



Northern Ireland
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Committee for Justice

OFFICIAL REPORT (Hansard)

CJINI Report on the Monitoring of the
Implementation of the Youth Justice Review:
Criminal Justice Inspection Northern Ireland

28 January 2016

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alastair Ross (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Sammy Douglas
Mr Paul Frew
Mr Seán Lynch
Mr Alban Maginness
Mr Edwin Poots

Witnesses:

Mr James Corrigan	Criminal Justice Inspection Northern Ireland
Ms Rachel Lindsay	Criminal Justice Inspection Northern Ireland
Mr David MacAnulty	Criminal Justice Inspection Northern Ireland

The Chairperson (Mr Ross): Here from Criminal Justice Inspection Northern Ireland to give evidence are the Deputy Chief Inspector James Corrigan and inspectors Rachel Lindsay and David MacAnulty. The session is being recorded, and the Hansard report will appear on the Committee web page in due course. James, this is the second report, and, after you have outlined its findings, I will open the meeting to members' questions.

Mr James Corrigan (Criminal Justice Inspection Northern Ireland): Thank you, Chairman, for the invitation to present the report's findings. I will give a brief overview of those.

The background to the report is that, after the devolution of justice powers to the Northern Ireland Assembly, the justice system was one of a number of areas identified as a priority and as requiring review. The Minister of Justice launched the review of the youth justice system in 2010, and the report was published in September 2011. There were two primary objectives of that report: to reduce the number of children entering the criminal justice system and to deal more appropriately and effectively with those who are part of the youth justice system. Most of the recommendations were accepted by the Minister, and a target of 90% achievement was agreed as part of a joint implementation plan developed after the report was published.

As part of the delivery of the recommendations, the Minister requested Criminal Justice Inspection to assess progress against the recommendations and to prepare two reports. The first report was published in 2013, and we found that there had been significant work and activity by the Department of Justice and its criminal justice partners in delivering the recommendations. The second report, which we published last December, is the subject of this session.

The overall finding is that, by 2015, 59% of recommendations were deemed to have been achieved, 26.5 of the 45 recommendations or sub-recommendations. As you know, some recommendations dealt with two or three issues, and we split those into sub-recommendations. The main finding in this final report is that there has been difficulty in maintaining the momentum of implementation. We observed that from early 2014, and it was manifest in several ways: there was no update after January 2014 on the Department of Justice's progress against the recommendations; we identified that key supporting roles and structures were withdrawn — for example, the Department of Justice youth policy team was dissolved and funding for the criminal justice office in DHSSPS was stopped; and we noticed that the youth justice review was no longer an agenda item for the Criminal Justice Board. These were all pretty strong indicators of a drop in momentum in delivering the recommendations.

The report also notes significant progress and successes over the period of the review — from 2010. Probably one of the most important successes is that very few under-14s are in the juvenile justice centre (JJC), which is an important development in itself. We also found that, over the four years, no children under the age of 18 were committed to adult custody — no children under the age of 18 were in the young offenders centre (YOC). You will be aware that youth engagement clinics have been operational recently and are showing a degree of success in diverting young people from the criminal justice system and dealing with offending behaviour earlier in life. That is important, and it is important that low-level offending is dealt with before young children enter the criminal justice system.

Linked to that and one of the very big successes for government as a whole has been the emphasis on early intervention. Everybody recognises that at-risk children can be identified much earlier than when they enter the justice system. The Executive and a lot of Departments have made early intervention a priority, and significant funding has gone into it. That is a very positive development, and it is in line with the spirit of the recommendations in the original youth justice review report. However, we found challenges. The report notes the lack of progress against some of the recommendations, and new challenges have emerged since the report was produced. One of the key findings is that the experiences of young people who come into contact with the criminal justice system must be improved. We found that looked-after children in care are more adversely impacted by the criminal justice system than children not in care and that the juvenile justice centre is still used as a place for bail, remand and detentions. That is very much against the spirit of the original report. Moreover, the children tend to come from locations close to the juvenile justice centre: the greater Belfast area and north Down, for example. That demonstrates different approaches by the police depending on where in Northern Ireland young people are located. Linked to that, we have to recognise that the lack of progress on a bail Act has created more difficulties.

The other challenge has been the lack of consensus on some of the key recommendations, particularly the need for legislation: the lack of progress on a bail Act; the lack of consensus on the statutory age of criminal responsibility; and the limited progress in agreeing or establishing statutory time limits to deal with the perennial problem of avoidable delay in the justice system. We know that children are much more disadvantaged in the justice system than adults when it comes to the time that it takes to deal with their cases. We also know that long delays can be much more detrimental to young people than to adults — six months or a year is a long time in a young person's life. The final issue on which there has been a lack of consensus is dealing with young people's criminal records and whether there is scope for an initiative on cleaning the slate.

Looking to the future, we all recognise that, even since the original youth justice review report was published in 2011, the landscape has changed quite dramatically. There have been new initiatives, such as the youth engagement clinic. The big challenge at the moment is budgets. We do not have the same resources in the criminal justice system or the youth justice system as we had four or five years ago, so we have to find a way to do as well or better with fewer resources. That is a big challenge going forward. The scoping study that the Minister announced last year is an opportunity to tackle some of those challenges and help to establish the priorities for the next Assembly term. We feel that the issues that formed the core of this report are, in many cases, broader than the youth justice system and need the input of other parts of government, whether that is education, health services or social services. This is a challenge for government as a whole, and it requires a cross-departmental approach.

We are happy to take questions.

The Chairperson (Mr Ross): Thank you very much. Your briefing paper states that some of the recommendations in the youth justice review:

"were unrealistic in expecting ... both the spirit and letter of what was intended."

Which recommendations?

Mr David MacAnulty (Criminal Justice Inspection Northern Ireland): A number of them. There was, for example, an expectation of more legislative input, particularly a change in the minimum age of criminal responsibility. It is a wide subject, and there is a lot of public division on it, let alone Executive division. In spirit, the recommendations were well intentioned, and, for example, a change to the minimum age would be in keeping with the Republic of Ireland and Scotland, where the age has been raised to 12, or across Europe, where it has been raised even further. Maybe, when the youth justice review was first commissioned, issues outside the norm of what is in the best interests of the child were not fully considered. That reference is more to the larger issues, which were probably unachievable at the time of the creation of the youth justice review.

The Chairperson (Mr Ross): A couple of weeks ago, we had evidence from Include Youth and the Children's Law Centre. They expressed concerns about the alignment of the Youth Justice Agency and youth justice generally within the Prison Service. Now that the director general of the Prison Service is the head of reducing reoffending, that cements the link. Is it appropriate for youth justice to be in that setting, or would it be better to be removed and standing alone?

Mr Corrigan: As inspectors, we have had different perspectives on where youth justice best fits. From our perspective, it is about where the best interests of the child can be achieved. That could be within the current arrangements in the criminal justice system, but we can certainly see merit in youth justice being more associated with education or the health services. Ultimately, the judgement is one of where the rights and the best interests of the child can best be achieved. We are not overly concerned about the structure; it is about how you deliver the best interests of the child.

The Chairperson (Mr Ross): Youth justice is aligned to the adult criminal justice system. Is that holding back the delivery of any of the recommendations, or are you not particularly concerned about that?

Mr Corrigan: It has not held back some key recommendations that have not been achieved. As we mentioned earlier, some of the major areas requiring more effort are to do with legislation, and that is about building consensus. Some of the key improvements that we have talked about in terms of keeping young people out of the justice system have been achieved within the current arrangements. I think that, in the longer term, it is a perfectly legitimate question. Given the increased focus on early intervention and the rehabilitation of those who enter the system, there is merit in much closer alignment with health, education and social services. We are relatively open as to whether that means a transfer into those Departments.

Mr A Maginness: Thank you for your report and introduction. I am very interested in the youth engagement clinics. They are a great idea, and you seem to give them a good, clean bill of health. Will you reflect a little on the value of their diversionary effect? Include Youth and the Children's Law Centre raised the issue of a lack of legal representation in the youth engagement clinics. It seems that, even if young people undergo a diversionary measure, it can still count against them, in that it will be on their criminal record. Perhaps they should have a solicitor advising them. It may well be that, in certain circumstances, young people admit to an offence that, in fact or in legal terms, they did not commit, but that creates a negative impact for them in later life. Will you deal with that as well?

Mr Corrigan: I will ask David to deal with your second question.

Mr MacAnulty: As you know, this was a two-stage report. We commented on that very issue in the first report and the second report. Concerns were raised with us. The whole idea is to take young people out of the system and provide them with the best opportunities for their future, as well as providing everything required to make them active members of the community. As a process, that seemed to work quite well in the youth engagement clinics, but you have probably heard that the uptake of legal advice was limited. We had raised those concerns with the interested parties, particularly after comments in the first report, and were assured that every effort was being made: leaflets were being handed out, young people were being given every opportunity to get advice on their defence and other issues and those issues were being referred to the relevant parties.

Looking forward, we acknowledge that this is a difficult area. You are trying to remove young people from the legal system, but, come the age of 18, it is held against them. One of the other recommendations on criminal records, Sunita Mason's review and the case of *MM v UK* suggest that there should be a cleaning of the slate, and we commend the Lord Chief Justice's comments about expunging records on that footing. That creates an issue; maybe the two things are slightly out of kilter.

At the time of inspection, we found that efforts were being made to provide as much legal advice as possible. There may be a number of reasons for the limited uptake, but we did not go beyond our inspection and investigate this with the Law Society. Are these young people not being made aware of services? Is legal aid in place? There is legal aid in place for advice and assistance. There might be a number of reasons, but we certainly acknowledged the potential disparity.

Mr A Maginness: I think that you have put your finger on it: unless we tackle the situation in which young people carry forward diversionary measures as criminal convictions, we will have this problem, regardless of whether there is sufficient legal advice in the first instance. It is reassuring that efforts are being made. Do you think that those efforts are genuine and sustained in relation to legal advice being given to young people?

Mr MacAnulty: Yes. The only concern raised in our report was that, sometimes, young people were advised by the authorities carrying out the clinic. Youth advisers in the Police Service were giving advice on what would happen if they took that option. That initial advice could be improved or, as you suggested, come from a solicitor. That might be an area for improvement. The uptake of solicitors at the clinic stage is not good, so there is room for improvement. We acknowledge that and cannot let it lie; it should be followed up.

Mr Corrigan: In a more general sense, we support the principle behind the youth engagement clinics, in the sense that they are trying to deal with offending behaviour at a much earlier stage in a system that has been very slow to date and not very successful in dealing with young people. It has also been a more effective way to bring the partners together to deal with the needs of a young person at an early stage. It is also a possible reason why the number of young people in the justice system is falling. In recent years, it has been very noticeable that fewer young people and children are entering the justice system and being held in custody. At this stage, we are not absolutely certain whether that can be directly correlated to the youth engagement clinics, because they are still at a relatively early stage of development, but, on balance, it appears to be a positive development with the right principles.

Mr McCartney: Thank you very much for your presentation. Your briefing document, under "Assessment of recommendations", refers to the first inspection report's finding of an implementation plan. Was that absent by the time of the second report?

Mr Corrigan: The implementation plan was still in place, but it had not been updated since January 2014. The people responsible for implementing the plan and coordinating the input from all the other partners had stopped doing that. As I mentioned, the funding had stopped for some of the key roles and liaison points. There was an impression that it was less of a priority in 2014 and 2015 than it had been in 2012 and 2013. The lack of progress and momentum on some of the key recommendations, even though quite a lot of activity was still required to deliver the recommendations, was disappointing.

Mr McCartney: When you were carrying out the inspection, was that rationale provided to you, or did you ascertain that?

Mr MacAnulty: Regular stakeholder meetings used to be held, and those were headed by the Department of Justice. They provided updates on how things were progressing and were a chance to bring all interested bodies and stakeholders together and tell them what was happening and what progress had been made. That had stopped. There had been no update on the implementation plan since January 2014. That meant that we had to go to the agencies and ask what the current position was and what had changed since the last occasion. On that basis, we felt that some momentum had been lost. Also, the youth policy team in the Department of Justice had been disbanded, for want of a better word. Those factors, along with the reduced resources, could have been the reason for the lack of momentum since the first report, which found lots of activities, meetings and progress updates. From January 2014, the only updates that we got were the ones that we got ourselves.

Mr McCartney: Was it apparent that a decision had been made to stop the stakeholder meetings, or did they just disappear?

Mr MacAnulty: People in the youth justice team had left, retired or moved on to different areas. The first that we really knew about it was when there was no meeting in the following quarter.

Mr McCartney: Departmental officials will be here later, and I am sure that they will explain why the youth policy team left, but one assumes that the function of the implementation plan and the stakeholders' meeting should have been taken up by someone else. Do you agree?

Mr MacAnulty: It certainly would have made our job a lot easier. When we went in to inspect the second time, we expected the plan to be fully updated and that we could then verify it.

Mr McCartney: Ensuring that the recommendations were being followed and implemented had been their key role.

Mr MacAnulty: Certainly. The assimilation and gathering of evidence into one place would have made it easier to comprehend or for us to use. As mentioned, a wide range of agencies and bodies, including Departments, is involved. It is a complicated process.

Mr McCartney: You do not need to answer this, but was there a sense that the Department felt that it had taken the recommendations as far as it could and that all of these things were now unnecessary?

Mr MacAnulty: I do not know what the Department will say on that. We can say only that we felt that there was a loss of momentum. That is as much as we can say. We do not know the reasons for it.

Mr McCartney: You said that there was a lack of consensus on some recommendations. It is fair enough to say that, but is the lack of consensus on a bail Act, the age of criminal responsibility and statutory time limits enough to justify the recommendations not being progressed? Should the Department at least have made a better attempt to resolve some of these issues?

Ms Rachel Lindsay (Criminal Justice Inspection Northern Ireland): It depends. There are different issues with different legislation. There has been a consultation process on a bail Act, for example. The issue with that is that other legislation has taken priority, whereas the minimum age of criminal responsibility, for example, has been stalled by the lack of consensus. What the issue is depends on the legislation.

Mr McCartney: Would the Department have said that it did not see that as a priority or that it was lower in its priority list?

Ms Lindsay: Yes.

Mr McCartney: We have had presentations on statutory time limits. Perhaps it is fair to say that there was not consensus, but at least there was progress. Do you have a view on that?

Mr Corrigan: The recommendation on statutory time limits was clear: it set a statutory time limit of 120 days, and that was an end-to-end time limit from arrest to sentence. The Department was proposing a time limit on the basis of legislation from 2003 that was not end to end; it was from a much later stage in the process. That missed the point of the statutory time limit and its spirit, which is that it needs to cover the maximum period that somebody can be in the criminal justice system. I think that the Department and others have recognised that and said that they need to start again, but it is unfortunate that it has taken so long. Of course, Criminal Justice Inspection was recommending statutory time limits 10 years ago. In 2010-11, we were very specific that the statutory time limits should start in the youth justice system, because that is where the biggest delays were occurring. We also recognised that it was good practice to trial statutory time limits in the youth courts before extending them to the other parts of the justice system. As well as that, we recognised that political parties had different views on some of the difficulties with statutory time limits, but all of that could be worked out as part of forming the legislation. From our perspective, statutory time limits are still an important plank in reducing delay. It will not happen in this Assembly term, but it should certainly be a priority for the next term.

Mr McCartney: My final question is, perhaps, more of an observation. Your briefing document states:

"There was a lack of strategic oversight by the DoJ and the implementation of the recommendations was no longer a feature of the Criminal Justice Board agenda."

Were you provided with a rationale for that?

Mr MacAnulty: It is more or less the same answer as before: it was an observation that we made from a chain of events a lack of information, updates and resources and changes in the team. I do not think that there was even a point of contact. Bodies moved to different Departments, so there was not really a focal point for us to go to in the Department. That was the key issue.

To answer the question about strategic oversight, that area had moved to the reoffending division. A question was asked about that earlier. That happened during the process, when we were inspecting. We were not able to comment on that because it was post-inspection.

Mr McCartney: Would you have expected there to have been more oversight and that perhaps it should have remained a feature of the board agenda?

Mr Corrigan: It was certainly our view, as a body monitoring the progress of the recommendations, that it would have been very beneficial for it to have had a higher priority in the justice system. If you look at the top priorities in the justice system, you will get a good indication from the agenda of the Criminal Justice Board and the priorities of the different organisations. When some issues start dropping off those agendas, it gives you an indication that they have been replaced by new priorities. That is a feature. Prisons, for example, are a big priority at the moment. Events and circumstances change, and new issues become big issues, but we feel that the criminal justice review was unfinished business. Key changes and progress were still required. It was a bit premature to make those changes at that stage.

Mr Douglas: Thank you for your presentation so far. I am sure that you agree with this quotation from Kofi Annan:

"Knowledge is power. Information is liberating. Education is the premise of progress, in every society, in every family."

The Children's Law Centre and Include Youth briefed us. One of the things that they said was that, obviously, the Minister of Justice highlighted in 2015 that significant numbers of staff left the YJA under the Civil Service voluntary exit scheme. Juvenile justice centre staffing levels in the education and learning centre have also fallen considerably, resulting in a fall in the number of hours of education being delivered to children. That is a big concern of the Committee. Will you tell us what you are doing to address those serious issues?

Ms Lindsay: We carry out regular inspections of the juvenile justice centre under our responsibilities. As part of the UK's national preventative mechanism, we have to inspect places of detention here regularly. We go in on, roughly, a two- or three-year cycle. Our last inspection of the JJC and this work were done before the number of staff reduced. Therefore, that is something that we will be keen to inspect when we next look at it.

Mr Douglas: Given the current situation, with education provision transferring to the Education Authority, can you give us an assurance that the appropriate resources will be provided to ensure that all those children get a decent education?

Ms Lindsay: Again, we will look at that when we go back to inspect. We have always been of the view that education is a key provision for young people in the juvenile justice centre. Our inspections are done jointly with the Education and Training Inspectorate, so, again, when we come back to inspect the JJC, it will focus particularly on that.

The Chairperson (Mr Ross): No other members have indicated, so, thank you very much. We appreciate your time.