



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Youth Justice Review: Update on
Implementation of Recommendations

6 February 2014

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 Tom Elliott
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Mr Tony Kavanagh	Department of Justice
Mr Chris Matthews	Department of Justice
Ms Karen Pearson	Department of Justice
Ms Mary Brannigan	Youth Justice Agency

The Chairperson: Let me formally welcome Karen Pearson, deputy director in the reducing offending division; Mary Brannigan, director of youth justice services in the Youth Justice Agency; Tony Kavanagh from the youth justice review implementation team; and Chris Matthews, head of the speeding up justice branch. You are very welcome to the Committee. This session will be recorded by Hansard, and a report will be published.

Ms Karen Pearson (Department of Justice): We are grateful, as always, for the opportunity to brief the Committee on the implementation of the accepted recommendations in the youth justice review. We sent in a fairly detailed note, perhaps slightly longer than normal, but we hope that it was helpful because it covered a range of ground.

As the Committee will recall, the task of the independent team of experts appointed for the purpose was to review the operation of the youth justice system in Northern Ireland and to make recommendations informed by best practice in international norms and standards. The team's report, which went out for consultation, provided the basis for an implementation plan that was first published in October 2012. The plan set out the Department's response to each of the 31 recommendations in the report and described how they would be taken forward. The implementation plan was updated in January and in June 2013 to record progress made in the intervening period. We published very recently a follow-up report that, we hope, you have with your briefing paper, and we have also had the recent publication of the Criminal Justice Inspection Northern Ireland (CJINI) report on implementation and progress towards that.

We say that, of the 45 agreed recommendations and actions identified by CJINI, 37 have either been completed or there is evidence that substantial progress has been made; of the remainder, eight have shown limited or no progress, and two have not been accepted. We provided the Committee with a narrative on each of the main action points, but, in broad terms, we believe that we are well advanced in several areas that I will briefly outline. It might be helpful if I group them into themes and then give the recommendation numbers for the record.

The first is the joined-up strategic direction and early intervention, funding and delivery arrangements. The recommendations relevant to this group are 1 to 3, 23, 24 and 26. Under this group, we have the cross-governmental Delivering Social Change framework in place; substantial money has been secured to support and identify a programme of interventions; and a new fund is being established to develop sustainable and co-ordinated interventions for the most vulnerable children and their families.

The next grouping covers proportionality, communication and efficiency. The relevant recommendations are 6, 7, 10, 11 and 13 to 15. These cover a full roll-out of police discretion, as opposed to having to refer any offence, however minor, to the Public Prosecution Service (PPS). This group has coincided with a substantial drop in the numbers of children entering the formal justice system. Where that still proves necessary, substantial work has been undertaken across a range of criminal justice organisations, all aimed at making the system significantly more responsive to the children and young people who come into contact with it. This group includes work on a youth engagement clinic initiative. I think that the Committee has had a briefing on that, but we have Chris with us to answer questions on it if you wish. It also includes clearer communication with young people and their families; driving down the time taken in the diversionary youth conference process; and establishing arrangements to ensure that youth conferencing is fair and proportionate to young people and victims. We also have in this group the development of statutory time limits for youth court cases.

The third group covers custody arrangements for children, and relevant to that are recommendations 16 and 17. With us is Mary from the Youth Justice Agency. As recommended in the review, no child has been detained in Hydebank Wood young offenders centre (YOC) since November 2012. Work by staff at Woodlands Juvenile Justice Centre and Hydebank Wood has ensured that the new arrangements have bedded in very successfully, we say. New legislation is required to underpin those arrangements. That process will be informed by the public consultation on custody arrangements, which addresses a range of issues, including the length and structure of the new custody order and whether children who pose a risk to others might ever be accommodated in Hydebank Wood YOC on an exceptional basis. If it helps, I can outline the next steps in the custody consultation process. In other areas, we agree that we have more work to do and, generally, those issues involve complex structural or systems changes where preparatory work is first required. I can give you some examples of those, Chair.

The issue of children from the care system was addressed by recommendation 19. Looked-after children continue to be over-represented in the justice system, despite the efforts of the DOJ, DHSSPS, the Health and Social Care Board (HSCB) and the various trusts involved. We monitor that carefully on an ongoing basis, and decisions to place children in detention are challenged where appropriate.

Another group where we need to do a bit more includes identifying alternative accommodation to custody at the point of need. The relevant recommendations here are 8, 9, 18 and 19. That remains a challenge when the balance of needs, best interests and risk to others can be difficult to square with the immediate availability of safe, suitable and secure accommodation at the point of need. With stakeholders, we are working towards arrangements that will help to align accommodation provision with accommodation need. Also in this group is movement on recommendations in relation to training in the amended aims of the youth justice system and for all those operating in the single youth court jurisdiction. The relevant recommendations are 5 and 12. Those must necessarily be pursued by legislative process, the outcome of which we should not pre-empt, but we are moving forward with our planning and thinking on both of those issues. A key issue for readers of the CJINI report and our progress report will be the slight difference of approach in CJINI's take on the progress we have made and ours. The Minister was grateful to CJINI for its independent judgement on where we are. We think that the difference in approach arises from CJINI looking at measuring particular outcomes arising from the work that we have done so far, whereas we have reported on the structural and system changes that we have made to date. However, we certainly do not see any difference between CJINI and us on the ultimate objectives in trying to get to a point where we can report on specific outcomes for children in the youth justice system.

I will finish there, Chair. We are happy to provide further clarification or answer questions.

The Chairperson: Thank you very much.

Mr Dickson: Thank you. This is a complex and long-term piece of work in terms of reviewing the whole youth justice delivery mechanisms. However, some of that delivery is beyond the scope of the Department of Justice and lies with other Departments. Can we be satisfied that they are co-operating and that you are robustly pursuing their responsibilities for implementing the overall terms of the review?

Ms Pearson: Yes, I think that is right, Mr Dickson. We rely heavily on other justice family partners, the voluntary sector and, in particular, other Departments. You can imagine Health and Education being key partners here.

Mr Dickson: Yes, and it is those I am really thinking of.

Ms Pearson: Absolutely. With the Department of Health, for instance, we have embarked with the agreement of the two Ministers on the development of a new joint healthcare strategy. That work is proceeding and we will bring it to the Committee in due course. We could not ask for more of our relationship at official level with DHSSPS in the cooperation we are getting. We are moving forward equally with other Departments.

Mr Dickson: Do you think that, broadly, you are all committed to the same outcome in delivering ultimately for families and young people who will not be in the justice system rather than having to cope with those who end up in the justice system?

Ms Pearson: In that context, it is not about just children who come into the formal system, it is about looking at methods of diversion and support for families. The frameworks are growing in the Delivering Social Change framework and the early intervention work that is emerging at Executive level. It all has great potential to assist with our cohort of young people.

Mr Dickson: That is helpful.

Mr A Maginness: I am sorry that I was not in for the presentation but thank you for the materials and so forth and I wish you well in your work.

With regard to statutory time limits, you are working on the basis of the period from the formal charging of a person with an offence to the disposal of the case. You are not dealing with what I would determine to be the actual point of interaction between the individual and the state, which is the point of arrest. Is that a reasonable position to adopt? You are dealing with a young person and the effect on that young person of, say, a prolonged period of investigation, processing and so forth. Is that really the best basis on which to proceed in establishing statutory time limits?

Mr Chris Matthews (Department of Justice): As you may be aware, we are consulting on a draft scheme for statutory time limits. This is one of the things we have been discussing with stakeholders. Quite a few complex issues come up when you talk about when you start the time limit. For example, the most obvious thing you think of is arrest, because that is the point at which someone's liberty is interfered with.

Mr A Maginness: Yes.

Mr Matthews: The issue for Northern Ireland is that young people are not commonly arrested at the beginning of any investigation, so we need to find some analogue to the statutorily defined that has the same kind of protections as arrest. There are restrictions on when you are allowed to arrest someone but if you are going through the summons process, there is nothing analogous to that. The other thing with arrest is that a charge might quickly follow, whereas with a summons case you may have a more voluntary attendance-type process whereby there are a series of discussions with the police on how you approach the case.

When we were looking at statutory time limits and developing our proposals, we started to think about how we handle that difference. There are two procedures that get a person into court: one is quite quick, through charge, and one is relatively slow, through summons. Do we create a two-tier system,

which creates the temptation to pick the one that is more generous, or do we find a point that is broadly analogous for both sets of proceedings?

One of the other options that we thought of was creating a new statutory equivalent to arrest in the summons process. However, although we are trying to streamline the system and speed things up, we may slow things down by creating new statutory points in the process. The consultation is ongoing, so we are still taking views on that, but we thought that the balance would be to have one statutory time limit, and the point at which it matches for both processes is the point at which the police charge someone or a complaint laying a charge is made to the court.

The other thing to bear in mind is that there is already a time limit that takes you up to the point at which a charge is laid, which is for statute barred. So, the system already has a time limit. As soon as you start investigating an offence, even if you do not have a suspect, there is a clock ticking that says, "You need to bring charges against someone within six months." However, for summary business, and cases involving young people tend to be at that level, there is already a time limit. So, one of the other things that we are looking at is whether it is worth unpicking that to bring the time limit to an earlier point in the consultation.

It may well be that the consultation finds that we need a bigger overhaul of the system and that what we are proposing is not going to have the impact that we want it to have. Balancing how quickly we want to move, and other things such as youth engagement clinics and statutory case management which we are planning to bring forward in the Justice Bill, we thought that we could at least start here with statutory time limits and get the system used to the idea of time limits. If they worked very well, we could start thinking about whether to extend them in other directions. For example, should we cover sentencing? Should we bring the limit forward to the point of arrest? Do we create a statutory equivalence of the point at which the police inform someone that they are going to report them?

The consultation is still open. I completely understand people's concerns, because they want cases involving young people to be dealt with as quickly as possible, and so do we. The question then is whether you cause more harm by bringing statutory time limits into a place where it does not necessarily make the most sense to do so. Is that helpful?

Mr A Maginness: It is very helpful. Thank you very much.

Mr McGlone: Thank you for your presentation. I have a couple of brief questions. The youth justice review and the prisons review commented on the unsuitability of Hydebank Wood for the detention of children. Do you intend to bring forward legislation that will permanently end the detention of children with adults in Hydebank Wood?

Mr Tony Kavanagh (Department of Justice): We have just closed our consultation on the new sentencing arrangements for children, taking into account that the Minister announced that no more children would be committed to or retained in Hydebank Wood from the end of last year. That will come before the Committee, but that is what we intend to do. We want to change the law to make it plain that children will no longer be held there.

Mr McGlone: Do you have a time frame for that?

Mr T Kavanagh: It would have the full legislative time frame, so we are looking at some time in 2015 for Royal Assent, assuming it goes through its other stages.

Ms Mary Brannigan (Youth Justice Agency): Even without legislation, as Karen pointed out, no children have been detained in Hydebank Wood since November 2012. So, it is a commonality and an agreement between ourselves at the moment, which we hope to have enshrined in legislation at some stage. As I said, even without legislation, that is happening.

Mr Kavanagh: It works well. The legislation we have allows us to do this administratively, but it needs to be properly underpinned. The nature of our location-specific sentencing does not work terribly well — juvenile justice centre orders and other orders. We need to change that structure to ensure that we can implement this properly.

Mr McGlone: Thank you for that. A report by CJINI, published on 17 December, highlighted:

"the need for greater commitment, ambition and creativity to be applied if current Department of Justice plans to implement 90% of the recommendations of the Youth Justice Review are to be met in 2014."

It concluded that just 19% of the recommendations had been achieved and that limited or no progress had been made on 50% of the recommendations. I accept that the report looked at progress until September 2013 and that there may have been some progress in the past two or three months. Can you give an assurance that the commitment to meet 90% of the recommendations will be fulfilled by March 2014?

Ms Pearson: We think that we are a little bit further on than the CJINI report suggested. We have reported progress against the structural changes and inputs you need to get to the desired outcomes. We think that CJINI looked at it from the end position and how far we are from achieving the spirit and outcomes the review hoped to get to. So, there was a bit of mismatch between how we and CJINI reported.

As we outlined in our plan, we are confident that we have made good progress on a good number of the recommendations. The commitment is there from the Minister absolutely. He has particularly asked us to engage on an ongoing basis with representatives from the youth sector and we meet them quarterly. The Minister met them in December and we will meet them again in February. We want to hear their views on an ongoing basis. We are committed to finishing the implementation plan.

Mr McGlone: By what date?

Ms Pearson: I think that we remain with the target of March 2014.

Mr McGlone: I heard subtle nuances in your answer. Did you say that CJINI and you are working to two different interpretations?

Ms Pearson: No, not at all.

Mr McGlone: Sorry, I picked that up wrong. Many of the recommendations are not necessary nor invariably within your or your Department's remit. Will you indicate how successful or unsuccessful the working relationship has been with other Departments? Do other Departments need to step up to the plate a wee bit more?

Ms Pearson: As I said to Mr Dickson, things are going well and there is the potential for other Departments to continue to help us with the issues that we face with children in the justice sector. The Department of Health works with us very well indeed. In my introduction, I commented on the number of looked-after children in the justice sector. We need to work on that with as many partner agencies as we can.

I would not want to be critical of any Department. There is an Executive framework for Delivering Social Change and ongoing and emerging work on early interventions that have the potential to help us with our cohort.

Mr McGlone: I will perhaps word my question in a different way. Are there any obstacles to achieving what you seek to achieve?

Ms Pearson: Not as far as departmental relationships are concerned.

Mr McGlone: That was not my point. Are there any obstacles? If the departmental bit is working OK, are there any other obstacles?

Ms Pearson: Things such as whether we always have the right supply of accommodation for some of the looked-after children who end up with us is an issue. We have raised that with other partners.

Mr McGlone: Thanks very much, indeed.

Mr McCartney: Thank you very much for the presentation. I think that the backdrop to this was a good piece of work that was done in the youth justice review. There is no doubt that that was very

challenging and one can see the challenges you have to face. My comments are made against that backdrop.

When the work of the youth justice review team concluded, it referred to the absence of effective leadership and giving the right priority to children and young people. It was not specific to whom that applied. Has that changed in the interim? Do we now have the right priority and the right levels of leadership involved in bringing this to a successful conclusion?

Mr Kavanagh: I think that we have. There are a number of examples of that. I was just looking down the list of practical projects that are under way with substantial funding under the banner of the Delivering Social Change programme: Pathways to Employment for young people; nurture units in primary schools; *[Inaudible.]* social enterprise; improving literacy and numeracy; direct family support; support for parents; play and leisure programmes, and the early intervention transformation fund. All of those have substantial backing at Executive level and commitment from Ministers.

I worked with the review team and, at the time, they detected an absence of strategic leadership. At the same time, however, the Executive and, particularly, the ministerial subcommittee on children were coming to the same conclusion. These structures have demonstrated that there is substantial money behind it and substantial ministerial commitment to it as well.

Mr McCartney: Obviously, the CJINI report was published in December and you have provided us with an update. Karen, you said earlier that perhaps the inspection's focus is at the end whereas yours is on what you are doing as you go along. I assume that you are saying that there is a tipping point somewhere regarding the speed of progress. It might be harder to get a thing moving, and then all of a sudden it is moving and you come closer to a conclusion. That is not clear in your briefing document at times. As a general observation, too often you have nothing against milestones and targets; they are left blank. It is good for us to know whether you are progressing and when you think that you are going to conclude. You use the word "ongoing" to describe your status. You know what you are doing, so you know what "ongoing" means, but when we read it we are not sure what it means. That may be something for the future for the document. How do you view the inspection's report?

Ms Pearson: It has been very helpful. It is an independent challenge and validation for us. We expect a second report from CJINI at some point this year. I will respond to your first point, Mr McCartney. I do not think that we can get the same rate of change across all the recommendations. Some will take longer than others before we start to see results. When it comes to trying to pick ones to report to you on, we will take your comment on board and we will try to be clearer on that in our next update.

Mr McCartney: In the broader context, there is no doubt that Delivering Social Change will have a good impact on what you are trying to achieve, and I accept that. I want to ask you about the statutory time limits and the age of criminal responsibility. Do those issues remain unresolved? What impact does that have on you carrying out your work?

Mr Matthews: I will answer on the statutory time limits. The consultation on statutory time limits will close on 25 February, after which we will come back to this Committee with our final proposals. We have shared a draft copy of the regulations. The legislation for our proposed scheme already exists, so it is a case of commencing the legislation and bringing regulations through the Assembly. Obviously, we will need to report back to the Committee on how the consultation went. Once we have the consultation results, we hope to present a final position on statutory time limits fairly soon after that.

Mr McCartney: What about the age of criminal responsibility?

Ms Pearson: We have no plans to bring anything back to the Committee on that at this time.

Mr McCartney: OK. I want to make one final point, which I know has been touched on previously. Obviously, Departments are cooperating, but where there is a breakdown — perhaps that is too strong a word — or where cooperation is not what it should be, is there a process for addressing that? I am not saying that you would be publicly critical of another Department, but how do you make it work if you believe that a particular Department is holding you back from delivering? How is that translated to us to have a view of it?

Ms Pearson: I would not say that we are in that position with any Department at the moment. I come back to the example we gave around appropriate accommodation not always being available. That just takes a process of working with the Health Department and delivery partners. It is also fair to say that we have ongoing discussions with the Health Department on policy issues and at the practical level. If a child arrives at Woodlands and there is a sense that that is maybe not the right outcome, those issues will be taken up in real time.

Ms Brannigan: It is also fair to say that some of the outworkings of more partnership working take a bit of time. Progress is being made. We cannot really report any particular barrier that, if it were removed in the morning, things would move any faster. Conversations and negotiations take a wee bit of time. It is fair to note that the recommendations in the report that are solely at our behest have all been met and implemented in full. The rest are works in progress. We are getting there.

Mr McCartney: If there were a barrier, is there a mechanism to address it, be it Minister to Minister or at another appropriate level?

Ms Pearson: Yes.

The Chairperson: Thank you all very much for coming to the Committee. It is much appreciated.