



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Statutory Time Limits

13 September 2012

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 Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Peter Weir
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 to the meeting Maura Campbell, deputy director of the criminal justice development division, and Chris Matthews and Jean Moore from that division. The session is being recorded by Hansard. The transcript will be published on the Committee web page. Maura, I will hand over to you.

Ms Maura Campbell (Department of Justice): Thank you very much, Chairman. Following on from the Minister's announcement in February of his decision to introduce statutory time limits (STLs) in the youth courts, we have been working very closely with colleagues in the agencies to develop a framework for a statutory time limit scheme. When our permanent secretary briefed you in June, we provided some information on our proposals as part of the six-monthly update on the wider speeding up justice programme. We have updated that information in the paper that we have provided for today's briefing. We have also added information about work that the agencies have been doing to prepare for the introduction of time limits in the youth courts.

The Minister has decided to introduce statutory time limits in two stages. In the first stage, we plan to introduce them to the youth courts using existing legislative provisions in the Criminal Justice (Northern Ireland) Order 2003. We intend to build on that in the second stage and allow the scope of the STL scheme to be widened so that, eventually, every key stage, from case preparation to the start of the trial, can be covered by a time limit and we can cover all courts.

A consistent theme at both the criminal justice delivery group and the Criminal Justice Board has been that substantial reforms are needed to support the wider introduction of STLs, so the intention is that, by the time we come to implement this wider scheme, we will have had the opportunity to make those underpinning reforms, either legislatively through the Faster, Fairer Justice Bill, or through procedural changes. Essentially, we are using the 2003 order as a starting point. It will allow us to introduce a scheme within this Assembly mandate in the youth court, covering from the point where proceedings are formally begun through to the start of trial. That would cover the stages where the respective agencies have the most control; in other words, where we have the best prospect of driving down our processing times. Also, we are satisfied that the 2003 Order provides strong enough safeguards for victims, which we see as crucial to maintaining public confidence. Following this session, we plan to begin drafting regulations for the STL scheme in the youth court, which we will bring back to the Committee for comment.

As well as planning for the new STL scheme, we have been working with colleagues in the police, the Public Prosecution Service (PPS), the Youth Justice Agency and the Courts and Tribunals Service to develop a new approach for youth cases, which we refer to as youth engagement and which has been very much informed by our visit to Hull. Before we activate STLs in the youth court, we want to ensure that we can get the cases through more quickly, and that piece of work will help us to set the length of the time limits, since we want them to be challenging but also realistic and we want to use them to sustain an improved performance.

The paper sets out how the new youth engagement approach is intended to work, with the main aim being to get decisions about diversionary youth conferences taken at an earlier stage than at present. That should, in turn, free up capacity in the youth court and improve overall processing times. We also want to explore better ways of serving summonses for cases that do need to proceed to court, given that that is having such an impact on our processing times at the moment.

We propose to pilot this new youth engagement approach in A and B policing districts in Belfast, starting from 1 October, and we hope to be in a position to include an early report on the impact of the pilot in our next six-monthly progress report to you, which is due in December. We are happy to take any questions.

The Chairperson: Once that pilot scheme has been completed, you will assess what it has been like and come back to the Committee with what you are going to do. Do you intend to take this forward through regulations and statutory rules or through the Faster, Fairer Justice Bill?

Ms M Campbell: The pilot is just about speeding up our existing processes and streamlining them on a non-legislative basis in preparation for when we come to activate the statutory time limits, which will need to be underpinned by regulations. Obviously, we will need to bring those regulations back to the Committee.

The Chairperson: What if the pilot scheme shows that you can turn it around without statutory rules needing to be implemented?

Ms M Campbell: When statutory time limits were first mooted for Northern Ireland, the idea was that you would make the improvements administratively first and then use statutory time limits to sustain the improved performance. However, despite a lot of effort across the system, we have not yet got that improved performance. We have announced the intention to bring in statutory time limits, because that helps to create a real imperative for us to take more radical steps to get those processing times down. Obviously, it will be a decision for the Minister how and when to implement the time limits. At present, our planning assumption is that we should be in a position, if all goes well, to implement them in April 2014. Obviously, the Minister will want to take stock of the position at that time.

Mr Weir: Thank you, Maura, for that presentation. From the point of view of the Department and the Minister, is that set in stone? If the pilot scheme takes people in a different direction on what is workable, will there be statutory time limits come what may, or could that be adjusted based on the results of the pilot scheme?

Ms M Campbell: Obviously, we will be reviewing as we go, because we will want to see what we get by way of results and benefits from the Belfast pilot. We will then want to roll that out across other areas in Northern Ireland. Sometimes when you take a pilot to other areas, you find that other issues come up, and you have to take those into account. We want to get a better assessment of how much

time we can take out of the system, but, at this time, our intention is to proceed with statutory time limits because that would create and maintain the pressure on the agencies to sustain that level of improved performance.

Mr Weir: Will the monitoring and assessment of improved performance be based principally on a quantitative result of how it impacts on time limits?

Ms M Campbell: We will look out for a number of things in the monitoring. We have to bear in mind that we are talking about young people, so we have to look at our wider agenda around the best interests of the child and reducing reoffending. We will be monitoring a number of things. The driver for this has largely been to speed up justice. However, when we went to Hull, it became apparent that there were potentially wider benefits as well. We want to capture all of those. As we now have the Causeway system, we have a lot more information to draw on. I do not know whether Jean wants to add anything to that.

Ms Jean Moore (Department of Justice): Causeway will provide us with data on processing times. We will look at end-to-end processing times to see whether there is any improvement in those cases that end up in court. We will also look at the cases that end up in diversion to see whether they have gone through the system more quickly. That is how we will use the Causeway information. Beyond that, as well as measuring processing times, we will look at reoffending rates and that sort of thing. However, useful data may not be available quickly because it is a six-month pilot.

Mr Weir: I will pick up on two points that have been raised by some in the sector. There has been a slight variation in the proposals for statutory time limits, particularly on the youth side. The youth justice review team has suggested that the clock should start ticking at the point of arrest whereas the proposals have the point of charge as the start point. Could you explain the Department's thinking on that?

Secondly, a concern has been raised that there was a very limited period of consultation on the pilot scheme and that it was quite a shite — short time frame; that was almost a Freudian slip, although it may have more accurately conveyed the point that was raised with me. *[Laughter.]* How would you answer that criticism? I think that there was a three-week consultation on the pilot scheme. Was sufficient time given for the consultation?

Ms M Campbell: I will start with the point about the point of arrest and the youth justice review. We did look at that. There has been extensive discussion at the Criminal Justice Board and the delivery group about the point at which you should start and end. The reason why we have gone with the point of charge or making of a complaint as the start point is that that allows us to cover both charge cases and summons cases. Given that charge is where we have been able to make quite a big improvement and summons is the area in which we have the problem, it would seem perverse to exclude that. If you start at the point of arrest only, you exclude about two thirds of youth cases. We think that it makes more sense to start at the later point. We will obviously keep that under review as we go. If we think that we should bring it forward, we can do that.

Mr Weir: Is there no danger that, in trying to meet timescales, there would be greater delay before it gets to the charge stage?

Ms M Campbell: To mitigate that, we will continue to monitor and have our performance standards covering end to end. Those will not be set aside. We will still monitor and publish those, and we will still report to you on a six-monthly basis. If that started to happen, it would be very apparent.

On the point about limited consultation, we would argue that this is not a shift in policy. In fact, it is just a different way of operationalising how we manage our processes and mechanisms to support existing policy. Our existing policy is about diverting young people away from the formal justice system where it is appropriate to do so, with their informed consent and with their legal representatives supporting them in making that decision. We would not say that it is a departure from the existing policy, which is why we did not feel that we needed to run a full public consultation on it.

We had some targeted engagement with key stakeholders. We set up a stakeholder group. We have already met that group, and we plan to meet it again next week. We will meet it regularly throughout the pilot so that we can involve it in refining the pilot and ensuring that it is working the way that we intend and so that, if there are any difficulties, we can pick those up early and adjust accordingly. We did an equality screening because we wanted to ensure that we would not be doing something that

would have an adverse impact on young people. That screening showed that that is not anticipated. However, if, through the pilot, we build additional evidence that suggests that we need to revisit that, we can screen again. We do not think that there would be merit in pausing this for three months to undertake a full public consultation. We would rather get on and do it. It is a bit like the message that we got from Hull, which was always to give it a go and see what happens, see whether you can make a positive difference. That was quite helpful in encouraging us to just try a different process and see whether we can make some gains with it.

Mr Elliott: Thanks for the presentation. I have a couple of issues to raise. I apologise if I seem to have missed something, but there still appears to be quite a large degree of flexibility for you within the pilot scheme. I am trying to tie that down. What targets are there and under what criteria will they be assessed? Obviously, once the pilot is complete, there must be an assessment of whether to go forward with the further legislation that may be required. If those targets are not met, what sanction, if any, is in place in the pilot?

Ms M Campbell: We need to go back to the purpose of the pilot, which is to test how much time we can take out of the existing process so that when we come to use the legislation we will have a better sense of what works. We have not yet said what the time limit should be. We have said that it should be no more than 120 days, but it could be less than that. If we discover that we can take out a substantial block of time, we will want to adjust the time limit accordingly. This is really about measuring against what would currently happen under the process and establishing how much time we can take out of it.

Mr Elliott: Are you saying that you do not really have any targets in the pilot?

Ms M Campbell: We have set a timeline for when we expect things to happen. I do not know whether Chris wants to elaborate.

Mr Chris Matthews (Department of Justice): There are time limits for the agency parts of the process. So, for example, the police have given themselves, say, 10 days to build a file and the PPS has a block of time after that to make a decision. They all stack up, and the idea is that if you can go through all those processes within 120 days, that confirms that the reforms that we are planning are, basically, capable of building a system that will meet the time limit that we are bringing in. In some ways, the pilot is about a proof of concept of all the ideas that we have for improving the system. At the end of the process, 120 days will be our time limit. That is our rebuttable presumption. So, the pilot is testing all the different elements of reform that the agencies have come up with in the lead-up to statutory time limits, and we will put all those together to see whether they are able to be squeeze down the timescales.

As Maura said, running in parallel to that we have our existing targets, which we have published and will continue to share with the Committee. Therefore, we have existing targets for performance now, and we will compare performance under the pilot against those to see whether we have been able to shave off enough time.

Mr Elliott: OK. Does that 120-day limit commence at the time of charge?

Ms M Campbell: That 120-day limit would only come into play once we activate the provisions of the 2003 order and after we have consulted on regulations and taken your views on those. So, from the point of charge or complaint through to the start of trial would be 120 days or whatever timescale we set.

Mr A Maginness: Thank you for your presentation. I remind you that the review team said that setting statutory time limits covering the period from arrest to disposal is the best way of helping this step change to happen. You have moved from that, and it seems to be distinctly different from what the review team said. I am sure that they took into consideration the point that you made about being arrested and being summonsed. How can you justify that departure?

Ms M Campbell: It is really to do with wanting the time limit to cover summons cases as well as charge cases. Even since the youth justice review team reported, it has become more evident that the area of summonses is the area that we really need to address. We would be reluctant to set that aside.

Mr A Maginness: Did you go back to the review team at all to ask it about that?

Ms M Campbell: No, we did not.

Mr A Maginness: Would that be helpful?

Ms M Campbell: Yes, it is something that we could do.

Mr A Maginness: A comment on that from the team might be helpful because it has gone out of its way to say that this is the best way of helping a step change to happen.

Ms M Campbell: We would be very happy to meet with the review team and brief it on what we have done and why we are doing it in this way. The provisions in the 2003 order are based around starting at the point that we are starting at. It is something that we are going to want to look at more generally before we move onto the adult courts. We will want to see what start point we want, whether it is the correct start point or whether it should be earlier. Some agencies have argued in favour of it being earlier because they do not want to be seen to be excluding chunks of the process for which they have responsibility. So, we still need to have that discussion, but we see this as the starting point. We need to start somewhere, and this is something that we can do quite quickly.

Mr A Maginness: Under your proposal, would it be from the point when the summons is actually served?

Ms Moore: It is from the date that the complaint is made by the PPS. The service aspect would be part of the time limit.

Mr A Maginness: So, is the complaint made before or after the summons?

Ms Moore: It is made before the summons is served.

Mr A Maginness: So, the time starts from the summons being served or the complaint being made.

Ms Moore: From the complaint being made.

Mr A Maginness: So, that is earlier than the summons.

Ms Moore: Yes.

The Chairperson: How long does a summons take on average?

Ms Moore: We have figures on that. At the minute, if the summons is served first time, the time between the summons being issued and a first appearance in court is 54 days.

The Chairperson: How long is it from the time of the complaint to the summons being issued?

Ms Moore: There is generally no difference in the time frames between the decision being issued and the complaint being made.

Ms M Campbell: Our difficulty is when successful service of summons has not been achieved on the first occasion. That is when they start to have quite a major impact on our processing times, because that can cause quite a substantial delay. In some cases, it can take four or five attempts before a summons is successfully served.

Ms Moore: That prolongs the average processing time for that stage. It almost doubles if the summons is not successfully served first time.

The Chairperson: Mr Maginness can speak for himself, but there is a fair amount of time lag between the time of complaint and the time of summons. I think that your briefing paper states that the average is 207 days. So, your time limit is 120 days, but that is not going to kick in until the summons is issued. It is a pretty long time. I would have thought that the purpose of the 120-day time frame is to

get the case dealt with within 120 days, but it is only going to kick in at a particular time when, on average, 200 days have already passed on summons cases. That seems to defeat the purpose of the thinking behind this.

Ms M Campbell: As Chris described it, the 120 days is the rebuttable presumption. If we could get it down to less than that safely, we would. A lot of the figures that we are quoting are average times, whereas the statutory time limit would be a maximum time. So, we have to take that into account as well. If that is the average, there are a number of cases that are currently taking longer.

Mr McGlone: Last night, I noticed that your briefing paper says:

"For a summons served first time, the proposed period currently takes around 139 days; for a summons served second time it takes about 358 days."

That is plus 120. You are really going to be taking forever on this. That is as I read it, but I am no legal person. That brings me back to the original point. Presumably, the 120 days from point of arrest was to add focus to this in the context of all these figures and a very protracted process. Therefore, just to be clear, you have not binned the youth justice review proposal, have you? You obviously have not gone back to the team. That became clear, and thanks for your clarity on that.

Ms M Campbell: We have not gone back to specifically discuss it, but when the Minister responded to the youth justice review he indicated clearly that what we are doing on time limits in the youth courts is not precisely what was recommended in the youth justice review. I take the point that it would be useful to have that further discussion with the team, because obviously this is something that it spent quite a bit of time on, and it has had quite a lot of discussions about this with the agencies.

Mr McGlone: It did, and it probably had valid reasons for doing it. I would not be surprised if that was not informed by some of the figures that I have just read out to you.

Secondly, turning to your pilot project, you put out your consultation on section 75 equality screening on 24 August of this year, with an anticipated closing date for commentary and response of 14 September. That does not give people a wild lot of time, does it?

Ms M Campbell: We have brought people in and briefed them already. I cannot remember what date that happened.

Mr McGlone: Whatever about the briefing stuff, which we appreciate can go on, I am talking about the documentation informing people of the youth engagement project from 1 October 2012 to 31 March 2013. That went out to consultation on 24 August — I presume those dates are correct — with views and comments on the proposed policy to be sent by 14 September. That is not giving people an awful lot of time, is it?

Ms M Campbell: That is because it is quite a straightforward process, and we set it out in the blueprint, which is what we sought the comments on. We see this as an iterative process in that we have briefed people on how this is intended to work, we have then shared the paper setting that out for them and we have given them an opportunity to look at it and come back with comments. It is not a consultation on a new policy proposal.

Mr McGlone: I appreciate that.

Ms M Campbell: We will be meeting with them again next month and throughout the lifespan of the project.

Mr McGlone: Meeting with whom?

Ms M Campbell: There is a range of stakeholder organisations that we are meeting with, including voluntary sector organisations in the youth lobby, the Law Society and others with a particular interest.

Mr McGlone: Just to get this perfectly clear, any views that they might have by way of response that were not in by 14 September — I expect that there are people with a strong interest in this topic — can be reflected as part of this consultation exercise.

Ms M Campbell: We are happy to take those views on board the whole way through the pilot, and we are happy to continue that engagement with people. Once we have completed the pilot, we are going to have an interim evaluation and a final evaluation, because before we roll this out across all youth courts, we want to make sure we have got it right. If people have information to bring to us about concerns, we want to take it on board.

As I said, when people hear the word "consultation", they think of a standard 12-week public consultation on a new policy. This is something a bit different from that, which is why we are approaching it in a different way. It would not normally be the practice to opt for a consultation on a pilot project. We took advice from our colleagues in the Department who provide guidance on consultation practice, and we were advised that because it is not a new policy, it does not require full-blown consultation.

Mr McGlone: But it does include section 75 equality screening.

Ms M Campbell: We chose to do that ourselves.

Mr McGlone: Sorry, what I am saying is that that is a pretty important part of a consultation.

Ms M Campbell: We have undertaken a screening exercise, and we have made that available to people.

Mr McGlone: That is OK. It is refreshing to hear that it is part of an evolving process as opposed to being cut and dried.

Mr Wells: You mentioned that you have had informal consultations, and you also mentioned the Hull experience. Were victims included in either consultation? Did the Hull people check how victims felt about the arrangements, and have you consulted victims on what you are proposing, which we are gradually being seduced into accepting?

Ms M Campbell: We have had discussions with victims' representative organisations, and they are part of the stakeholder engagement that we have been undertaking. Jean came along and briefed a meeting of the victim and witness steering group, which has representation from Victim Support and the National Society for the Prevention of Cruelty to Children (NSPCC). To be honest, so far they have been supportive of the principles of this. They were very keen to know what sorts of safeguards were being put in place, so we have explained to them the sorts of safeguards that exist. One is that certain types of offences would be excluded. We have given an indication in the paper of the types of offences that we are proposing to exclude, but we will be consulting on that, so there will be a public consultation on that aspect. We have also the provision to seek extensions from the court and the provision to reinstitute proceedings. On that basis, the victims' representative organisations that we have engaged with have given this a cautious welcome, but, obviously, they will be very keen to see how it works in practice.

Mr Wells: I keep thinking that we are going to be lured onto the rocks of statutory time limits. I see a stage-by-stage process of softening up, and I wonder what, at the end of the day, the victims who have had their lives ruined by some of these young offenders will say. It is difficult to see how, under the suggestion from Hull or your statutory time limit proposal, people can see that they have had justice. That is just my feeling about it. It may sound wonderful, but if I were a little old lady who had been tortured by some youth and he ended up in court, I would not be reassured if the case had fallen because of the statutory time limit or because some intervention meant that he had not appeared in court at all. What is being suggested has to be a concern.

Ms M Campbell: We will be putting the regulations and the detail of the scheme out for full public consultation, and we will take on board whatever representations we receive.

Mr McCartney: Have you a framework to analyse the impact of the pilot scheme when it is concluded, and have you some sort of set view of what should be achieved?

Ms Moore: Yes, we do. There are a couple of things that we want to look at specifically. We will look at cases that are going through the diversion process. A key measure is whether the offer of diversion is taken up at an earlier stage. Similarly, for those cases that progress to court, we want to see an

improvement in processing times end to end. Those are two of our critical success measures. Beyond that, we will speak to the agencies to see what their sense of the process is. We will look at the outcomes from the youth engagement clinic and see how valuable they feel that the clinic is.

Mr McCartney: I ask that because we have had a number of sessions about how slow the process is, and it is understandable that people would want to take measures to speed it up for a variety of reasons. In the youth justice review, it was pointed out that the quicker you get a young person into court, the better the chance that young person has of not being back in the system in the future. In Fiona's research paper, whether or not it was intended as a result of the Hull experience, the statistics show that there is a reduction in first-time entrance into the criminal justice system. The fact that the courts are working only 2.5 days instead of five days gives you the sense that not only are they more efficient but that fewer people are going through the system. The five-year crime comparison indicates a 28% reduction. The process used in Hull has led to less crime and fewer victims. Maura, you mentioned that when you went to Hull, it had some sort of impact on you. We have to watch that we do not simply say that speeding justice up is the only process that we are involved in. If someone were to tell us of a system that can do a, b, c and d and that could reduce crime and result in fewer victims, we would all ask, "Why would you not want to do it?" We need to watch that we are not jumping too quickly or using this pilot scheme as the only measurement. There should be other measurements for the future so that, whatever the outcome of this pilot scheme, we do not rest on that but seek other successes; not just swift justice, but a reduction in crime as well.

Ms M Campbell: That is an entirely fair point.

Mr Anderson: Thank you for the presentation. I will touch on the point that Mr Elliott raised. Chris, I think you mentioned the comparison between the present arrangement and the pilot. I like the terminology in the paper: "Rapid decision by PPS". That may or may not be true. If any one of the agencies were to fall down on targets, surely that would reflect on the final outcome of the statutory time limit. How do you propose to overcome that? What if there is a resource problem in a certain agency? Would the statutory time limit then be set? In the pilot, would we be getting a true reflection if there were resource problems in a particular agency? How do we know when we are trying to set that figure?

Ms M Campbell: Obviously, the pilot will inform what we think is possible. You have to take into account that, when you pilot something new in only one area, people will throw resources at it because they will want it to succeed.

Mr Anderson: That is my concern.

Ms M Campbell: When you start to spread that out, you will see whether it can be sustained. I think that we will have to evaluate how we are doing across the piece before we proceed. That is why we are quite keen to get on with this. We want to have a chance to get this embedded and rolled out before we activate the statutory time limits so that we can feel confident that the system is geared up to meet that.

As for this standing or falling on the basis of every agency playing its part, I think that that is absolutely right. That is why we have been so keen, through the board, the delivery group and very lengthy discussions with all the senior leaders across the system, to get everybody's commitment and buy-in to this. I think that that is there. I think that people have accepted that. Statutory time limits were always a contingency that we had in reserve. The time has come to think seriously about that, but to do so on the basis of making the right reforms to the system in order to get case processing times down.

Across the agencies, we have agreement about the things that we can do legislatively and procedurally to help take some of the pressure off them. For instance, allowing a prosecutor to sign a summons rather than a lay magistrate frees up capacity in the prosecution service, and a streamlined file helps the police because it means less activity for them. Our work around evidence and on improving the submission of forensics, medicals and all that is being done in parallel with this. We are not just putting all the emphasis on statutory time limits. We are doing all those other things, while working very closely with the agencies. This is not something that the Department is doing to them. It is something that the agencies are collectively agreeing to in order to try to create that capacity. One of the striking things from Hull was that by making a number of changes, an awful lot of business was taken out of the court. Ideally, if you do that, you are better able to deal speedily with what is left.

Mr Anderson: You touched on the point about the agencies throwing all their resources at this. It could work the opposite way as well. They could throw fewer resources at it and say, "We cannot achieve that target. It is going to take longer." It will be about working together as a unit to get a sensible figure.

Ms M Campbell: We will have to play a role in keeping that commitment and focus. I think that there is a role for the Committee as well. The fact that the Committee is giving a lot of its attention to the issue and the fact that we are coming in at least every six months to talk about this helps to keep it right on top of the agencies' agendas.

The Chairperson: Nobody else has indicated. Thank you very much.