Other Business

None.

15. Consultation on the Criminal Law on Abortion in Cases of Lethal Foetal Abnormality and Sexual Crime

Ms Karen Pearson, Deputy Director and Ms Amanda Patterson, Criminal Justice Policy and Legislation Division, Department of Justice, joined the meeting at 5.44 p.m.

Ms Pearson outlined the Department of Justice's intended consultation on amending the criminal law on abortion for cases of lethal foetal abnormality and for sexual crime.

A detailed question and answer session followed covering issues including: the language used in the document and at what point the Department considers a life to exist; the definition of 'incompatibility with human life'; how an assessment of incompatibility with human life would be made and who would make it; at what stage in the pregnancy is the assessment of incompatibility with human life made; how the current law protects the unborn child including those with fatal foetal abnormalities and whether the Department is seeking to withdraw existing protections; why the Department's preferred option is based on the judgement of medical professionals and whether judgements can be wrong; whether the proposed option is discriminatory against children with disabilities; the basis of the Department's proposal for two medical opinions and why this should not be three or more; the rationale for the Department's preferred option; whether there is a particular stage in the pregnancy up to which point a termination can take place; the background to taking forward this particular consultation on these two specific issues; how the consultation process will be conducted; methods of preventing pregnancy in cases involving rape; the level of media attention given to this issue in the past; the number of women from Northern Ireland who have sought terminations as a result of fatal foetal abnormalities; The Northern Ireland Human Rights Commission's view on abortion; the use of the term 'anti-abortion' instead of 'pro-choice' by the Department in its consultation document; whether the consultation will attract opinion on the wider debate on abortion; why the Department did not consult on euthanasia as part of this consultation; and how the Minister has engaged with the public on this subject.

The briefing was recorded by Hansard.

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

16. Date and Time of next meeting

The next meeting will take place on Wednesday 15 October 2014 at 2.00 p.m. in Room 21, Parliament Buildings.

The meeting was adjourned at 6.52 p.m.

Mr Paul Givan MLA
Chairman, Committee for Justice