

Case Management Regulations

Background

Sections 91 and 92 of the Justice Act (NI) 2015 Act (*the 2015 Act*) allows for the development of case management regulations. Section 91 places a statutory general duty on a court, the prosecution and defence, to conduct proceedings in a way which reaches a just outcome as swiftly as possible. Section 92 provides the Department of Justice (DoJ) with the power to make Case Management Regulations about the management and conduct of criminal proceedings. The Regulations would impose duties on the court, prosecution and defence (essentially to provide what must be done, by whom, and by when). The Regulations would also confer functions on the court in relation to 'active case management' and would define key case management responsibilities.

2. Section 92 (the power to make Regulations) was commenced on 31st October 2016. Section 91 (general duty to progress criminal cases) will not be commenced until draft Regulations have been agreed, and then both would be introduced simultaneously. The 2015 Act also requires the Department, when drafting the Regulations, to identify and respect the needs of victims, witnesses and children.

Progress to date

3. Since the original decision to legislate there have been a number of developments which have the potential to impact on the Department's approach to developing regulations. These include:

- a) the Indictable Cases Process (ICP) rolled out in May 2017 and a key feature of ICP is early engagement between police and prosecutors and the prosecution and defence. Senior justice leaders agree that ICP represents the most effective process for Crown Court cases;
- b) Committal Reform will require changes to Court Rules. This work is currently underway but cannot be completed until the Criminal Justice (Committal Reform) Bill has completed its passage through the Assembly. The introduction of direct committal will have a considerable bearing on the shape of any such Regulations;
- c) the establishment of Crown Court Cases Performance Groups (CCCPG) which provide fresh insight into the causes of delay in the Crown Court;
- d) the Crown Court Liaison Group (CCLC) has developed a new case management practice direction which will impact on the handling of Crown Court cases;

e) Sir John Gillen in his review into serious sexual offences, whilst highlighting the need for effective case management, did not favour introducing statutory case management. The lack of flexibility in Regulations as opposed to bespoke directions, he suggested, would provide a statutory straitjacket. (para 9.183). He proposed the more appropriate avenue would be Crown Court Rules and makes suggestions as to what should be included.

4. Section 92 of the Act requires the Department to consult with the Lord Chief Justice, Direction of Public Prosecutions, the Bar Council and the Law Society in bringing forward any Regulations. Opinions vary about the extent and nature of Regulations required.

5. As a result, the Department began work with criminal justice partners prior to the COVID-19 pandemic to develop an end to end case management framework. This work seeks map new initiatives within the criminal justice system - for example Committal Reform, ICP and the role of Crown Court Cases Performance Groups - and overlaying these with existing targets and measures.

6. This work complements end to end performance statistics currently available and will help better inform the future direction of case management regulations.