Northern Ireland Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Justice (Sexual Offences and Trafficking Victims) Bill: Public Prosecution Service

25 November 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Mervyn Storey (Chairperson)
Mr Doug Beattie
Ms Sinéad Bradley
Ms Jemma Dolan
Mr Robin Newton
Miss Rachel Woods

Witnesses:
Mr Ciaran McQuillan Public Prosecution Service

The Chairperson (Mr Storey): I welcome the assistant director of the Public Prosecution Service (PPS) to the meeting, and we are delighted that Ciaran is with us in person. He has had the opportunity to listen to the previous oral submissions, which will be very helpful when it comes to answering some of the questions that we may want to put to him. Ciaran, thank you coming to the meeting today. Please make your comments, after which we will have questions.

Mr Ciaran McQuillan (Public Prosecution Service): Thank you, Mr Chairman. Thank you for allowing me to come along this afternoon to hear the other witnesses. Thank you, members of the Committee, for inviting me here today.

As the Chairman said, you will have received my written evidence, and I hope that you found it useful. I intend to make only the briefest of opening remarks. I am aware that, since I provided you with written evidence, you have heard from a range of witnesses and that they have raised issues that you may wish to discuss with me. That includes witnesses who have given evidence today. I am happy to do so. I remind the Committee that the Public Prosecution Service is the independent prosecuting authority for Northern Ireland, and, as such, we do not generally comment on the appropriateness of any given legislative provision or suggest amendments. Those are matters for the legislators. However, we are keen that any criminal legislation that is passed is effective, and we are happy to give you an operational perspective.

I know that you will hear from the PSNI later today, and it will have its own view on these issues, as the policing role goes beyond just the investigation of crime. Our focus is on making prosecutorial decisions. We do not seek a conviction at all costs. Questions of guilt or innocence are for a judge or jury, and sentencing matters are for the judiciary. We work with the legislation that we are provided with, and we do all that we can to maintain the confidence of victims, witnesses and the wider public, but we also have responsibilities to defendants and their rights and to the courts.

Those are my brief opening remarks.

The Chairperson (Mr Storey): I appreciate that, Ciaran. We want to tease out cases that could come before you and how you would adjudicate on them under existing legislation or under what is proposed in this legislation. With that in mind, views have been expressed that the offence of upskirting is limited and will not cover all forms. Under clause 1, should the motive requirement be wider than sexual gratification or to humiliate, alarm or distress the subject of the taking or recording of images by video or on any other device?

Mr McQuillan: Whether it should is a matter on which we would not put forward a position. What I can tell you is that I know that it has been suggested. I listened to the evidence, particularly from Professor McGlynn. I watched the evidence that she gave. I will not relitigate cases that have already been before the courts, but I know that there has been concern around someone's defence being that their actions were a prank. I will address that specifically.

Simply because a defence is put forward does not mean that we would accept it when making a prosecutorial decision. Indeed, it does not mean that we would not be able to prove the case. If we feel the case is one where sexual gratification was the motivation, we could prove that before a court, based on the circumstances of the case. In a case that we bring before the court, if a defence is put forward, we would invite the court not to accept that defence, depending on the circumstances and the evidence. There are cases where we could point to evidence that would be enough to satisfy a court so that it is sure that, for instance, the motivation was sexual gratification or that the motivation was to humiliate, alarm or distress. As the Bill is drafted, there are many cases that we would receive that we could progress, and we could make prosecution decisions, confident that we could make submissions to the court and that it could be sure that the terms of the Bill are met.

That does not mean that there are not additional motivations that the Committee or Assembly may feel should be added to that. It might cover other circumstances. My own view, and the view that we would take, having seen these cases come in, is that the motivations in the Bill, as drafted, would cover most situations that we might see. As I say, just because a defence is put forward does not mean that we accept that defence or are bound by that defence. We would seek to disprove that defence, if there is evidence to do so.

The Chairperson (Mr Storey): Again, I am not trying to lead you to give a decision on the drafting of the legislation. That is not what we want to do, but would it be helpful to add the intention to exert control or power to the motivations? In a sense, how wide do you go to ensure the success of the intent? That is really what the Committee is trying to get at, particularly in relation to clause 1.

Mr McQuillan: Speaking operationally, we have prosecuted some of these cases under the existing legislation, and, as I say, I will not relitigate those. What you would see is that there is sometimes a range or a mix of motivations behind an individual, who may, perhaps, have an intention to seek sexual gratification out of the taking of an image but also seek to humiliate and, perhaps, also exert some control over an individual. So, it may be that there is no single, overriding motivation. However, if there was a case where there was no evidence of sexual gratification being a motivation, or no evidence that there was an intent to humiliate, alarm or distress, and it may be that the individual's only motivation was, for instance, around the exertion of control, then, obviously, it would not be covered by the motivations as currently outlined in the Bill. Cases are very facts-specific, but the evidence can suggest a range of motivations for any given individual.

The Chairperson (Mr Storey): I just want to draw on the current approach, because there is existing legislation on a range of those issues. One of the submissions that we had — I cannot remember where it came from — was on the issue of telecommunications. In our first evidence session today, the representative from Victim Support NI raised a concern about the phrase "operates equipment". Currently, how widely and extensively does that phrase apply? Telecommunications is not a devolved issue for us; it is a reserved matter. At the moment, how does the PPS pursue those types of prosecutions? The proposed new article amended by clause 1 includes the phrase "operates equipment".

Mr McQuillan: Obviously, we are not operating this legislation because —

The Chairperson (Mr Storey): No, I appreciate that.

Mr McQuillan: I am not sure whether that exact phrase is used in any other current legislation. We prosecute a range of offences that involve the use of telecommunications. Some of those relate simply to the means by which the offence is committed. So, it can be used to carry threats or to harass

people, but we also have communication offences. Article 127 of the Communications Act 2003, from memory, involves the misuse of communications. That has not presented a particular difficulty for us and we have prosecuted individuals.

I see in the proposed legislation that there is further definition of what is included under "operating equipment" later in that clause. The clause sets out not just where someone operates equipment beneath or above the clothing, but in proposed new article 71B(2), an offence is committed where a person:

"records an image beneath or above the clothing of another person".

Therefore, the operation of equipment is one variety of committing the offence, and the recording of an image is another. When Janice was speaking earlier about mirrors, I have to say that that had not occurred to me, but I frantically read the legislation to see how it might address that. Of course, the Department might be better placed than I am to do that. I imagine, however:

"records an image beneath or above the clothing"

might be covered in those circumstances where it is not "operating equipment".

The short version of that answer is that we already deal with telecommunications as an offence in a number of areas, both as the means by which some offences are committed and as specific telecommunications and communication offences. It has not, as yet, caused significant difficulty.

The Chairperson (Mr Storey): OK. I will move on to another issue, and if members wish to indicate that they want to ask questions, please do so, in order that we can make progress.

In our previous discussions around the human trafficking legislation, we heard that there have been only four convictions for human trafficking offences since 2017. I apologise for putting you on the spot if you cannot give an exact figure, but how many cases, would you say, have been referred to the PPS in that time but did not proceed to prosecution?

Mr McQuillan: You are right; I cannot give a figure, because I do not have them with me. I will be happy to get those figures to the Committee. We have had a number of modern slavery and human trafficking cases before the courts. Some have concluded and produced convictions. They are difficult cases for reasons that the Committee will understand. You very often have victims who are not free to speak to the police. They may appear to the outside to be free but they are not; they are under the control of malign individuals. In a situation that is even more difficult, you might have victims who are being exploited who are, for want of a better phrase, willing to be where they are — they wish to be employed and trafficked, albeit they are being exploited — and that deters them from coming forward. The challenges are very significant in those cases.

I will not pretend that a large number of cases go through. As I said, there are ongoing cases and investigations. We work with the police and often with other law enforcement agencies across Europe, in joint investigation teams, to try our best to help the police to gather evidence in those cases. I will get you those figures, Chair.

The Chairperson (Mr Storey): Thanks for that. I will move on to another area that is covered in the Bill: children. It was asked how, operationally, we can ensure that the legislation is effective and can secure its intent and the reason that it was brought into existence. Will the Bill improve outcomes in the pursuit and prosecution of those who seek to harm, exploit and abuse children?

Mr McQuillan: The provisions of the Bill on children include, in particular, clause 2:

"Sexual grooming: pretending to be a child".

We support the intent of that clause. We see those cases, unfortunately, when further offences have been committed. We have some very troubling examples in our office and going through the courts, as the Committee might know. As I see it, that proposed offence attempts to give the police and the PPS the power to prosecute, if the evidence is there, at an earlier point — before those very troublesome offences occur, when people are, for want of a better phrase, swimming in those waters with malign intent. It is a policy intent that we absolutely welcome. It will be a welcome addition to the offences that already exist for us to prosecute those who wish to harm and sexually exploit children.

Miss Woods: Thank you, Ciaran. I will follow up on the Chair's comments on clause 2 and adults masquerading as children. Do you think that the way in which clause 2 is drafted, with its insertion of new article 22G, would assist you in prosecuting? How does one prove:

"with a view to subsequently committing a relevant offence"?

That is a bigger question. In the way that it is drafted, could you have a prosecution without the act of grooming having happened? Does that put a lot more pressure on prosecutors, with a lot more evidence being required because no act has yet been committed?

Mr McQuillan: That provision has been introduced so that action can be taken before the offence has been committed. Obviously, that is what people would wish to happen, to avoid the harm that those offences can cause.

It is not unique for us to have an offence available where we have to prove an intention to commit an offence. A number of such offences exist, albeit not necessarily involving children or this area. For example, there are offences of carrying a firearm with intent to commit an indictable offence. There are offences of administering a substance with intent to commit a sexual offence under the 2008 Order, or with the intent to engage in sexual activity while the victim is stupefied. There is an offence of attempting to choke in order to assist any indictable offence. You will know from your work on non-fatal strangulation that that is a difficult case.

Proving an intent is an integral part of any criminal offence. That intent might be relatively straightforward. You might be trying to prove that somebody intends to permanently deprive somebody of something. That is part of theft: you have to prove that they intend to keep what they take. You have to prove a level of intent in virtually every criminal case. Where that is that they intend to commit an indictable offence, that is, as I said, not unique, but it is, undoubtedly, a challenge; we have to prove that beyond reasonable doubt. It will depend on the evidence that is obtained. In that particular example, it would be the nature of the communication itself.

Going back to what I said about a defence, we can ask a court to conclude that it must have been their intent to go on to commit that offence, but the onus is on us; we have to satisfy the court so that it is sure.

Miss Woods: So, it is not a new focus?

Mr McQuillan: It is not a new concept; it is part of other offences, and we are able to achieve it in other offences.

Miss Woods: Thank you. We have been asked in previous evidence sessions to ensure that intangible forms of exchange, such as reward or inducement, are covered. Could that make it too broad for prosecution?

Mr McQuillan: In any legislation, we look for clarity and capability for the concepts to be proven in a way that is clear, if we are making submissions to a jury or judge. We see a lot of cases in which young people are exploited but it is not simply a matter of money, drink or drugs being handed over and it is much more complex. The challenge is how you capture that in a way in which we can easily put it in front of a jury and say, "You can be sure that this is the reward. It is intangible, but it is the reward". That is a drafting challenge. It certainly exists in many of the cases that we see.

Miss Woods: So, it is evident in cases that you are dealing with?

Mr McQuillan: Sometimes, we see it alongside the tangible rewards, and we are able to seek to show that the exchange of money or those sorts of things is what has influenced someone. Very often, it is complex to put over the attachment that victims feel to those who are exploiting them, as it is not necessarily material.

Miss Woods: Other things that we have been asked to look at include deepfakes and cyber-flashing. Can that be prosecuted under any existing legislation that you are aware of, or would you welcome that being explicit in a Bill?

Mr McQuillan: The legislation that deals with indecent images of young people includes pseudo-images. I do not know whether that definition could be extended to include what are known as deepfakes. Obviously, indecent images apply only to children and young people who are under 18. I cannot say with certainty whether that could already be captured in pseudo-images or that class of victim, but my sense is that it may be.

On cyber-flashing, I mentioned communication offences earlier. Grossly offensive communication through electronic means is an offence and can be prosecuted. I cannot say with certainty whether a grossly offensive communication requires it to be purely words, or whether an image would constitute a grossly offensive communication, but it may well be captured in the Communications Act offences.

Miss Woods: OK, thank you. We have covered clause 1 quite a lot, but this is a recurring theme in submissions. What would be the effect if the Committee were minded to add to or remove provisions on consent to try to knuckle down on that? You have gone over the defence of something being a joke, that the person was just having a laugh, that it was part of group bonding and that sort of thing. What if we were looking to add or remove motivations, or perhaps remove 3A and B, or just have it that either there was consent or there was not? Operationally, if we were to remove that, would that place additional pressures on you for evidence gathering and putting together successful prosecutions? If another offence was added to make a consent ruling — there could be other purposes, such as sexual gratification or if it was humiliating, alarming or distressing to the person — would that place further pressures on you? I am just trying to see what would be the ideal way. Do you have any opinions on that?

Mr McQuillan: I will make observations rather than express opinions. Other jurisdictions and the Law Commission have looked at whether it was purely an offence of images being taken intentionally and without consent, and I believe that the Republic of Ireland has legislation that is based on a lack of consent.

My observation is that that would remove one of the elements that, as drafted, we would have to prove. Therefore, it would not make it more difficult. It may remove one of the challenges to us, but a consequence may be that you would have only one class of offence and that everything, from the prank or the ill-judged action right up to the predatory, malicious and deeply damaging actions, would be covered under the same offence. That might create challenges for those who are sentencing. It may be possible to deal with those challenges through guidelines, guideline cases or identifying aggravating or mitigating factors without the need for other legislation. However, it would set the bar at the lowest level to capture all the offending, which might dilute some of the approaches that the Committee might wish to be taken to the most serious and predatory offending. That is an observation rather than an opinion.

Your second point was about having a base offence and adding additional offences to that. I am looking for a comparison. Some of the sexual offences are set out at a base level and can then be aggravated, with a greater penalty available where, for instance, they involve penetration or other aggravating actions. It would not be unique to have an offence at one level that, if it involves x, is then deemed to be more serious in terms of the penalties or even the venue that is available. It is not unheard of. As to whether it would make it operationally any more difficult, if it was there and it was alleged, whether or not it was an add-on to the base offence, we would still have to prove it beyond a reasonable doubt. In that second scenario, where it was on the second limb, it would probably not change it from how it is drafted.

Miss Woods: Thank you.

The Chairperson (Mr Storey): Ciaran, do you take the view that the proposals on grooming fully capture the issue of enticement?

Mr McQuillan: I sense that that is exactly what the additional offences are aimed at. You already have the suite of offences that are aimed at that rapport building. We see it with cases that, as I said, unfortunately, progress to more serious offending. There is a period of rapport-building between the person if they are masquerading as an adult, or even if it is child-to-child offending. We sometimes see it beginning with communications of a sexualised nature and continuing in that way but, often, we see it beginning in quite an innocent way. If by "enticement", you mean starting with innocent communications and moving on to more malign communications, that is what these offences are aimed at. I can see how they would be able to deal with those people who go in with the intent to draw children into communicating before moving on to more malign communications.

The Chairperson (Mr Storey): There is also the issue in clause 2 that we have struggled to get our heads around: the offence of grooming when somebody is masquerading as a child. If the requirement for the offence to have the purpose of grooming was removed and, instead, it related simply to an adult masquerading as a child, would that have an unintended consequence? There is always the risk of what lawyers will seek to do. At the end of the day, the result — prosecution or otherwise — will be based on the legislation. Could doing that have an unintended consequence?

Mr McQuillan: I have listened to the Committee and witnesses debate whether there could be an innocent, for want of a better word, set of circumstances in which an adult would pretend —

The Chairperson (Mr Storey): We struggled to find one.

Mr McQuillan: This is only an observation, but there could be a very immature young adult who wishes to communicate entirely innocently with children and holds themselves out to be a child. That occurs to me as a possible scenario because I have seen cases of adults who are very immature and childlike in the way that they behave.

Where you take away the need to prove a malign intent, albeit an anterior intent, of doing something down the road, you run the risk — maybe there are examples of this that have not occurred to anyone yet — of including somebody who is doing something that is relatively innocent, even though a level of deception is involved in that they are holding themselves out to be something that they are not. That is all that occurs to me. As I said to Rachel, setting the bar at that level captures everything; it captures a range of offending that you might want to distinguish between.

Mr Newton: Is it not more than likely that, if an immature adult were pretending to be a child and wanted to act like a child, there would be medical evidence of that?

Mr McQuillan: Absolutely. The Committee will know that, when we receive a file, it is not simply a matter of saying, "Are the evidential proofs met? Is there a reasonable prospect of the conviction of this individual?"; we also apply a public-interest test. One of the things that we take into account is whether there is medical evidence to suggest that it would not be in the public interest to prosecute. We look at everything. The public-interest factors do not simply concentrate on a suspect or defendant; we look at the wider public interest and the victim's interest. You are absolutely right, and medical evidence provided would be taken into account when deciding whether a prosecution is in the public interest.

Ms S Bradley: Ciaran, thank you for your comments so far. You will be pleased to know that most of my questions have been answered. I want to go back to the points that the Chair and Rachel made about clause 1, which covers the offences of upskirting and downblousing. I understand that, as you said, stripping back on intent would make it easier to convict because there would be less to prove, and adding to intent would broaden the capture of the Bill but would mean a bigger evidential base to gather for prosecution. There has been a growing swell of opinion on this. If the Bill went completely silent on intent and leaned and pivoted towards consent, would there be a difficulty with proving the absence of consent in order to secure a prosecution?

Mr McQuillan: Proof is required that the victim of an offence does not consent or that the defendant does not reasonably believe that there was consent. As drafted, clause 1 amends the 2008 Order to introduce article 71A(c):

"A does so—

(i) without B's consent, and

(ii) without reasonably believing that B consents."

There are two levels to it. That runs throughout sexual offence legislation generally, including the 2008 Order. It is for us to prove the lack of consent. That is most frequently proven by the victim saying that they did not consent, but we also need to prove that the defendant did not reasonably believe that the victim consented. That defence can be put forward by a suspect in one of those cases. They are entitled to say, "Well, they may not have consented, but I believed they were consenting to me taking this image". It will depend on the evidence. We are not bound to accept that without questioning it. We would explore whether we can prove our case, even where the defendant claims that they reasonably

believed that the victim consented. That challenge is not unique to this. If you went forward with it simply on the basis of whether or not there was consent to the taking of the image, that would be in line with nearly all the other offences in the 2008 Order. We are well used to looking at and dealing with that. That does not mean that it would be not a challenge, but it is in line with other provisions.

Ms S Bradley: I appreciate that, Ciaran. There may have been consent to an image being taken. However, if the image is then used in a different way, there is a danger that the consent may not be there at that later time. Does that need to be pinned down tighter?

Mr McQuillan: On the use of the image, you are talking about something that you can take away. In sexual assaults and rapes, if consent is provided on earlier occasions, or even earlier in the same encounter, and then withdrawn, that is not consent. As for how that reads across to a situation in which you have given consent for an image to be created, the image then existing, and what happens with that image afterwards, the offences as set out in clause 1 are about the operation of electrical equipment and the recording of images, rather than the dealing with the images after they have been created. The Department may be able to clarify whether that is what it intended to capture, but my reading of those new articles is that they are about consent not being there at the actual moment of recording or operation of the equipment.

Ms S Bradley: OK. I appreciate what you are saying. It is about that moment in time, as opposed to a wrong that could happen later. I am just thinking about it from a prosecution perspective. I appreciate that. Thank you.

The Chairperson (Mr Storey): Does any other member, either here or online, have another question?

Ciaran, to conclude, I have more of an operational question based on that exchange. We had a discussion with the director about this when he kindly came to the Committee some time ago, and I want to revisit it. It is for the legislator to legislate — that is the process — and we respect the independence of the PPS. In the discussion on the operational outworkings of the existing legislation, you come to a point where the case history on it leads you to believe that it is fit for purpose, should be amended or could operate better. A lot of the Bill emanates from, and will be subject to, the 2008 Order. Do you believe, given that overall picture, that the Bill will be an enhancement and that it will give us a better opportunity? The intent of the legislator is to address the issue of grooming and to deal with the problems and difficulties out there — that phrase minimises what they are; these are crimes that are taking place. Will the Bill give the PPS, as the independent prosecutorial body, the tools to be able to successfully prosecute cases through the court?

Mr McQuillan: Referring back to my written representations, we broadly welcome the proposals, particularly those on offences, because not all of them would impact on the way in which we prosecute cases. We welcome them because they address some areas in which there are challenges in using the existing legislation. With regard to upskirting and downblousing, as they are referred to, for example, we are using legislation from long before the invention of the mobile telephone. We recognise that and support the introduction of legislation to capture that behaviour. The notion that an offence is available so that police can intervene and we can bring forward a case for conduct, prior to the damaging conduct that actual grooming, sexual communications and sexual contact with a child involves, is something that we support.

To that extent, the Bill enhances the 2008 Order. That is not to say that the detailed evidence that you received does not raise valid issues about aspects of it, and we understand that. In general, however, we would be supportive of the provisions, especially those creating offences that allow us to bring forward cases that we cannot currently bring forward.

We are aware that there is a challenge to have the public's confidence in how we prosecute sexual offences. We do not pretend that it is not challenging. We recently published statistics that showed that sexual offences were not like other offences. The rates of prosecution and conviction are not as they are in other offences. We know how that feeds into public confidence, and we are keen to address that. We welcome anything that can be brought forward to help us with that.

The Chairperson (Mr Storey): I appreciate you drawing our attention to the statistical bulletin. This is never about apportioning blame, although, in many other places, it can be. We get too much of that, trying to hang the blame on who is responsible and so on. What is the largest impediment to successfully prosecuting those types of offences on the evidence in the statistical bulletin?

Mr McQuillan: I do not mean to trot this out, but it is true that we do not judge success or failure on a conviction. Those are matters for a jury.

The Chairperson (Mr Storey): Yes.

Mr McQuillan: Taking the question in a wider sense: the nature of the offences — this is widely recognised, not just in Northern Ireland but across the world, in prosecuting sexual offences — creates inherent challenges that are difficult and prove difficult for law enforcement and prosecutorial agencies. That is because, very often, there are no witnesses. Very often, they happen between two or a small number of people in private. Very often, the forensic or physical evidence does not assist if it is consistent with the act occurring on a non-consensual and a consensual basis. The areas in other offences where you might expect to find evidence to support a prosecution are neutral or do not exist.

We are often dealing with a world where the issue of consent to what occurred becomes central. On one level, you can say that that is quite straightforward. Somebody says that they did not consent, they are your witness, you put them forward, and that is the issue proven. That does not require corroboration, and I am not suggesting that it should, but the other pieces of evidence that we might have in other prosecutions not being present or not being relevant makes these particularly challenging cases.

The nature of the offences themselves is probably the most challenging aspect. That does not mean that we cannot do better. The Gillen recommendations include making it easier and better for a victim to give evidence, tackling rape myths, and maybe giving evidence at an earlier stage through pre-recorded cross-examination. None of the recommendations is about a new problem. All will help but will not take away from the basic issue that these are difficult cases to prosecute, and always will be. We will strive to prosecute cases where there is evidence to do so, but because of their nature, those challenges will always be present.

Miss Woods: I did not know whether we were going on to the sexual offences Bill —

Mr McQuillan: I knew that, when I opened it up, I was opening myself up, but I thought that it was only fair to do so.

Miss Woods: I will not take up too much time, but I want to touch very quickly on the Gillen review in relation to that. Recommendation 155 in the Gillen review was about consent. It recommended that the Sexual Offences (Northern Ireland) Order 2008 should be amended to strengthen the law on the issue of consent. Are you aware of that happening? Have you been involved in any conversations about that?

Mr McQuillan: I am part of a cross-organisational Gillen implementation group. The group has looked at all the recommendations with a view to moving them on. That is one of the recommendations that requires legislative change, and bringing that forward is a matter for the Department. A number of pieces of research into how consent is dealt with in other jurisdictions are being carried out. I have been involved in some of the research as a participant. I know that different countries have different approaches, especially around affirmative consent, the steps to establish consent and those sorts of things, which Sir John talked about in his report. You would probably be better directing that question to the Department, which leads on the Gillen recommendations. The issue has been looked at by academic studies and is the subject of ongoing academic studies. My understanding is that legislative change is required for anything to happen on that.

Miss Woods: Thank you. We have had conversations all afternoon and in previous weeks about consent. It is up to the Committee, Chair, but I would certainly welcome further conversation with the Department about why that issue is not in the Bill, which I see as being the perfect vehicle to bring that forward, given that it is to do with sexual offences.

My next point involves another part of the Gillen review. In cases involving children, the PPS were:

> *"to appoint prosecutors with a special expertise in the dynamics of child sexual offences, who should have exclusive oversight of all such cases from the time of reporting ... until disposal at trial."*

Has that happened?

Mr McQuillan: I head up the serious crime unit, which deals with all serious sexual offences and all offences involving sexual offences against children. Not every single one involves contact. When it comes to the serious sexual offences, which are, to be honest, unfortunately, the majority of the offences that we see involving children, all the prosecutors in my unit are very experienced and have received specialist training. That was established in 2016, before the Gillen review, and anybody who deals with those serious cases involving children will have received specialist training and will be very experienced in those areas. Similarly, when the cases go through the courts, we select counsel who are experienced in those areas.

Miss Woods: Thank you. We have been getting information from the Department about a pilot scheme that was put in during recent months to expedite court cases that involved children and serious sexual offences. Do you have any observations on that? Is it working well? Is it something that you want to continue?

Mr McQuillan: It is certainly something that we want to continue. I am involved in that. It started as a judge-led initiative, operating in Belfast, and it is limited to children under 13, because of the challenges that come exponentially with things like digital evidence when you get older children. We have had some really significant successes, in that there have been cases that have gone through the system much more quickly than anybody would have anticipated for serious sexual offences. Those are cases that go to the Crown Court; they are not Magistrates' Court cases, which, traditionally, go more quickly.

It is only fair to say that, even before COVID, we were probably a little disappointed with how many cases we had seen. We had a set of criteria that we considered to be proportionate, but not all of the cases were suitable. There were complexities around the investigations or other issues that arose. The group involves the defence, the judiciary, us, the Northern Ireland Courts and Tribunals Service and the Department of Justice, which is now considering the expansion of the initiative. We are very keen to support it, because the impact of delay on children, particularly young children, is well known. As I said, it has shown the potential to get the cases dealt with much more quickly, while protecting the defendant's rights and not cutting corners. It has potential, and we are certainly keen for it to continue. Prioritising anything is very resource-intensive, and these cases can be very resource-intensive, but, if there was the opportunity for it to expand, and the resources to allow us to expand it were available and provided to us, we would certainly support that.

Miss Woods: Thank you. Finally, from your point of view, is anything happening at trials in relation to prosecution for wider sexual offences that needs to be practically addressed? In your opinion, are there any frustrations with low conviction rates that the Committee should look at or discuss? Does anything practical need to be implemented?

Mr McQuillan: At trial in the Crown Court, the decision is made by a jury. The jury room is not open to investigation of why juries reach their verdict, and we always respect a jury's verdict. The judiciary has adopted directions that are very useful for dealing with some of the issues of the myths that might previously have been carried into a jury room. The judges are very keen to direct juries to disregard things that are not relevant. We welcome that.

The issue is that cases are still taking too long. We recognise that, and we have a part in it, but the whole system needs to think about it. The judges prioritise these cases when they are able to do so, but we recognise that the delay involved in these cases is very significant. That can be damaging for public confidence and individual victims, who find that it adds to their distress.

Miss Woods: Thank you.

The Chairperson (Mr Storey): Thank you very much for your submission and your time, Ciaran. We may send one or two follow-up questions in correspondence, particularly on statistics for some of the issues around human trafficking and so on. In the meantime, thank you. We look forward to continuing to work with you and your colleagues in the PPS.

Mr McQuillan: Thank you very much. Thank you for your questions.

The Chairperson (Mr Storey): Thanks, Ciaran.