



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Youth Engagement Pilot EQIA:
DOJ/PSNI/Youth Justice Agency

3 April 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 William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone

Witnesses:

Ms Maura Campbell	Department of Justice
Mr Chris Matthews	Department of Justice
Ms Lee Russell	Police Service of Northern Ireland
Ms Mary Aughey	Youth Justice Agency

The Chairperson: I welcome Maura Campbell, deputy director of the criminal justice development division; Chris Matthews, from the criminal justice development division; Mary Aughey, director of youth justice services at the Youth Justice Agency; and Acting Inspector Lee Russell of policing with the community in the PSNI. This will be recorded by Hansard and published in due course. Maura, I will hand over to you. Then, members will have some questions.

Ms Maura Campbell (Department of Justice): Thank you very much, Mr Chairman. We have now briefed the Committee on a number of occasions on youth engagement (YE) clinics. Today, we are focusing on the outcome of our recent consultation on the equality impact assessment (EQIA) of the operation of the clinics and the proposed way forward. The youth engagement clinics and, indeed, the EQIA itself have been developed and refined through quality engagement with the youth sector and other key stakeholders at every step of the way. In the early stages, some of those discussions were at times quite challenging. I think that we have now reached the point where there is a shared view that YE clinics can help us to achieve better outcomes for young people and promote the best interests of the child.

The key benefits of the clinic approach that we see are that it allows young people to make better informed decisions about their options at an earlier stage. It helps them to understand their options and get the information that they need about the consequences of whatever decision they make. It lets service providers identify where they or their family may need some support. Again, that happens at an earlier stage.

Our starting point for that work was, as you will recall, a desire to prevent cases proceeding to the youth court when they did not need to be there. We achieved that during the pilot. We also reduced the time that was taken to deal with those types of cases. The average processing time for clinic cases during the pilot was 39 days, which is 14 days faster than other non-clinic diversionary disposals. When compared against processing times for court cases, which is where some YE cases would have ended up if it were not for the clinic, the process is considerably faster.

The purpose of that recent consultation was to check that we had correctly analysed the equality impacts of the YE approach, identified the correct mitigations where there were potential adverse impacts and that we were doing all we could to promote better equality outcomes for young people. Although the number of written responses to the consultation was small — we had just 6 responses — those that we received were constructive and thoughtful and, in the case of the Children's Law Centre, engaged on the analysis in considerable detail.

I think that we can take some confidence from the fact that the issues identified by our consultees mirrored what we had found in producing the EQIA. Some very helpful suggestions were made about how our proposed mitigations could be strengthened and our analysis augmented. Those are reflected in the revised draft EQIA, which includes a new section on the outcome of the consultation.

Respondents were supportive of the clinics in principle and what they aim to achieve, but some concerns remained around the detail of how they are delivered in practice. We believe, though, that all those concerns can be addressed, and we have put the work in train to do that.

The key themes in the responses were on access to legal representation; consistency between districts; safeguards for young people, including young people with a disability; putting the best interests of the child at the heart of the process; and the risk of rolling this out before we were ready. In response to those, we have proposed the following mitigations, which are listed from page 116 of the revised EQIA that we sent.

Measure 1 provides for the ability of a prosecutor to review any decision to refer or not to refer a young person to a clinic. Measure 2 involves updating the leaflet handed out to young people at the start of the process to make it clear that it is a voluntary process and that they can still opt to go to court. Measure 3 provides that an assessment should be made of all appropriate adults to ensure that they are capable of acting in the child's best interests. Measure 4 provides for the inclusion of an explicit requirement to consider the best interests of the child in the entry criteria for the clinics. Measure 5 involves taking a series of steps to make it easier for young people to access a solicitor and to proactively encourage them to do so.

I think that the effect of the consultation has been to enhance one of the proposed mitigations — measure 1, which I mentioned — and to add two mitigations, which are measures 4 and 5. We would like to thank all those who responded and for doing so in such a constructive way.

In respect of next steps, subject to any views expressed today, we plan to start rolling out the youth engagement model before the summer. We plan to roll that out incrementally so that we make sure that staff locally are fully trained before they commence running clinics in their area. We will review how things are working in practice at each stage, so that, if any issues arise in a particular location, we can identify those and address them as quickly as possible. We intend to continue to engage with stakeholders as the project is taken forward, and we will make them aware of any new issues that might be highlighted through ongoing monitoring.

We are happy to take any questions on the outcome of the consultation.

The Chairperson: OK. Thank you.

Mr McCartney: Thank you for the briefing. You outlined that you ascertained a number of areas of concern. Was there a lower than expected take-up of people seeking legal advice?

Ms M Campbell: There were only, I think, seven clinics where a young person elected to bring a legal representative with them. I suppose that we maybe would have expected it to be a more common practice. The young people were certainly all proactively encouraged to consider legal representation, and we did not want there to be any barrier to that. We made it clear that legal aid would be provided for the provision of legal advice. What we have sought to do in the mitigating actions is make that as

clear as we possibly can by updating the guidance. We will reinforce in training as well that we should take all steps possible to ensure that they can avail themselves of a legal representative.

Since the pilot phase concluded, there have been another 17 clinics where a legal representative was present, but, again, that is a minority of the clinics. We want to stop short of compelling a young person to bring a legal representative. We think that that would feel like too much of an escalation in the process. Diversionary disposals are intended to divert young people out of the formal process, so we do not want to make it compulsory. However, we are doing all that we can to ensure that a young person is aware that we would like them to bring a legal representative, that funding will be provided for that and that it will not in any way adversely impact their case if they decide to bring one.

Mr McCartney: That is the best approach, and I welcome it. The consistency of approach between police districts is crucial because, where best practice exists, it should be the benchmark. You do not want it to become such that you have somebody who is progressive and somebody else who is not as proactive. You do not want that to become the benchmark. Where there is best practice and good practice, that is what the other divisions should be encouraged to aspire to. That is an excellent approach.

Mr A Maginness: I want to explore legal representation along the same lines as Mr McCartney. I take it that even if you wanted to make legal representation compulsory you could not.

Ms M Campbell: It would be very difficult to do that.

Mr A Maginness: Did you probe as to the reasons why there was a lack of legal representation? Was it because the process was regarded as a non-judicial process? Might that have been the reason?

Ms M Campbell: We asked about that when we took feedback from the young people and from their parents and carers. We uncovered a fear that, if you appeared with a lawyer, it would look as though you were maybe more concerned about what the young person had done that you thought you needed that level of assistance.

Mr A Maginness: It made it seem more serious.

Ms M Campbell: Yes, it would make what had occurred feel a bit more serious or that you were, in some way, seeking to adopt an adversarial approach with the agencies concerned. That underscored to us the need to make sure that people did not feel that choosing to bring a legal representative would be interpreted in any way by the agencies operating the clinics as some sort of escalation on the part of the young person or their representative, and giving them reassurance around that.

I am hoping that some of the organisations, particularly within the youth lobby, that have been very closely engaged with us on this could also potentially be a source of advice and support to young people in making those sorts of decisions. They could perhaps offer an independent view on the reasons why having a legal representative there could be beneficial to the young person. It is really about ensuring that they are equipped with all the information they require to make a well-informed decision. Certainly, the staff at the clinic seek to give as much information as possible to the young person to ensure that they have the time to think about their options and consider them and that they are properly supported by an appropriate adult.

We are happy with the principle that we should be doing everything we can to make it as easy as possible for the young person to access the advice. We have not seen any reluctance on the part of solicitors to come in and play that role. When we conducted the clinic, we were mindful about whether legal representatives would want to undertake that role. We have not had any indication that that is an issue or a problem for us.

Do you want to add something about the experience of the clinics?

Ms Mary Aughey (Youth Justice Agency): Yes. From an operational point of view, it is not an adversarial atmosphere at all. It is quite a child-friendly atmosphere, and parents and children recognise that when they come into that atmosphere. Perhaps, then, that influences their decision about whether they want legal representation. There is always a social worker present from the Youth Justice Agency; we are bringing that welfare approach as well. It is really not like a court setting, whereby a family or a young person feels that legal representation is necessary.

Mr A Maginness: Just for information, if the young person admits fault — I am putting that in as neutral a way as possible — are they still advised to have legal representation?

Ms M Campbell: Yes.

Mr A Maginness: Are they also advised that, at some stage in future, this could be disclosed to an employer or some relevant authority?

Ms Aughey: Yes, all those consequences are fully discussed with the young people and the adult, who is usually their parent.

Mr A Maginness: Would the parent or guardian be aware of that?

Ms Aughey: Yes, very much so.

Mr A Maginness: Is that done on a routine basis?

Ms Aughey: Yes.

Mr McCartney: Are the proceedings recorded?

Ms Aughey: Not verbatim, no.

Mr McCartney: OK.

The Chairperson: There are no other questions. Thank you very much for coming to the Committee.