

include YOUTH

Response to Managing Criminal Cases: A Department of Justice Consultation

March 2013

"It just took that long – the courts, the peelers, PPS, the whole lot."

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Include Youth

Include Youth is an independent non-governmental organisation that actively promotes the rights, best interests of and best practice with disadvantaged and vulnerable children and young people.

The young people we work with and for include those from socially disadvantaged areas, those who have had poor educational experiences, those from a care background, young people who have committed or are at risk of committing crime, misusing drugs or alcohol, undertaking unsafe sexual behaviour or other harmful activities, or of being harmed themselves.

The Give and Take Scheme aims to improve the employability and increase the self-esteem of young people in need or at risk from across Northern Ireland. The Scheme works with approximately 135 young people from a care or criminal justice background. The Scheme aims to support young people to overcome particular barriers that prevent them from moving into mainstream training or employment and towards independent living. 75% of young people on the Scheme are care experienced while over a third has a background in offending.

Include Youth also delivers an Employability Service on behalf of two of the Health Trusts for young people aged 16 + who have had experience of the care system. This service is designed to offer tangible and concrete opportunities to assist young people leaving care to prepare for, and engage in work.

Include Youth has also been a Specialist Support Provider to DEL's Training for Success Programme since 2007. This service helps improve retention and encourage progression for young people who present with multiple barriers to their learning.

The organisation also leads on collaborative initiatives (Youth Works and Start) across several sites in Northern Ireland, working with community based organisations to improve education, employment and training outcomes for the most disadvantaged young people.

Include Youth's Young Voices project is a way of delivering participative democracy to marginalised young people in Northern Ireland. Its main aim is to support marginalised young people at risk or with experience of the criminal justice system, to become involved in decision making processes which impact on their lives, particularly in social welfare, education and criminal justice matters. The project works with a range of groups of young

people in the community, in Woodlands Juvenile Justice Centre and in Hydebank Wood Young Offenders Centre.

Include Youth's policy advocacy work is informed by relevant international human rights and children's rights standards, is evidence based, including that provided by young people and practitioners and is based on high quality, critical analysis.

Reflecting the profile of the young people we work with, Include Youth's two main policy priority areas are employability and youth justice. We have engaged closely with the development by the Department for Employment and Learning of the recently published Pathways to Success Strategy as well as with the Department of Justice's reviews of youth justice and prisons as well as Reducing Offending and Faster, Fairer Justice initiatives

General Comments

Include Youth welcomes the opportunity to comment on this consultation. We support the Minister's commitment to make speeding up the justice system a priority and agree with his assessment that delay can have a detrimental impact on both the defendant and victim. We acknowledge the Department's willingness to engage with Include Youth and in particular their request for advice on how best to consult with young people on this matter. As Include Youth had consulted with young people on the subject of delay in December 2012, we decided that on this occasion we had sufficient information on young people's experiences, not to warrant Include Youth consulting young people specifically on this consultation. As we stated at our meeting with the DoJ team in January 2013, we look forward to working with the Speeding Up justice team and are keen to facilitate engagement with young people on wider issues concerning young people's experience of the criminal justice system, in the near future. Include Youth impressed on the DoJ officials the need to consult with young people at the pre consultation stage of any policy development, to ensure that efforts on behalf of both the young people and IY staff, have the best chance of actually influencing policy development and associated practice. We regard this pre-emptive approach as best practice and least likely to result in consultations which potentially become form filling exercises, with no real chance of impact.

Specific Comments

Include Youth welcome the move toward tackling the problem of delay and agree with the Youth Justice Review Team's description of the problem as 'endemic' and one which 'impacts on virtually every judicial process and practice, from bail and remand to sentencing

and rehabilitation'.¹ Better case management arrangements are clearly one important step in tackling this problem. We agree with the recommendations on the need for better case management from CJINI and the Justice Committee, as outlined in the consultation document. We remain deeply concerned about the current performance data from the Youth Court with charge cases being dealt with in 119 days on average and summons cases 286 days.

Include Youth are concerned about the frequency of adjournments with an average rate of adjournment of 4.3 per case. CJINI in their report on Avoidable Delay have said that there is an adjournment culture within the youth court system². The Youth Justice Review Team claimed that that this delay impacts on all involved in the process. It limits opportunities to address offending behaviour and does not deliver justice for victims. The Youth Justice Review also made reference to that fact that multiple adjournments prolong the bail and remand process. Long periods on bail increase the risk of breach or further offending and long periods on remand are significantly damaging. The Review Team clearly state that this practice is not in the best interests of the child and condemn the use of the JJC as a remand centre.

*"It is however inexcusable that a young person accused by summons of committing an offence has to wait on average 259 days before the matter is resolved. What parent, faced with disciplining a child for some wrongdoing would wait nine months before doing so? ... each successive initiative has delivered at best only limited improvements and at worst, has made no impact at all."*³

A considerable portion of the overall time taken for charge cases is spent at court stages. For youth cases this represents three quarters of the time. For summons cases, the court stage represents nearly one third of the overall processing time and is longer than the first two preparatory stages combined.

The Youth Justice Review also makes reference to the fact that they regarded court proceedings to be disorganised with lawyers unprepared and too casual in their approach, revealing a lack of respect for the judicial process and for young people.

Our consultation with a group of young people in the JJC in December 2012 on the subject of delay also provides a number of significant insights relevant to this consultation.

Young People on Delay (December 2012)

Experience of Delay:

"I did 6 months (on remand) before I was sentenced this time."

¹ Department of Justice, 2011, Review of the Youth Justice System in Northern Ireland, Page 68

² CJINI, June 2010, Avoidable Delay: A thematic inspection of avoidable delay in the processing of criminal cases in NI.

³ Department of Justice, 2011, A Review of the Youth Justice System in Northern Ireland, page 68

"4 months – on remand, waiting for a bail address."

"6 months(on remand) on the button – from the day I was arrested to it getting dealt with in court."

"That's the same as getting a sentence itself."

Adjournments:

"Aye, 5 times – and I had to travel all the way from Coleraine [from JJC] each time."

"4 times."

"6 times, because I had to go back once a month 'cos you can only get remanded for a month at a time if you're under 18."

"It has to be once a month if you're under 18 because they can't just put you in [custody] and forget about you."

Reason for Delay:

"It just took that long – the courts, the peelers, PPS, the whole lot."

"I wasn't told why, it was just them being scumbags, the police, they were delaying it, I just know they were."

"The police – cos they can gather more evidence then and they can do you for more – either just finding more evidence, like more witnesses, or because you go out and do more crime so they can charge you with more."

"Police – it's them that slow things down."

Impact:

"Aye, it keeps you waiting, you don't know what's happening with your life. Can you picture sitting in a place for 6 months, not knowing what's happening, how long you're going have to be there?"

"It wrecks your head cos you don't know when you're getting out [of custody] – it's be better if you knew on the day you got charged."

"It puts your head away – at least when you're sentenced you know when you'll get out . again."

"You're just waiting here not knowing when you can get out."

*"You miss things that are happening outside [custody] – like in my case, I live in a children's home, an ISU, and they're having meetings about me, not knowing when I'll get out, or if they should keep my bed for me because they didn't know how long I was going to be in custody for. Everything could have gone s*** for me – it's the only care home I've ever liked and got on well and I could have lost my place just because my case didn't get dealt with."*

"Some young people have lost their place [in children's homes] when they've been on

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remand, then lose their heads 'cos they've no bed to go to when they get out, no address. If you get out you'd do more crime if you've nowhere to live."

How would you feel about the delay if you were the victim?

"You'd be annoyed."

"It would depend - if the person [perpetrator] wasn't remanded, you'd be annoyed cos you know they're still out [of custody], maybe running about and still doing what they were doing before."

"You'd be disgusted – you'd want to get it dealt with. Heartbroken 'cos they could've killed someone."

These figures and the evidence from the young people we consulted with clearly demonstrate the need for considerable improvement if we are to meet requirements in international law for cases involving children and young people to be expedited as quickly as possible. Article 40 (2) of the UN Convention on the Rights of the Child provides for cases involving young people to be determined without delay. The UN Committee on the Rights of the Child's General Comment Number 10 states: "for children in conflict with the law the time between commission of the offence and the final response to this act should be as short as possible. The longer the period, the more likely it is that the response loses its desired positive, pedagogical impact, and the more the child will be stigmatised".⁴

We would welcome the inclusion of a reference to the UNCRC alongside the obligation under Article 6 of the ECHR, within the consultation document.

While we are not in a position to specifically select which option of the four suggested in the document would have the best outcome for children and young people, we would recommend that, given the substantial impact delay has on children and young people, that whichever option is chosen, it should include a specific provision for children and young people. Indeed it could be argued that a specific and tailored option which places an onus on getting children and young people's cases progressed as quickly as possible (while also ensuring that due process is respected) should be developed.

Include Youth agrees with the recommendation from the Review Team that the only way of getting the system to function well enough is to introduce statutory time limit of 120 days

⁴ UN Committee on the Rights of the Child, 2007, General Comment No 10 Children's Rights in Juvenile Justice

from arrest to disposal. We would welcome further clarification on how the current plans around STLs will link in with the proposals outlined in this consultation.

Concluding Comments

Include Youth welcomes the opportunity to comment on these proposals and we hope that the views of the young people will prove useful in deliberations on which option is selected. We would once again like to extend our invitation to the Department, to engage with young people at the earliest possible stage of policy development and we are keen to assist in this process.