



Royal Courts of Justice
Belfast BT1 3JF

10 April 2025

Dear Joanne,

Thank you for your request dated 11 February 2025 in relation to seeking views and comments on the Justice Bill and the proposed amendments to same.

I note that similar requests were addressed to the Council of County Court Judges, Council of District Judges (Magistrates' Courts), Association of District Judges, Society of Masters, Presiding Coroner and Northern Ireland Lay Magistrates' Association. This is a composite response on behalf of the Councils and Associations encompassing the views expressed by the judiciary.

As the Justice Committee members will be aware, it is not the function of the judiciary to comment on policy matters, other than the operational aspects of the proposals and their impact on the courts. In that respect our comments cannot address specific questions but are offered by way of assistance to the Committee. There are a few areas within the Justice Bill which the judiciary would like to offer some comment on and these are detailed below.

Live Links

The Committee will be aware that the temporary provisions contained in the Coronavirus Act 2020 in respect of live links enabled widespread use of remote hearings to support business delivery during the public health emergency. The extensions of those emergency provisions over the last 5 years, with the most recent extension until 24 September 2025, continues to assist the courts.

The provisions within the Bill amendment would put the wider use of live links on a permanent footing and provide additional powers to the court to make a 'limited transmission direction' and a 'broadcast direction'. While I don't foresee these additional powers being widely used, there will be circumstances when it would be appropriate for the court to consider these to assist the parties or to enhance transparency of court proceedings.

While there are many benefits to the greater deployment of remote court hearings, the use must be tempered with the appropriate application of the interests of justice. It is reassuring to note the legislative amendment reflects that. Safeguards must be available to maintain the integrity of the court process, including the prevention of unauthorised recording, transmission or interruption of court hearing.



Powers to remand or commit a child to custody

I am aware that departmental officials met with the judiciary some considerable time ago to discuss potential provisions within this area. Those discussions were very much in the context of the expected establishment of an integrated Secure Care Centre, for those held on remand as well as step-down facilities and community-based provisions to prepare and support young people while remanded on bail or when released. However departmental officials have since advised that this has not been progressed which is very disappointing and emphasises the need to ensure that the options open to the court are not restricted; the proposals as drafted leave the judiciary with very little discretion and could lead to vulnerable children being released from court without a safe place to reside.

If a child is released on bail the court must know where the child will be accommodated. A child cannot be released in the hope that accommodation will become available; that cannot be in the best interests of the child. Many children (without an address) are granted bail by the court "to reside at an address agreed with police" or "to reside at an address provided or approved by social services and notified to police". While this is not entirely satisfactory, it can and does reduce the time the child spends in custody. The lack of a suitable address is often the sole reason that a child will remain in custody.

It has been highlighted that some (although not many) children do not apply for bail when their case first comes before the court and occasionally children who are on bail apply for their bail to be revoked. The reasons for this can be complex and varied and set out below are some of those reasons which have been presented to the court:

- The child may be subject to a 'death threat' from a paramilitary organization.
- The child may be subject to threats or other pressures from a drug gang and some children have significant drug debts.
- The child may view custody as a safe refuge - somewhere they can escape the pressures of their peers in relation to drug consumption.
- Sometimes the child cannot return to his home address but does not want to become a 'looked after child'. Some children prefer custody to the care system. Some hope that the parent may relent and take them back after a 'cooling off' period.

It is essential that community accommodation provision is improved in tandem with these provisions to ensure the safety of those young people most affected and most at risk of harm.



New custodial disposal for children aged over 14 years, a Youth Custody and Supervision Order

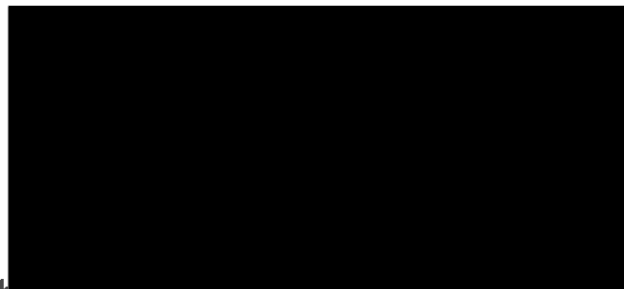
In considering the new disposal outlined it is of some concern that a child under the age of 14 cannot be made subject to a youth custody and supervision order which may create difficulties with compliance. Once it is established that the court does not have the power to impose a custodial order (as a sanction of last resort) it can be anticipated that there may be an increase in 'non-compliance' cases.

The age limits proposed for the new custodial disposal may be problematic as it has the potential for offenders brought before the Youth Court on the same offences having outcomes which are age dependant. It is entirely foreseeable that, solely on the basis of age, one co-accused may be facing a YCSO whilst another, on the same facts may not. There is also potential, borne out in a recent case, that older controlling parties could use this freedom from risk of detention to persuade under 14s to act for them.

Taxation of legal aid costs

I have noted the provisions within the Bill touching on taxation of legal costs and the role of the Taxing Master and indeed I understand the Committee has requested some additional information from the Taxing Master. I will therefore not comment on this in any detail save to suggest that it would be helpful to have clarity on the implications arising for taxation in District Judge ancillary relief matters on which the Bill is silent.

I hope these observations are helpful to the Committees consideration of the Justice Bill proposals.



The Right Honourable Dame Siobhán Keegan
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