



Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

**OFFICIAL REPORT
(Hansard)**

**Review of the Northern Ireland
Criminal Records Regime**

30 June 2011

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Ms Jennifer McCann
Mr Basil McCrea
Mr Alban Maginness
Mr Peter Weir

Witnesses:

Ms Sunita Mason

Mr Tom Clarke) AccessNI

The Chairperson:

I welcome Ms Sunita Mason, who is the UK Government's independent adviser on the management of criminality information in England and Wales and is taking the Northern Ireland review forward. Ms Mason is due to submit her report to the Minister of Justice by the end of July 2011. She wished to meet the Committee and take its views on the issues that she is considering, particularly to ensure that any issues that are specific to Northern Ireland are being covered. I also welcome Mr Tom Clarke, who is from the review secretariat.

Ms Sunita Mason (Independent reviewer):

Good afternoon, Chairperson. Thank you for your introduction. As the Chairperson has pointed out, I am the independent adviser for criminality information in the UK. I have been in post since

2009. My background is as a lawyer, and I have always specialised in child protection. I am also a judge in the County Courts in England and Wales, and I have been sitting, part-time, for the past six years.

In March 2011, I was honoured and privileged to be invited by the Justice Minister, David Ford, to undertake a review of the criminal records regime in Northern Ireland. I have already published two reports on this subject in England and Wales, and I am due to publish a third report. The focus of my review in Northern Ireland will fall into two parts. The first phase is about disclosure and the AccessNI regime checks. The second phase is all about the management of criminal record checks in Northern Ireland.

I am very alive to the issues here in Northern Ireland, which are unique. I want to focus on those in my review. For example, Northern Ireland is already ahead of the game in the use of Causeway, which is a very sophisticated tool for criminal record management and which is very different from what they have in England and Wales. I will be really pleased to be able to write about that and to explain its benefits for the criminal justice system.

My perspective in the review is to balance civil liberties with public protection. However, as I made very clear to my consultees, I am not looking to dilute public protection. That is really important. I am due to hand in the final version of phase 1 of the report at the end of July, and phase 2 will follow shortly thereafter.

In phase 1, I consulted over 100 people on a face-to-face basis and had over 180 responses to the online survey. I was delighted with the response and the way in which people were helpful and wanted to interact. It is obviously something that is live and well worth a good debate.

One of the things that pleased me most was the fact that I had unanimous support for the principle of the portability of checks and for the ability to update online. Today, I would particularly welcome the Committee's views on the two fundamental recommendations that I want to make in my review. I am also happy to answer any further questions that you might have.

The Chairperson:

Thank you very much for that. Do members wish to raise particular questions, or are they content

with where we are going? You are going to get off very lightly today, Ms Mason.

Ms Mason:

I am happy to go into a little more detail; I was just told to be brief. *[Laughter.]*

Mr B McCrea:

I am sorry, we have just been dealing with so many things. What exactly is the online issue? Will you explain it a wee bit more?

Ms Mason:

One of the things that everybody said to me is that they want to have portability of AccessNI checks. Using myself as an example, in just one year in England and Wales I needed three Criminal Records Bureau checks: to be on the children panel as a lawyer, to volunteer and to be a charity trustee. Had there been portability, I would have had one check, and then, when I wanted to volunteer as a poolside assistant at my son's swim club or, as a lawyer, apply to sit on the children panel, I would have been able to say, "Here is my check".

However, all that has to go hand-in-hand with online updating, because your check is only valid at the time that it is made. Therefore, if I was to give you my check two months later, you might wonder whether I had done something in those two months, which is why, at the moment, somebody would have to go through another AccessNI check. We found that some people have had over 15 checks in very short spaces of time, especially people providing locum-type services, such as health workers. Being able to check online means that, if you have my certificate, you can log in my details and the system will tell you online whether there has been a change. It would not tell you what I had done or whether other criminal record information might pop up; it would just say "no change" or "please apply for a new certificate".

On that basis, the two recommendations would work hand-in-hand. Instead of having to go through the process of filling in a new form, spending the extra £30 and going through the whole procedure and rigmarole of waiting for a new certificate, you could do it almost instantly. Once a check has been done, you could say, "Start tomorrow". That is the beauty of the two recommendations, but they need to go hand-in-hand, because portability will not work unless somebody can check straight away that nothing has happened.

I was told that, of all the rechecks carried out in England and Wales — for people who use the system over and over again — 95% show no change. Although AccessNI has not been going long enough to gather similar statistics, it sees no reason why they should be any different here. It will be only in a few circumstances that somebody might have done something in that period. We hope that the sophisticated technology that would be implemented will come up with a message to say that you need to apply for another check. That will be the warning sign, but it will not tell you any more than that. On that basis, the system will be clean, smooth, efficient, cheaper and less bureaucratic.

Social worker and teachers, in particular, told me that they need to get checks done in time to get people in place. Teachers have to be in school by September, because there is no point in having a classroom full of kids and no teacher, but, by not having carried out a check, schools put themselves at risk. I see it as a way of making the system work much more smoothly. Everybody is clamouring for it. Does that help?

Mr B McCrea:

It does, but there is the law of unintended consequences. Is the online element piloted anywhere, or are you going to review it after a while?

Ms Mason:

I will be quite clear: I have been asked to look at the general principles. The operation and the technical side is not necessarily my speciality, and, given the timing of the review, I would not be able to do that. However, I have looked at the principles, come up with ideas and checked whether the technology exists. Because England and Wales are going to have the vetting and barring scheme (VBS), with continuous monitoring and registration, the technology and IT is already there; I am told that it can be tweaked and transferred across. In the Protection of Freedoms Bill, which is going through Parliament, legislation has been implemented to allow that to happen. It will, hopefully, come into line as soon as the Bill receives Royal Assent in May 2012. The Bill is going through quite well; no one has opposed that part of it, it is welcomed by everybody.

Ms J McCann:

To be honest, I have not read your report in depth. You talked about AccessNI. I know that, in the past, people have got a new job and have waited quite a long time for a check. Given the

importance of working with children and vulnerable adults, something needs to be built in to ensure that, if it is to be a quicker and more efficient system, it will also be a system that works and that people will not slip through the net. We must ensure that we do not allow someone who has not been properly checked or, as you say, someone whose records are dated, to work with children and vulnerable adults. Are you confident that the proposed system will ensure that that does not happen?

Ms Mason:

I absolutely agree with you: my report will say that, if we do not have confidence in the system, there is no point in it. It must be fraudulent proof. I am assured that the technology and the systems being developed in England and Wales — used in VBS, which is due to go online — would allow that to be the case. That is what I have been told. In my review in England and Wales, which has been published, I made it very clear that if we cannot have those assurances, quite clearly it would not work and we would have to stay with the old system. You are absolutely right. The number one, key principle is that we cannot dilute public protection because we are trying to be more efficient. However, I am told that it is possible to make the systems more streamlined, which would benefit everybody. I hope that what they tell me is the truth.

Mr Tom Clarke (AccessNI):

You would also have to test the system significantly with live cases to ensure that it works. The horror scenario would be someone slipping through the net because of the system not being updated.

Mr B McCrea:

That is the point that I was making. Everything sounds fine in theory, but we remain to be convinced about the practical outworkings.

Ms Mason:

I agree. You raised a good point about not diluting public protection. During my consultations here in Northern Ireland, I found that there are people in key jobs, such as teachers and social workers, who have never had checks, although we are not sure how many there are. When AccessNI checks were introduced, there was no legislation for retrospective checking. I will be saying that government should give that issue further consideration because it needs to be looked

at. As my number one recommendation, I would like to see that those who are in positions of trust with children and vulnerable adults and who have never been checked should now be checked.

The Chairperson:

Thank you, Sunita, for coming over and updating the Committee. We should ensure that we get a copy of your report when your final document is completed.

Ms Mason:

Absolutely, and if you want me to address the Committee once that report has been published, I would be more than happy to do so. Thank you for the opportunity.

The Chairperson:

Thank you very much. I appreciate that.