



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Access to Justice Directorate Overview:
Department of Justice

7 March 2024

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Joanne Bunting (Chairperson)
Miss Deirdre Hargey (Deputy Chairperson)
Mr Doug Beattie
Mr Maurice Bradley
Mr Stewart Dickson
Mr Alex Easton
Mrs Sinéad Ennis
Mrs Ciara Ferguson
Mr Justin McNulty

Witnesses:

Ms Maura Campbell	Department of Justice
Mr Andrew Dawson	Department of Justice
Mr Seán Holland	Department of Justice
Ms Lisa Rocks	Department of Justice
Ms Julie Wilson	Department of Justice

The Chairperson (Ms Bunting): We have with us officials from the access to justice directorate in the Department of Justice to give an overview of the directorate. From this distance, I cannot see all the nameplates, but I am advised that we have in attendance Seán Holland, who is the director of the access to justice directorate; Lisa Rocks, who is the deputy director of the justice performance team; Julie Wilson, who is the deputy director of the victim support division; Maura Campbell, whom I know, who is the deputy director of the criminal justice and legislation division; and, last but not least, Andrew Dawson, who is the deputy director of the civil justice and judicial policy division. It is great to have you with us. We look forward to hearing what you have to say. I am conscious that there are five of you and nine of us with questions, so maybe we can work on the basis of a 10- or 15-minute presentation, followed by 30 minutes for questions. We are eager to get to the meat of the discussion. I will hand over to you to give us your briefing, and we will take it from there.

Mr Seán Holland (Department of Justice): Thank you very much, Chair. Hopefully, we will come in well under 10 minutes. The questions are probably the most important part of this session. Thank you for inviting us here today. We are grateful to have the opportunity to speak to you and to provide some detail about the work of the access to justice directorate in the Department. Before I do so, I echo what Richard Pengelly, the permanent secretary, said to you a few weeks ago when he appeared before the Committee. Our desire is absolutely to work in an open, engaged and collaborative manner with the Committee. We value and respect the vital role that this Committee and, indeed, all Assembly Committees undertake on behalf of the public by subjecting our work to scrutiny, as well as members' insights and views on our work.

When Richard spoke to you, he highlighted the challenges facing the Department. You have heard reference to it in the financial position that the Executive face as a whole. His presentation focused on the largest areas of the Department's expenditure, which are therefore where our greatest pressures are: policing and prisons. Those are demand-led areas of justice activity. They are regulated and underpinned by statutory duties and obligations. Much of the spend associated with them is absolutely non-discretionary. Inevitably, that means that the areas of our activity that are about innovating and improving, transforming and extending services fall into the "could do, should do" category rather than the "must do" one, at least for financial accounting and reporting. Much of access to justice's work, such as improving the experience of victims, seeking to increase protections for vulnerable members of society through creating new offences, extending services or creating new services can fall into the category of non-discretionary spend. That means that such protections particularly struggle in times of constrained resources.

I know that change generally, the needs of victims and the protection of the vulnerable are of interest to the Committee. That interest is absolutely shared by the Minister and, given the challenges that we face, will be vital when we have to struggle to create a sustainable resource base for the delivery of justice.

In addition to finance, one of the other major challenges that we face is the limited time available in the mandate and its impact on the legislative programme that can be taken forward. We particularly value the Committee's role in the passage of new legislation. Given the shortened mandate, we will have to work as closely as possible in that area if we are to make the most of the limited time available to us.

If it is acceptable, Chair, I will introduce the team and give a brief overview of their areas of responsibility. We will then get into the questions. The access to justice directorate overall aims to deliver improvement to the criminal and civil justice system. It does that by working in partnership with a range of internal and external stakeholders, including the Commissioner Designate for Victims of Crime, from whom you heard earlier. Our intention is to improve the law, policies and procedures to benefit victims, witnesses, defendants, staff, the judiciary and wider society in order to increase effectiveness and secure confidence in the justice system, to which you just referred, Chair. The directorate also sponsors the Criminal Justice Inspection Northern Ireland (CJINI), which is a non-departmental public body (NDPB).

We have four divisions. There is the justice performance team, which is led by Lisa Rocks. Its main areas of responsibility include supporting and coordinating work on speeding up justice, to which we referred, managing the existing Causeway IT system and taking forward its reprocurement. Causeway is the integrated messaging system that allows various criminal justice organisations to talk to one another and share information on individuals who are progressing through the system. Her division also provides the secretary to the Criminal Justice Board (CJB). At this point, I apologise for an inaccuracy in the members' pack that notes the early engagement review's recommendations as being made in relation to the Criminal Justice Inspection report on avoidable delay. That, in fact, refers to a Northern Ireland Audit Office (NIAO) report. I apologise for that error. The victims support division is led by Julie Wilson. That division takes the lead on supporting victims and witnesses through their involvement with the criminal justice system. It also has specific responsibility for the implementation of the recommendations of the Gillen review, led by Sir John Gillen in 2018, of serious sexual offences.

We have the criminal justice policy and legislation division, which is led by Maura Campbell. Maura's division oversees the Department's primary legislation programme and provides an advisory role to other Departments and Whitehall Departments on any proposed changes to the criminal law that may have effects in Northern Ireland. That division takes the lead on a wide range of policy areas, such as sentencing, sexual offences, miscarriages of justice, and litigation that impacts any of those related areas. It is also the sponsor branch for the Criminal Justice Inspection Northern Ireland (CJINI) and oversees the governance of the Coroners Service's legacy inquest project.

Finally, we have the civil justice and judicial policy division, which is led by Andrew Dawson. Andrew's division is responsible for policy and legislation relating to the structure and jurisdiction of the civil courts and those tribunals that are under the responsibility of the Department of Justice. It also covers private law and policy implications for Northern Ireland that arise from any international obligations in conventions and treaties.

That is the team, and those are our areas of responsibilities. We can move on now to the other part.

Miss Hargey: Thank you very much for your presentation. Your report looked at the causes of delay, and it touched on inefficient practices and processes during the early stages of investigations and the inability of justice organisations to commit to a collaborative working model. What barriers have you identified and what are the potential solutions to some of those fundamental issues?

Mr Holland: That work is ongoing. It is a priority for the Department and for the Criminal Justice Board, which has made speeding up justice the main focus of its work. We have a workstream, which is led by the Criminal Justice Board, that focuses on early engagement. That aims to improve collaboration and cooperation to ensure that avoidable delays that occur at the point where a case reaches trial are dealt with before trial. I am looking to Lisa, who is from the justice performance team, which sponsors that work, to speak on that.

Ms Lisa Rocks (Department of Justice): It is important to recognise that there are a range of factors in the area of delay. A programme that has been developed with the Criminal Justice Board is looking at things like what demands are placed on the system and whether things are going into the court system that could be dealt with in other areas. There are also the practices of which you speak and looking at those.

The Criminal Justice Board developed an approach comprising five workstreams. That is a wider programme of work that is split into looking at things like taking out-of-court disposals out of the system; committal reform; early engagement, as Seán mentioned; and the digital workstream. That combination of things is trying to make sure that, ultimately, the programme will deliver a system in which the most serious cases get to the Crown Court sooner. The workstreams are sponsored by each member of the Criminal Justice Board. At the earliest stage of a case, there will be a key bit of work where the interface is between the PSNI and the Public Prosecution Service. A body of work, undertaken by the Working Together Board, will also look at that in detail. That is a long way of saying that quite a range of things are being done.

On the collaborative piece, a body of work had been done before COVID hit. The Department had made some progress in reducing the end-to-end case processing times, but COVID created a bit of delay, as it did for everything. One of the very small benefits of that was that it drove a lot more of that collaboration. The Criminal Justice Board became much more collaborative in dealing with the recovery of the system post-COVID. That has morphed into a speeding up justice programme, which is very much in separate workstreams and is being driven forward as a programme of work.

Miss Hargey: I have one more question, and then I will stop. It is a quick one about the reform plan that the Victims of Crime Commissioner designate touched on in the previous session. Will that be published?

Ms Rocks: We are looking at publishing it. We have not got to the point of having tasks in a full and tied-down programme. There is a lot of stakeholder engagement to be done, and I know that the Victims of Crime Commissioner designate is one of the people who will be part of that. The ultimate aspiration is to publish the plan. It is also really important that, although, given the end-to-end time, we talk about the courts being very slow, there are five stages in the process. Ultimately, we would like to get to a place where we can say, "Here are the five stages, and here are the interventions that we will make as part of that programme". A key part of that will be, in touching on the data, stating what we want to see and what measures will show how we have driven that positive change.

The Chairperson (Ms Bunting): Ciara, is your question on this point?

Ms Ferguson: It is on this point. You mentioned your workstreams and said that there is a very systematic approach to speeding up the system. Where are the individuals — the victims — in the speeding up of your process?

Ms Rocks: Everything in the programme is about speeding up the system overall, which, as the Chair has mentioned, is for the benefit of all, including the victim and the defendant in the process. There are bits of the programme that will take longer to deliver, so the data workstream will look at what victim data is captured.

One of the other areas that I am responsible for is the Causeway system which, as it is currently designed, tracks the case of a defendant from end to end, as it goes from each criminal justice organisation. However, it does not capture victim data, so we know that, as part of the next digital

iteration, we need to start expanding our thinking on how we link that through and look at the victim's journey.

There are bits of work that have been delivered in the programme. For example, the abolition of oral evidence has been a big element of what we have delivered in terms of ensuring that the victim does not have to give oral evidence twice as they go through the process. As that programme develops, engagement with the Victims of Crime Commissioner's office will be a fundamental part of it, because the victim is at the heart of what we are seeking to do.

Mr Holland: It is important to add that, although speeding up justice is, obviously, crucial to the interests of victims — the speed of the process is something that they complain about repeatedly — it is not the only issue for them. We have a wider programme of work, led by Julie Wilson, which is about trying to improve the experience of victims and increase their representation and their voice in the justice system. Julie can answer questions on that.

Geraldine, the Victims of Crime Commissioner designate, has attended the Criminal Justice Board and will do so regularly to represent the views of victims. In that particular workstream, there is a much wider programme of work to support victims beyond the speeding-up justice programme, although we recognise that it is absolutely central to victims' interests to speed up the justice programme.

Ms Ferguson: It is good to hear that they are absolutely central to any systematic approach to change. Thank you.

Mr Dickson: I have a brief and rather niche question: I appreciate the need to keep business moving today, Chair. The criminal justice review under Lord Justice Gillen looked at a wide range of topics. One is in relation to personal injury and the cost of car insurance. That is a topical issue in Northern Ireland, as people get their car insurance bills. My understanding is that we are somewhat out of step when it comes to the calculation of compensation. I am interested to know where the Department is on the implementation of the Gillen recommendations in respect of personal injuries.

Mr Andrew Dawson (Department of Justice): I deal with the niche areas, so I will answer that one. We are not particularly far ahead in relation to those recommendations in the Gillen review. Something that we are working on, which touches on the issue, is the upcoming review of the personal injury discount rate. That review is a statutory requirement, and we will be briefing you on it in full. The Gillen review recommendations on insurance may fall to another area of the Department — I am not entirely sure — but I do not think that there has been much progress on them.

Mr Dickson: Thank you.

Mr Holland: I am sorry: I should have said that we will provide to you, as a priority, written follow-up answers to any questions that we are not able to answer fully today.

Mr Beattie: Thank you, Seán, and your team. You carry a big portfolio. Delays in the criminal justice system are not all of our ills, but they make up an awful lot of them. You will have heard me asking about the issues around victims and witnesses, and you will know where I am going with regard to that. Remand is also an issue.

There is a real issue here. Looking at the processing data, the average time for a charge case to be dealt with in the Crown Court was 561 days, which was an increase of nearly 5% on last year. With all that you are doing, that time has increased. Is there a reason why that has increased? Secondly, have we considered whether we need seven-days-a-week courts?

Mr Holland: The biggest reason for the increases that you refer to is the fact that it is a demand-led system, and it probably reflects what we see in other jurisdictions which is just an increasing volume of business, which is a challenge. Progress on recovery — I will look to Lisa to give some detail on that — has not been a linear improvement. We have seen, on occasion, significant improvement, but it is a dynamic figure, and it is affected by the volume of business. It is also dependent on the changes that we are making through the speeding up justice programme. Some of those initiatives will take time to bear fruit. Lisa, do you want to give an update on where we are with recovery and times?

Ms Rocks: Yes. There are a couple of factors to your question. Some of the drivers of an increase in time could be related to complexity and the increase in digital evidence. There could be a range of

factors, and Courts and Tribunals Service colleagues may be able to speak next week to some of the points about seven-days-a-week courts. Through COVID, there were Nightingale courts and overnight courts. Work as part of the remit of the Magistrates' Court workstream will look at whether we could do things such as specialised courts. For example, we could look at motoring offences, which carry a lot of volume in the system. Balanced against that, however, is the fact that to run courts of that nature will require resources in money and people. Coming out of COVID, we reached a point at which we probably had enough money to drive the courts but we could not find the people. Again, Courts and Tribunals Service colleagues will speak to that. We have not seen the injection of funding in the system that is needed to enable the courts to recover and operate at that level.

Recovery timescales are difficult to predict because, for example, we have been running with additional funding every year since COVID. That is due to come to an end at the end of March. Going into next year, we have no certainty about money. If the money were to continue and the people were to be on the ground, we might see recovery in Magistrates' Court towards the tail end of this calendar year and in Crown Court next year, but I heavily emphasise the caveat that, without the resources and people, that timeline will extend for quite a number of years.

Mr Beattie: I totally agree. It needs resource and a workforce, but speeding it up can in itself save money.

Ms Rocks: Absolutely.

Mr Beattie: The longer these things drag out, the more they cost us. It takes over two years to deal with sexual offences. Compare that with GB — it takes half the time. Crown Court here takes 156 days — in GB, it takes half the time. We are spending money and taking twice as long — to do less. We had this conversation when I was sitting here four years ago. Until we put the resource and workforce in there, we will be, literally, skimming the surface of what is a really deep problem.

Mr Holland: It is also important to recognise that there have been some gains in that space. We mentioned the first stage of committal reform, which has had dual benefits. It is a much more streamlined process because you no longer need to go through the process of oral evidence being given at the committal stage, so it is a smoother process. It also has benefits for victims in that it avoids their having to give evidence twice. As Geri indicated, giving evidence can be incredibly traumatic, particularly in cases of serious sexual offences.

Mr Beattie: You are absolutely right that that is a real positive; you worked hard on it, and you got out the other end. The opposite side of it is that, if you are a victim or a witness in a case that is taking so long, your evidence and your mental health are deteriorating. Some witnesses end up not even giving evidence, so you end up losing a case. I get the point that you are making, however; you are absolutely right.

Mr McNulty: Very quickly, on the figure of 757 days as the average time taken to complete cases in which the main offence was a sexual offence, in what percentage of those cases are the sexual offences committed by men?

Mr Holland: I have to be honest; I do not have that figure available.

Ms Julie Wilson (Department of Justice): I have not got it in front of me, but we can write to you with that.

Mr McNulty: I ask that because I was at a very important Women's Aid conference last week in Newry, hosted by Women's Aid Armagh Down. The point to emphasise is that it is almost a get-out for perpetrators, the majority of whom are men, that those people are called "victims of domestic abuse and sexual violence". They should be called "victims of domestic abuse and sexual abuse by men", because that categorises it in a wholly different way. Women could feel a little more protected by that categorisation. That is something that I feel strongly about.

Mr Holland: It is a well-known fact that the majority of serious sexual offences and domestic abuse offences are perpetrated by men but not exclusively so. Women make up a cadre of sexual offenders and perpetrators of domestic violence. Another point about —.

Mr McNulty: Should there be two categories? Should there be one called "domestic violence and sexual abuse by men" and another called "domestic violence and sexual abuse by women", so that it is clear that there is a big weighting in one direction?

The Chairperson (Ms Bunting): If I may, Seán, the issues that women face in these circumstances are being addressed by the strategy on ending violence against women and girls. We need to be really careful in these circumstances to say that men are a third of victims. Whilst the majority of victims are women, significant numbers of men suffer in similar situations. It is inordinately difficult for any victim to come forward in those circumstances, but it is especially difficult for men to do so. We are keen to ensure that, whatever our line of questioning, we try to encourage a situation where women are protected, men are protected and anybody who is a victim of such abuse or violence can come forward and have confidence in the system.

Mr McNulty: With respect, Chair, my point is purely about recording and the weighting of the reporting.

The Chairperson (Ms Bunting): Understood.

Mr Holland: I have one further point. Lisa made reference to it. One of the changing factors in dealing with sexual offences has been the dramatic increase in the amount of digital evidence that is involved. That means looking at records from phones, computers and computer histories. Forensic examination of devices is proving to be a really significant challenge. People speculate that, in coming years, AI may make a significant difference, but, currently, a police officer has to look through devices that contain sometimes thousands of images, text exchanges or whatever. That has been a significant factor in complicating the prosecution of sexual offences. Julie, is there anything that you want to add?

Ms Wilson: A lot of the issues are interlinked. The issues on digital evidence will also, in due course, have interdependencies with some of the commissioner designate's recommendations on disclosure in relation to complainants. As the commissioner designate said, there needs to be a strategic response that looks holistically across the system at how a lot of the issues are connected.

Obviously, the Department is working on the domestic and sexual abuse strategy and the ending violence against women and girls strategy. We co-lead the development of the domestic and sexual abuse strategy with the Department of Health, and a number of other Departments are involved in that and deliver outcomes under that strategy. We recognise that there are huge interdependencies with ending violence against women and girls and that women and girls are disproportionately affected, as Seán and the Chair said, but they are not exclusively affected by domestic and sexual abuse. It is right that there are two strategies, but I assure the Committee that we work really closely with the Executive Office not to duplicate work under that strategy but to make sure that it is joined up and aligned and that we recognise that victims of all those crimes have multiple needs that require a tailored response. As we develop our strategy, we are working to ensure that we are looking at how we can meet those needs and tailor those responses.

The Chairperson (Ms Bunting): I have a couple of things, but they all relate to your report and points that are in it. If I could just work through them, I will not detain you for any longer than necessary.

The Department was required to lay draft regulations on domestic abuse protection notices and orders on 21 February this year. Your report advises us that work is ongoing and that you will:

"brief the Committee in due course",

but, obviously, the requirement was there. Can you give us a status update on that, please?

Mr Holland: The status update is that we continue to work through some of the operational challenges that are associated with those provisions. The Chair may recall that they were added as amendments at Committee Stage during the passage of the legislation. At that time, the Minister made representations noting that similar provisions were being brought forward in other jurisdictions and that there could be an advantage in seeing how they operated before we took the step of committing to legislation. Certainly, the experience that we are hearing is that the other jurisdictions are now having difficulties operationalising those orders and notices. As we are exploring them with our criminal justice partners, they are highlighting very significant issues with their operationalisation. We are

working through those, but it is proving to be more challenging than advocates of the provisions had anticipated. Julie, do you want to add anything?

Ms Wilson: It is exactly that. We have done a significant amount of work to prepare draft regulations, and we have been working on a project basis with other agencies. Some of the issues that we are seeing are, as Seán said, also emerging in other jurisdictions, particularly in Scotland, where they are experiencing similar challenges. The volume of cases is estimated to be significantly higher than previously anticipated, so there are issues there for the operational response and with resourcing. However, it is not just about the volume of cases. It is also about balancing the timescales within which you need to respond in the criminal justice system once a protection notice is made. That is particularly challenging, and it is important that the timescales are kept short, because it is about balancing the article 8 rights of the person who will be issued a notice. There are a number of operational issues that we are continuing to work through and that the Minister is continuing to consider. We had, obviously, been working towards meeting that deadline, but, within that, we recognised that the Committee would want to scrutinise that legislation. We still have some way to go before we can resolve those issues, and we will come back to you with a fuller briefing in due course. We are still grappling with thorny issues.

The Chairperson (Ms Bunting): It would be helpful to keep us apprised of where things are and of what some of the issues may be. I will move on.

Your report refers to the protocol for serious sexual offences cases involving children under 13 and says that its extension was going to be subject to securing funding. Has funding been secured?

Ms Wilson: It has not. The protocol continues to operate in Antrim and Belfast on a voluntary basis but with no additional resource. The volume of cases that are going through is small, but where cases have been progressed under the protocol, significant reductions are being delivered in the time that is taken for them to complete. Expanding and rolling it out to expedite those cases would cut across a lot of areas, including forensics, and the funding just has not been there. The protocol continues to operate in those two areas.

In addition, the organisations that are participating in the protocol have all agreed that, if a case involves a child under 16, they will endeavour to expedite it. That will not be done in the same way as the protocol, because the protocol sets very specific and tight time frames. It is more about changing the culture and the approach to those cases to look at whether there are ways to expedite them. The under-13s protocol has resource implications, so if it was rolled out without the necessary resource behind it, there could be a knock-on effect for other cases involving older complainants, including those in the age group between 14 and 16. That is some of the concern as to why that cannot be rolled out further, but it continues to operate on that more limited basis.

The Chairperson (Ms Bunting): I appreciate that this is getting into some of the minutiae, but, bearing in mind that these are issues that are raised in your report, it is important for us to have some —

Mr Holland: Absolutely.

The Chairperson (Ms Bunting): — grasp of the things with which you are grappling.

Lisa, it was helpful that you indicated earlier what Causeway can and cannot do. That was one of my questions, so that is that one ticked off. Maura, the last one is for you. Andrew, you are getting off easily today. Maura, there is mention in your report of reform of the rehabilitation of offenders legislation, specifically to reduce rehabilitation periods. Will you give us some further information on that?

Ms Maura Campbell (Department of Justice): There was a briefing to the Justice Committee in the previous mandate on plans to bring forward secondary legislation to allow for the reform of rehabilitation periods. I do not have the precise detail in front of me today, but I can certainly write to you to update you further on that. An order was to have been introduced just before the Assembly was dissolved. A potential issue about competence was raised by one of our legal advisers, so it was withdrawn at that time.

Since then, we have been working on a revised statutory instrument to be brought forward by way of secondary legislation. That has been reviewed by the Office of the Legislative Counsel and the

Examiner of Statutory Rules, which have queried whether it might be more appropriate to bring those provisions forward by way of primary provision. We are taking the Minister's views on a couple of options: we could progress it by way of secondary legislation, or we could include it in the first Bill of the mandate, which we are planning to introduce, hopefully, this side of the summer recess. That is where we are on that.

The legislation was to give effect to provision that would allow for convictions to be spent sooner. We took the Committee through the consultation that had been run on that and the proposals that had been put forward. At that time, the Committee expressed itself to be content with the Department's proposals. Obviously, however, we want to brief this Committee on what we are proposing to do.

The Chairperson (Ms Bunting): I appreciate that. Thank you for that update.

The last area that interests me is the inquests into deaths abroad. You have flagged up some concerns, but it strikes me that, given that there is such provision in the other regions of the UK and in the Republic of Ireland, those issues may not be insurmountable. Obviously, it causes considerable trauma. There have been a number of cases, albeit a small number, but, even so, we seem to be the only area without provision in that regard. Maybe you would come back to us in writing about that.

Does anybody have anything further? No.

I apologise to you for the delay in bringing you forward, but you can appreciate that the issues surrounding victims are important for all of us. Thank you for taking the time to brief us today. It has been really helpful. No doubt, it will not be our last conversation. Thank you for your time.