



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Speeding up Justice/Youth Engagement
Pilot: DOJ Briefing

31 January 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Alex Easton
Mr Tom Elliott
Mr Seán Lynch
Mr Alban Maginness
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Ms Maura Campbell	Department of Justice
Mr Chris Matthews	Department of Justice
Ms Jean Moore	Department of Justice

The Chairperson: I welcome Maura Campbell, who is deputy director of the criminal justice development division in the Department of Justice, and Chris Matthews and Jean Moore, who are also from the Department. This session will be recorded by Hansard and published in due course. The relevant papers are in your packs. At this point, I will hand over to Maura to take us through the update.

Ms Maura Campbell (Department of Justice): Thank you very much. As you said, this is the latest in our regular series of six-monthly reports to the Committee on the speeding up justice programme. The papers that we have provided to you for today include, first, the performance statistics for the first six months of this year, that is from April to September; secondly, an update on the youth engagement pilot, which we briefed you on as part of our last update; thirdly, an overview of the full range of procedural and legislative reforms that we have under way to improve processing times, which includes the work to date on developing statutory time limits; and, finally, an update on progress against the recommendations in the 2010 Criminal Justice Inspection report.

Starting with current performance, overall there has been some improvement, though it is fair to say that it is modest. Performance in the Crown Court is broadly the same, but performance in adult and youth charge cases has been improving steadily over the past few years, and that improvement is being sustained. Adult cases are now being completed in just over three months and youth cases in just over four months. There has also been a modest improvement in summons cases, but we remain concerned that the average time taken between the Public Prosecution Service decision and first appearance in court is still too long. So, we have been focusing on that element centrally and asked

our regional performance improvement partnerships to target this stage in particular in the programme of work for this year.

Turning to youth engagement, you will recall from our last briefing that we are now piloting a new process for youth cases, and that has continued to be the main focus of our work over the last six months. As we have said before, the purpose of the pilot is to let us see how much time it is possible to take out of the process before we make any firm decisions about the length of the proposed statutory time limit for youth court cases. The underlying idea is that if you give the young person more support earlier in the process and help them to make a properly informed decision about the offer of a diversion, you should be able to avoid cases arriving in court that do not need to be there. In turn, we hope that that should create capacity in the youth court and allow the judiciary and the wider system to focus more effort on cases that are not suitable for diversion. In terms of where we are, we have now introduced the pilot on a phased basis. It was launched in one part of B district on 1 October and extended to the remainder of the district in mid-December.

We had hoped to extend to A district by now. However, that has had to be deferred for operational reasons. As a result of that, the number of cases that have been referred to clinics so far has been relatively low. The figures in your paper reflect what the position was at the end of December. As of last Friday, a total of 20 cases had been referred to clinics and nine clinics had taken place. So, the paper concludes that although the feedback on the early clinics is very encouraging, we reckon that there have not been enough referrals yet to reach any firm conclusions about the effectiveness of the clinics as a concept.

What we want to do now is to roll out to A district by the end of February. Since there is a lead-in time of 28 days from the date of referrals to the date of the clinic, we will only be seeing outcomes of cases from that district coming through towards the end of March. For that reason, the project board has decided to extend the duration of the pilot for a further two months. That will take us up to the end of May, rather than 31 March.

We have also decided to extend the geographic scope of the pilot in order to bring in two areas of D district that already fall within the jurisdiction of the youth courts at Laganside. They are Newtownabbey and Carrickfergus. The plan is for the pilot to be rolled out simultaneously to A district and the two areas of D district that I mentioned. The project board feels that those adjustments should give us the numbers that we need to evaluate whether the clinics have been effective. Hopefully, by the time of our next progress report, we will be in a position to advise you on the outcome of the full evaluation and the proposed way forward. If the clinics have shown to deliver the benefits that we are looking for, and we have properly stress tested them by getting sufficient numbers through, we will plan for a full roll-out from about September onwards. If they have not, we will have to close down the pilot and look for an alternative approach.

I do not propose to go through in that sort of detail the other initiatives that we have included in the pack today, as I am conscious of time. I will just highlight one area where I thought that you might like to hear about some early results. It relates to the new rapid analysis process for cannabis, which is being piloted through Forensic Science Northern Ireland (FSNI) and is mentioned in annexe C at paragraph 4.5.

Since 19 November, FSNI has adopted a new target to have 80% of cannabis-only cases processed within 30 days using the new rapid analysis process. In the space of the first two months, it has actually exceeded that target. It has met the target in 95% of cases, which is 53 out of 56 cases that were applicable. The average time taken has now got down to 25 days. That compares with the target of 80 days under the previous process.

I propose to leave it there, Chair, and take any questions on youth engagement or any other issue that is covered in the papers.

Mr McCartney: I want to make a couple of general observations. Has annexe A been prepared for the Committee or your own internal use?

Ms M Campbell: We have been producing that annexe for some time. It was not specifically designed for the Committee. It was based on the original performance standards that were set by the Criminal Justice Board. That has been ongoing for some time.

Mr McCartney: In relation to the key — the red, amber and green scenarios — if you work with that every day of the week, you get a better sense of where you want to be. For us, perhaps, in the future, where it says, particularly in the amber and the red, to sort of give a sense of where you feel you should have been at the particular time. So, if you thought that it should have been 100 days and it is now 110 days, that gives you an indication that you are moving towards the target, rather than that broad band, just for our own observation.

Ms M Campbell: We are happy to take on board any suggestions on what we could do with the presentation to make it a bit easier to follow. It is quite technical.

Mr McCartney: You do not want to say something that is ill-informed. At least, if you say what the target is and where you should be — and where we wanted to be was 100 days; we are now at 105 days — it gives you a better sense of moving in the right direction, rather than having big, broad categories that sometimes do not mean a lot when you are not dealing with the figures every day of the week.

Ms M Campbell: One of the columns is entitled "2012/13 standard", and it is really the sort of figure that we are aiming for. That is what we compare the figures to when we are highlighting using red, amber or green. We can certainly reformat that if that would be useful.

Mr McCartney: I am not saying that we should know this. It says "Date of Committal", and there are a series of initials. You know exactly what they are; I have not a clue.

The Chairperson: Take the Crown Court pre-committal stage. Can you try to delve into a bit of the detail about why, from 1 April to 30 September 2012, it was 243 days, compared to the previous year? I think the average there was 229. On that particular area, it has got worse.

Ms M Campbell: It has. The Crown Court has proven problematic. That is largely because of the nature of the types of cases coming through the courts, which tend to be the more difficult, complex indictable cases. In some instances, there will be a requirement for them to take more time. It is more difficult to make inroads into those cases than it is with the summary cases.

We have tried to look at what has been happening in the dynamic on numbers. We have never seen an exact correlation between numbers of cases and time taken. So, it seems to be more to do with the complexity of the cases themselves. Anecdotally, that is what the agencies are telling us.

We are hopeful, though, that a number of the legislative measures that we are proposing, and which will hopefully feature in the Faster, Fairer Justice Bill, should start to address some of the problems, particularly with Crown Court. From previous briefings, you will be aware, for instance, of the work we are doing with the aim of abolishing the committal stage, which you will see from the figures takes up a huge chunk of time. If we can make some progress on that, it should certainly help to bring those figures down.

The Chairperson: The other area would be, in the Crown Court again, the period of time from conviction to disposal. That has got worse as well. Again, for the six months from April to September 2012, it took 64 days, compared with 53 days in 2010-11 and 50 days in 2011-12. So, again, there is another aspect where things have not improved; it has gone in the opposite direction. Is there any rationale for that?

Ms M Campbell: I do not think that there is any one single issue that we can point to. That is the stage at which further reports tend to be commissioned. It is most likely to do with the length of time it is taking to get those in.

Mr Chris Matthews (Department of Justice): It is because of the different cases you deal with in the Crown Court when you get to that stage. There will be cases that involve, say, a dangerous offender, and part of the sentencing is a psychological report that says, "This person is dangerous". However, the defence might say, "Well, actually, we want to get our own report". Things like that may extend the time.

I think that the judiciary have been talking to the Probation Board about speeding up the pre-sentence report stage to see whether they can squeeze the times there. As Maura said, part of the issue with the Crown Court is the variety of cases and the different lengths of time they take. The sentencing in

those cases, because of their complexity, can take time. From our perspective, a lot of it is around trying to get those cases to court more quickly, so that those complex issues can be dealt with more quickly, as opposed to trying to cut down the amount of time that judges have to look at the cases.

Mr Elliott: Thanks very much. My question is on the youth engagement pilot. I know that we have been through this before about the timescales. In the briefing paper, there still seems to be — I do not know which to call it — a conflict or a disagreement as to the timescale. Does it start from arrest or not? The review team says that it should start from arrest, but the Department said that that was broadly unworkable. Why is it unworkable?

Ms M Campbell: This is to do with the start point for statutory time limits. The youth justice review suggested starting from the point of arrest. A number of reports have recommended statutory time limits: the Owers report, the Criminal Justice Inspection report and the youth justice review. It featured a bit in the access to justice review as well. The youth justice review made the specific recommendation that the 120 days should start from the point of arrest.

On the foot of previous discussion at the Committee, we went back to the youth justice review team to seek clarification on why arrest had been chosen as the start point. As we thought, the recommendation had been influenced by practice in England and Wales, where that was the point that was chosen. That point was chosen there because there is much more extensive use made of charge. That would create a difficulty for us. You could have a statutory time limit starting at the point of arrest, but that would only capture charge cases, which would only be about a third of the cases in the youth court. There is no exact analogue for that in relation to summons cases, and given that it is summons that is the principal problem in Northern Ireland, taking the longest time and where we need to make the greatest improvement, we thought it better to choose a point where we could start measuring cases for both charge and summons. That is the point that we have proposed.

That does not mean that we will ignore the early stage, because we will still have the end-to-end performance standards and will continue to monitor them. We will be continuing with initiatives to bring that time down. We need to create a workable statutory time limit that is applicable both to charge and summons cases. That is what the Criminal Justice Board agreed would make more sense in a Northern Ireland context.

Mr Elliott: You have not explained why it is not workable. You have explained broadly the context of it, but not why it is unworkable.

Ms M Campbell: It would be workable in relation to charge cases only, because arrest would not bring summons cases within the scope, so you would be excluding two-thirds of the cases that come to the youth court.

Mr Matthews: Operationally, in England and Wales, they tend to charge people, and a charge would tend to come after an arrest. Here, where you have a summons, you would probably not arrest a young person before summoning them, so there would be no start point for the statutory time limit (STL). There is no analogue for not arresting somebody, so you would not be able to say, "OK, so it is not arrest, so it is this other point." Some of the young people who are summonsed may never actually even attend a police station. It can be an entirely paper-based process, so there would be no point in having proceedings where you would say, "This is roughly equivalent to arrest."

So, in thinking about when the STLs should be attracted to proceedings, we looked at when the person stops being just a suspect and becomes the person who is formally being accused of the offence. When does the system say, "Actually, we are now taking action against the person, and they are not just part of our investigation anymore. This is the person we are taking action against." That is where we come to the point of formally charging someone or making a complaint to the court, because that is the point at which you are saying, "You are now the person we think did this, and everything we do now is about proving the case against you." That is why we think the STL starts at that point.

Ms M Campbell: As it is a statutory time limit, you have to be able to define in statute what the start point is.

Mr Elliott: You cannot have two separate ones, then.

Ms M Campbell: You could have two separate ones started at different points, but then you could potentially create incentives for people to work around the system, if you know what I mean. We were quite keen to have —

Mr Elliott: I am just concerned that if there is not the arrest point for those ones, they will be allowed to drift. The time limits are not great at the moment, so how much improvement is being sought? I am just concerned that it will not put any pressure on the Department to reduce those times.

Mr Matthews: If you look at current performance, as Maura was saying, in charge cases, where you might arrest the young person, our performance is much better than in summons cases. So, if the time limit was applied to arrest cases, we would probably be able to meet it now, with our current performance. The problem we have is where the case involves a summons. The performance is much lower, but there is no similar point to arrest that we can attach the statutory time limit to.

The delay, if you look at the figures, comes between the point at which you decide to take action against someone — making the complaint — and then getting the summons to them and getting them into the courtroom. The stages before that happen relatively quickly, although not as quickly as we would like. The main area of difficulty actually is the point at which you decide to proceed against someone, and then getting them into the courtroom. Look at the current figures: decision issued to first appearance is sort of 100 days out of a total of 174 days. So, the bulk of the time is taken up getting someone into court after you have decided to pursue a case against them.

Ms M Campbell: I understand the point that you are making, which is that whatever is within the time limit is where all the energy, focus and attention will go. The challenge, then, is to ensure that other areas are not left to drift at the expense of that. That is where the requirement to still meet end-to-end standards comes in, supported by the fact that the agencies will continue to be inspected by Criminal Justice Inspection, which has agreed to give the Minister an annual report on its assessment of how well we are meeting our own recommendations. Indeed, the fact that we are coming to the Committee on a six-monthly basis means that people know that that is going to be scrutinised.

Mr McGlone: Thank you for being with us. With regard to the youth engagement clinics, correct me if I am wrong, but the pilot project was in south Belfast.

Ms M Campbell: It was in B district, which is south and east Belfast, but we launched it —

Mr McGlone: I am not too concerned about the geography of it. I am more concerned about its impact. Is it the case that seven young people engaged with those?

Ms Jean Moore (Department of Justice): We launched the pilot in three areas in B district, which is south and east Belfast. We launched it in Willowfield, Strandtown and Mountpottinger, so we had quite a small geographical area to start with. The pilot project covered that area from 1 October until mid-December. The seven cases that went through the clinics between October and December were from those three localities.

Mr McGlone: I have been looking at what it is supposed to achieve. Can you tell me how many of those seven young people had legal representation or advice with them through all or part of that?

Ms Moore: One young person had a legal representative at the clinic. They had not made an admission prior to the clinic, so it was mandatory for them to bring their solicitor with them. In one other case that we know of, a solicitor was in attendance at the police station, but declined to come to the clinic when it was arranged, on the basis that their client had already made a full admission, and the solicitor felt that he had nothing more to add to the process.

Mr McGlone: So it is not just common practice, as you would argue, for the solicitor to be present or legal representation to be offered or advised to anyone?

Ms M Campbell: It was offered in all cases. Each of the young people was advised to consider having legal representation, and they were encouraged to do so. If they do not have a lawyer, there is a duty list that the agencies can call on. So, if they had expressed an interest in having legal representation, they could have had it. We only require it if the young person has not made an admission.

Mr McGlone: If they had expressed an interest? We are talking about young people here. They are advised, as a part of the process: you are entitled to legal representation should you wish it?

Ms M Campbell: Yes.

Mr McGlone: That is OK.

Leading on from that, you are rolling this out now, and at one point, you are going to do an evaluation of how effective or otherwise this might be. I suppose that a part of that evaluation will include considering how many of those young people would not have wound up in court anyway, but would have gone in a diversionary route? So, therefore, you are begging the question. Are you trying to reinvent the wheel by adding another process to something that would have happened anyway? You are adding another layer of what could be termed, by some people, bureaucracy or unnecessary work to arrive at exactly the same point as you would have done had it not been there.

So I suppose that essentially the question is: if an evaluation is required, which you say it is, has that evaluation been done before you roll it out to other areas? If the evaluation has not been done, how will you know that you will not wind up in the same position with the next seven, eight, nine, 10, 11 or 12 kids that come in your direction, in that they are going to wind up going down the same diversionary route anyway, whether there is a youth engagement clinic or not? When is that evaluation going to be done? I suggest that should have been done well before you started thinking about rolling the same practices out to other areas.

Ms M Campbell: We have done a mid-stage review, which is a short internal review, just to see how it is going, but we are planning to do a full evaluation at the end of the pilot. Criminal Justice Inspection has agreed to provide independent quality assurance of that process. We have written out, just very recently, to stakeholders with the proposed terms of reference for that evaluation.

One of the issues that we will be looking at is whether we are targeting the right cohort of young people. It is hard to say on the basis of seven cases whether you are or are not. You need more cases to have come through. You also need to look at the cases that did not come to clinic and what had happened in those instances.

Mr McGlone: You are going to have a fair idea. It would be very easy to look at the seven. You will know the types of cases, and — you are professionals — you know what is going on. You will be able to say that there are seven there, and four or five of them should have been gone up here anyway; they would have been diversionary anyway.

Ms M Campbell: At the project board last week, we did ask the Public Prosecution Service how many of those seven could have gone to court, and it said that, potentially, all seven could have, and it was very likely that at least three of them would have.

Mr McGlone: Potentially, everyone could go to court.

Ms M Campbell: Potentially they could, and sometimes you cannot say with certainty what people's behaviours would have been if they had not had this facility.

Mr McGlone: What I mean is that, in theory, every case could potentially go to court. If you ask how many of those cases could go to court, surely they would say that, potentially, all of them could go to court. The question is how many of them would have gone the diversionary route without ever going near court. That then begs the question of how many would have gone the diversionary route anyway, with or without the youth engagement clinics. I am intrigued about the roll-out to other districts. First of all, which other districts, and when? In other words, what is the scale of that roll-out? Secondly, leading on from that, where does the evaluation process fit into that? "Mistakes" is the wrong word, but if you are repeating the errors of the first pilot project, you are going to make the same errors — maybe not errors, but you will be wasting time on cases that were going to wind up on the diversionary route anyway. I am trying to get a handle on where this fits into the management process as to how to do things that bit better.

Ms M Campbell: We feel that we need to run the full pilot and get enough numbers through so that we have enough information to make a proper evaluation of whether it is achieving what we want it to achieve. The plan is that the pilot will run until the end of May. It will then take about a month to do a

full evaluation of it. We will not roll out to any other areas until that evaluation has been completed, and we will only roll out if the evaluation confirms that this is doing what it is intended to do. If it is not we will have to stop and think again. We have to maintain our objectivity. We want this to work, but we will not start blindly planning for roll-out without being confident that we have solid evidence that it is doing what it needs to do. Some adjustments may need to be made to the approach if we find that maybe too much time is being taken up with cases that do not strictly need to come into clinic and we need to target it a bit more. Those are the sorts of issues that we are going to be looking at.

Mr McGlone: Thanks very much for that.

Mr Dickson: Thank you for what is going on and for the general appreciation that speeding up efficiency is a good thing. In relation to the starting point for this, because it specifically is targeted at young people, one of the principles — I hope you agree with me — that I believe is behind this, particularly with dealing with young people, is that, for the young person, the point of arrest is where the justice system intervenes in their life. Many young people expect and require speedy processing. I am not suggesting that it is to take short cuts, but many young people value and understand a process that will happen very quickly. It is, therefore, vital that you get your heads around it and work out where the starting point for this is so that you can actually measure how quickly that young person can get through the justice system to the point at which whatever offence they have committed is resolved, either by sentencing or community service or whatever the outcome of that may be — or no outcome because the issue is not to be taken any further. The value in that for the young person is the speed of that process, and also knowing at the various stages what is actually happening.

Ms M Campbell: The discussion we were having earlier on the start point and the statutory time limit was in relation to one particular start point. What we are doing on youth engagement will obviously kick in much more quickly.

Mr Lynch: I have a quick question. Maura, at paragraph 3-5 you have said:

"The early Clinics have exposed some shortcomings",

particularly around information between the different sectors. Can you elaborate?

Ms M Campbell: It is not a new issue. An issue that comes up with the agencies already is that there is scope to improve the flow of information between them and other organisations that may have some contact with young people. Really we want to use the youth engagement pilot as an opportunity to explore whether there are ways of improving that through better links with social services, in relation to kids who have been in care and who are known to social services, and also the education sector if there have been issues maybe with truancy or difficulties in the young person's education. We just wanted to flag up the fact that we think there is still a way to go before we have the systems and processes there as good as we would like them to be.

The Chairperson: There are no other questions. Thank you very much.