



**Northern Ireland
Assembly**

COMMITTEE FOR JUSTICE

MINUTES OF PROCEEDINGS

THURSDAY 12 NOVEMBER 2015
Room 30, Parliament Buildings

Present: Mr Alastair Ross MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sammy Douglas MLA
Mr Paul Frew MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Bronwyn McGahan MLA
Mr Patsy McGlone MLA
Mr Edwin Poots MLA

In Attendance: Mrs Christine Darrah (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: Mr Stewart Dickson MLA

The meeting commenced at 2.00 p.m. in public session.

1. Apologies

As above.

2. Draft minutes of the meeting held on 5 November 2015

The Committee agreed the minutes of the meeting held on 5 November 2015.

3. Matters Arising

- i. The Committee noted a Forward Work Programme for November and December 2015 and the programme for the visit and meeting at the University of Ulster at Jordanstown on 19 November 2015.

4. Oral Evidence from the Criminal Justice Inspection Northern Ireland on its Report on an Unannounced Inspection of HM Prison Maghaberry in May 2015

Mr Brendan McGuigan, Chief Inspector and Dr Ian Cameron, Inspector, CJINI joined the meeting at 2.03 p.m.

2.07 p.m. Mr Patsy McGlone joined the meeting.

Mr McGuigan outlined the findings and recommendations of the CIJINI Report on an Unannounced Inspection of HM Prison Maghaberry in May 2015.

A detailed question and answer session followed covering issues including: the inaccurate inference by NI Prison Service senior management and the Minister of Justice that the Report was a snapshot of a few days and confirmation that the issues highlighted had been on-going for some time; the CJINI inspection and reporting process; whether there was confidence that the current NIPS Director General was the correct person to lead the organisation; the difficulties highlighted between NIPS HQ and local prison management including the absence of trust and confidence and the ineffective relationship; the drugs misuse highlighted in the report and how prescription drugs are managed in the prison; whether sufficient measures have been taken to tackle the problem of illegal drug use; dealing with alcohol and drug addiction in prisons; the reasons for the low levels of purposeful activity; the impact of staff shortages; the management of the separated regime and the suggestion in the report of a need for a radical new approach; plans for a further CJINI inspection of Maghaberry Prison in January 2016 and whether there is a requirement for more regular monitoring and reporting; to what extent the Prison Review recommendations had been implemented and whether there was resistance to any of the recommendations by Maghaberry management and staff; the need for significant investment of time and financial resources to achieve the fundamental reform of the NI Prison Service envisaged by the Prison Review Team; why so few of the recommendations of the CJINI Report on Maghaberry Prison in 2012 had been implemented and who was responsible for ensuring implementation; the leadership issues highlighted in the report; the legal status of the Governor of Maghaberry Prison and the management by Headquarters; the challenges of managing a complex prison environment; the appropriateness of the current prison estate and the timescale for implementation of the recommendation for three mini prisons in Maghaberry; the impact of the operation of a separated regime on the rest of the prisoner population; the provision of training and development for staff and the lack of external input;

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

the provision and management of healthcare within the prison and the deficiencies identified; the responsibility of the RQIA in relation to investigating healthcare provision; whether there was evidence of medical negligence; dialogue with the Northern Ireland Ombudsman and the Prisoner Ombudsman regarding healthcare complaints by prisoners; the lack of adequate management of contracted services within the prison; the impact of not providing any in-patient healthcare facilities in prisons; how progress on the delivery the CJINI report recommendations will be monitored; the work of the Probation Board in the prison; the role of the voluntary sector in the delivery of services within prisons; what scope there is to move disruptive prisoners to other UK prisons; the role of the Prison Oversight Group;

3.25 p.m Mr Alban Maginness left the meeting.

who has responsibility for training and development of officers and governors; the responsibility of the Director General and the Director of Operations for the performance management of prison governors; the rationale for the recommendation for an independent assessment of the circumstances that led to the fire in Erne House; the accountability of the Director General of the NI Prison Service; whether there was a full

complement of staff in Maghaberry at the time of the inspection; who has responsibility for recruitment; the use of overtime to cover staff shortages; whether prison officer sickness levels reflected the stress of the working environment that existed within Maghaberry; and the impact of the loss of experienced staff through the exit scheme and the high turnover rate of the new custody officers.

The briefing was recorded by Hansard.

The Chairman thanked Mr McGuigan and Dr Cameron for their attendance and they left the meeting.

5. Oral Evidence from the Northern Ireland Prison Service in response to the finding of the Criminal Justice Inspection Northern Ireland Report on an Unannounced Inspection of HM Prison Maghaberry in May 2015

Ms Sue McAllister, Director General, Mr Phil Wragg, Director of Offender Policy and Operations and Governor of Maghaberry Prison, Mr Stephen Davis, Interim Director and Mr Mark Adam, Director of Human Resources and Corporate Services, NI Prison Service (NIPS) joined the meeting at 3.47 p.m.

Ms McAllister briefly outlined the Prison Service response to the findings of the CJINI report.

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

A detailed question and answer session followed covering issues including: why the Prison Service had sought to underplay the magnitude of the report findings by using the term ‘snapshot’; whether the Director General accepted that Maghaberry Prison has got worse since she took up post; why the Prison Service had not fully implemented all of the recommendations of the 2012 CJINI report on Maghaberry; how there is a collegiate approach between HQ and Maghaberry senior management given the attempts to apportion blame for the findings of the CJINI report on local management; why the Director General took so long to take action to address the issues in Maghaberry; why the problems were not proactively addressed before the Chief Inspector highlighted them in his report; who has responsibility for managing the performance of senior prison Governors and managers; whether previous statements made by the Minister of Justice and members of NIPS senior management team on the scale of the misuse of drugs within prisons were inaccurate given the Report findings; whether the Director General accepts the accuracy of the CJINI report in relation to its findings on drugs misuse; whether the scale of the drugs problems in Magilligan and Hydebank are the same as in Maghaberry; why efforts were made to underplay the seriousness of the fire at Erne House; who will carry out the independent investigation into the fire at Erne House and the timescale for its completion; the working environment for prison officers and the lack of support provided; whether concerns raised by prison officers were taken seriously and whether adequate risk assessments were carried out; the safety of prison officers working in Roe House; the management of the separated regime; what measures have been taken to ensure that an incident such as the fire in Erne House will not happen again; the alleged failure to unlock prisoners to attend medical appointments; what changes CJINI will find when it completes its next inspection in January 2016; voluntary sector service provision and contribution within prisons; where responsibility sits for addressing the lack of leadership identified in the report; what investment in leadership skills and development of prison service managers and officers has taken place over the last three years; who has responsibility for training and development; who has responsibility for overseeing prison governors; the role of the Director of Operations; the requirement for a stronger performance management culture; who is responsible for delivering the recommendations identified in the CJINI report; responsibility for the implementation of the 2012 report

recommendations; whether there are now stronger and more robust oversight mechanisms in place;

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

4.38 p.m. Mr Alban Maginness joined the meeting.

the ineffective relationship between Prison Service HQ and the local management at Maghaberry including poor communication and a lack of trust; the pace of reform of the Prison Service in Northern Ireland; the challenges of operating in the current financial climate; perceived resistance within Maghaberry to implementing the three mini prison model recommended by the Prison Review Team; how the current operation of the separated regime detrimentally impacts upon the other prisoners; whether the Director General believes Magilligan and YOC have improved during her time in post; the number of ‘staff in post’ in Maghaberry at the time of the inspection compared to the target staffing level; the areas set out by the previous Director of Operations where overtime was not available to cover vacant posts; whether the previous Governor of Maghaberry was given the necessary tools and resources to do his job; why staff from Magilligan and YOC were only moved to work in Maghaberry when the Governor was replaced; what account is taken of Occupational Health reports when managing staff sick absence; the number of prison officers who have been medically retired; the poor healthcare provision within Maghaberry; responsibility for managing healthcare provision within prisons and ensuring provision is adequate; the level of contact between NIPS senior management and the South Eastern Health and Social Care Trust; the safety of prison officers and tackling threats against them; the operation of the anti-bullying policy; the challenges facing the new governor of Maghaberry; whether robust structures are in place to ensure accountability; whether prison officials adequately present an accurate picture of the state of the prison service when appearing in front of the Committee; and whether the Director General can focus properly on leading and managing the NI Prison Service given her dual role as Director of Reoffending in the Department of Justice.

5.10 p.m. Mr Raymond McCartney left the meeting.

The briefing was recorded by Hansard.

The Chairman thanked the Director General and the other NIPS officials for their attendance and they left the meeting.

The meeting was suspended at 5.26 p.m.

The meeting resumed at 5.30 p.m.

*Present: Mr Alastair Ross MLA (Chairman)
Mr Paul Frew MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Bronwyn McGahan MLA*

6. Justice No.2 Bill – Oral Evidence from the Northern Ireland Ombudsman

Dr Tom Frawley, Northern Ireland Ombudsman and Ms Marie Anderson, Deputy Northern Ireland Ombudsman joined the meeting at 5.30 p.m.

Dr Frawley outlined a range of key issues relating to Part 2 of the Justice No. 2 Bill which places the Prison Ombudsman on a statutory footing.

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

A question and answer session followed covering issues including: whether the Ombudsman had discussed his proposal to combine the Prison Ombudsman role with regard to prisoner complaints with that of the proposed new office of the Northern Ireland Public Service Ombudsman (NIPSO) with the Department of Justice; the benefits of the proposal; whether complaints from visitors to prisons could fall within the remit of the NIPSO if the change was made; the potential confusion regarding the current role of the NI Ombudsman and the Prisoner Ombudsman in relation to healthcare complaints by prisoners; responsibility for examining the provision of healthcare in relation to investigations of deaths in custody; who should investigate prisoner deaths in custody if prisoner complaints is subsumed into the role of the NIPSO; the expertise of a Prison Ombudsman with a narrower remit; balancing specialist knowledge with independent oversight; the experience of the NI Ombudsman's Office in investigating healthcare related serious adverse incidents; concerns regarding the limited information gathering powers of the Prison Ombudsman proposed in the Bill; the number of death in custody cases; managing the potential increase in the workload of the Public Service Ombudsman's office; the ability of the NIPSO to publish reports on its work; potential cost savings associated with subsuming the Prison Ombudsman's role within that of the NIPSO; the scope of the information that the NIPSO has access to and who NIPSO can share that information with; the current relationship and engagement between the NI Ombudsman's Office and the Prisoner Ombudsman and Police Ombudsman; and the number of prisoners who have made healthcare complaints to the NI Ombudsman's office.

6.02 p.m. Mr Raymond McCartney joined the meeting.

The briefing was recorded by Hansard.

The Chairman thanked Dr Frawley and Ms Anderson for their attendance and they left the meeting.

6.08 p.m. Mr Edwin Poots left the meeting.

7. Justice No.2 Bill – Delegated Powers and Proposed Amendments

The Committee considered correspondence from the Department of Justice in relation to an issue raised regarding the delegated regulation-making powers in Clause 18 (6)(b) the Justice No. 2 Bill and noted that the Minister of Justice was minded to bring forward an amendment to specify, on the face of the Bill, the issues that the court should take into account before making a vehicle seizure order. The Committee also noted the Minister's intention to bring forward two further amendments regarding a vehicle seizure order and liability for the cost of a summons server fee for the personal service of a fine default notice.

8. SR 2015/356: The Attorney General's Human Rights Guidance (Police Service of Northern Ireland - Protection of Life) Order (Northern Ireland) 2015

The Committee considered Statutory Rule 2015/356 The Attorney General's Human Rights Guidance (Police Service of Northern Ireland - Protection of Life) Order (Northern Ireland) 2015 which would bring the Attorney General's guidance for the PSNI into operation on 1 December 2015.

Agreed: The Committee considered Statutory Rule 2015/356 The Attorney General's Human Rights Guidance (Police Service of Northern Ireland - Protection of Life) Order (Northern Ireland) 2015 and agreed that it was content with the Rule.

9. SR 2015/360: The Police (Appeals, Conduct and Unsatisfactory Performance and Attendance) (Amendment) Regulations (Northern Ireland) 2015

The Committee considered Statutory Rule The Police (Appeals, Conduct and Unsatisfactory Performance and Attendance) (Amendment) Regulations (Northern Ireland) 2015 which will amend three sets of regulations governing discipline procedures for members of the PSNI to revoke and replace the existing definition of ‘member’ in the police conduct, unsatisfactory performance and appeals procedures.

Agreed: The Committee considered Statutory Rule 2015/360 The Police (Appeals, Conduct and Unsatisfactory Performance and Attendance) (Amendment) Regulations (Northern Ireland) 2015 and agreed that it was content with the Rule.

10. SL1: Proposed Magistrates’ Courts (Amendment) Regulations (Northern Ireland) 2015 – Defence Access to Premises

The Committee considered a proposal by the Department of Justice to make a Statutory Rule to amend the Magistrates’ Courts Rules (Northern Ireland) 1984 in light of provisions introduced by section 94 of the Justice Act (Northern Ireland) 2015, which enable the court to make an order allowing the defence to have access to premises, to provide the procedure to be followed on making an application for such an order.

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

11. Department of Justice November 2015 Monitoring Round Return

The Committee considered information provided by the Department of Justice on its November Monitoring Round Return to the Department of Finance and Personnel and the pressures and easements identified and noted that departmental officials will attend the meeting on 10 December to provide a further update on the Department’s financial position.

12. Proposed Extension of UK Biometric Commissioner’s Remit in Northern Ireland

The Committee noted correspondence from the Department of Justice advising that, at the request of the PSNI, the Minister of Justice was writing to the Home Secretary to seek her assistance to extend the current remit of the UK Biometric Commissioner in Northern Ireland to provide appropriate independent oversight of the implementation of the new PACE Biometric Retention Rules under Schedule 2 of the Criminal Justice Act (Northern Ireland) 2013, once commenced.

The Deputy Chairman advised that he had raised some concerns with the Department of Justice in relation to this matter.

13. Revised Approach to Statutory Time Limits – Proposed Consultation

The Committee considered the Department of Justice’s draft consultation document on its revised approach to the introduction of Statutory Time Limits.

Agreed: The Committee agreed to request that the Department includes questions seeking views on the length of the statutory time limit that should apply to each option in the consultation document.

14. Correspondence

- i. The Committee noted correspondence from the Department of Justice advising of the publication of the Northern Ireland Courts and Tribunals Service quarterly statistical bulletins on civil, criminal and family business across all court tiers.
- ii. The Committee noted correspondence from the Department of Justice advising of the intention of the Minister of Justice to make an oral statement to the Assembly in relation to the Inter-Governmental Agreement on Cooperation on Criminal Justice Matters on 8 December 2015.
- iii. The Committee noted correspondence from the Department of Justice advising that the Minister of Justice no longer intended to make an oral statement to the Assembly on the Rationalisation of the Court Estate on Monday 23 November 2015.
- iv. The Committee noted a response from the Department of Justice providing further information on the transitional arrangements that have been put in place to maintain the service provided by the State Pathologist's Department until the recruitment exercise for a State Pathologist and a Forensic Pathologist is completed.
- v. The Committee noted correspondence from the Department of Justice providing a copy of guidance issued by the Home Office for businesses in line with section 54(9) of the Modern Slavery Act 2015 in relation to transparency in commercial supply chains etc.
- vi. The Committee noted correspondence from the Department of Justice advising that HM Revenue and Customs had placed its six monthly evaluation of the AccutraceTMS10 Fuel Marker, which is designed to combat fuel laundering, in the House of Commons Library on 4 November 2015.
- vii. The Committee considered correspondence from the Committee for Finance and Personnel in relation to a Legislative Consent Motion on a Proposed Cap on Public Sector Exit Payments.

Agreed: The Committee agreed to request the views of the Department of Justice on any implications for justice of the proposed LCM.

- viii. The Committee noted an invitation from Queen's University Belfast to the annual Stephen Livingstone Lecture arranged by the School of Law on 23 November 2015 in the Great Hall, Queen's University on 'The Role of Human Rights on Peace Settlements – A Twenty-Five Year History'.

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

- ix. The Committee noted an invitation from the Centre for Cross Border Studies to attend a Public Policy Briefing Event on 18 November 2015 in Parliament Buildings covering a range of issues including the provision of Probation Services, North and South.

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

- x. The Committee considered correspondence provided by Mr Patsy McGlone MLA from a Ms Agnew regarding animal cruelty cases and sentencing issues.

Agreed: The Committee noted that it would be considering proposed amendments to be brought forward by the Department of Agriculture and Rural Development to the Justice No. 2 Bill to increase the penalties provided for in Section 31 of the Welfare of Animals Act 2011 and agreed to advise Ms Agnew accordingly.

15. Chairman's Business

The Chairman advised Members that he had spent a day in the domestic violence court in Londonderry and that court officials had extended an invitation to other Members of the Committee if they were interested in undertaking a similar visit.

Agreed: The Committee agreed that Members should advise the Clerk if they wished to undertake a visit to the domestic violence court.

16. Any Other Business

None.

17. Date and Time of next meeting

The next Committee meeting will take place on Tuesday 17 November 2015 at 12.30 p.m. in Room 21, Parliament Buildings.

The meeting was adjourned at 6.20 p.m.

Mr Alastair Ross MLA
Chairman, Committee for Justice