



Reviewing the Review: Barriers to Implementing the Northern Ireland Youth Justice Review

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In June 2018 the Northern Ireland Commission for Children and Young people published its first collation of 'Calls to Government', in which it set out the issues which continue to impact the rights and best interests of children and young people in Northern Ireland (NI). Within this, the Commission calls on Government to ensure that the Youth Justice System is 'child rights compliant, as was intended by the Youth Justice Review, and ... implement[s] all the recommendations of the Review' (NICCY, 2018).

It is seven years since Northern Ireland undertook a significant review of youth justice (DOJ, 2011). While the underlying principle of the Youth Justice Review (YJR) was one of human rights, related principles of welfare, diversion and restoration were strong. These are exemplified in the Review's core arguments and are evident across the 31 recommendations made. With regards to rights, an overarching recommendation was the incorporation of the best interests principle into the aims of the youth justice system. This means that in all interactions with, and responses to children and young people, their best interests should be a primary consideration. Thus, impacting not only on how young people are responded to, but also the nature of their interactions with the police, courts, Public Prosecution Service and other criminal justice bodies.

The best interests principle is further embedded in recommendations for: greater diversion (from the system, from courts, from custody); tackling delays from arrest to disposal; addressing the over-representation of looked after children in custody, and the over-use of remand; reviewing overly stringent bail conditions; raising the age of criminal responsibility; reviewing the proportionality and appropriateness of youth conference plans; and enhancing involvement of young people in court processes.

Seven Years On?

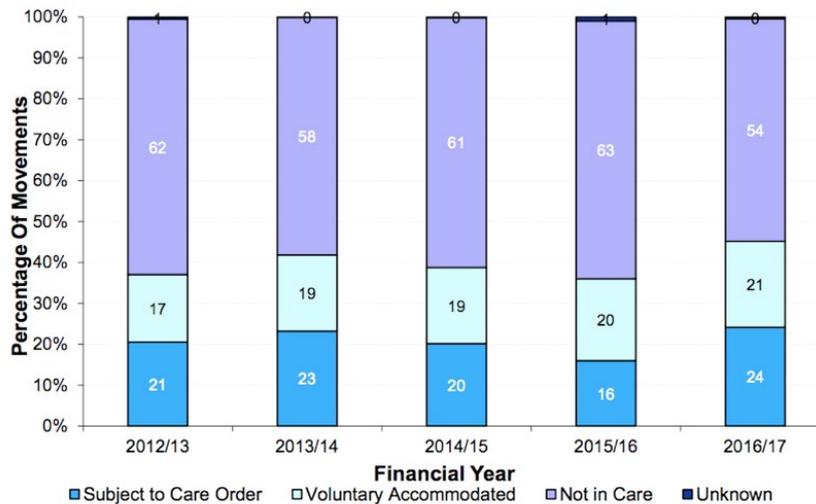
Whilst significant moves have been made on a number of recommendations such as the incorporation of the best interests principle into the aims of the youth justice system, and further progression of restorative and diversionary measures, many concerns raised by the Review remain. The Criminal Justice Inspectorate Northern Ireland (CJINI) has reported twice on the implementation of the Review's recommendations. The latest report (CJINI, 2015) noted that the target to achieve 90% of the recommendations by 2014 was not met. The implementation of 41% of these has encountered various obstacles. This is most apparent in a number of areas including: the use of custody and remand, bail conditions, resettlement and reintegration, and raising the minimum age of criminal responsibility (see [Dwyer and McAlister, 2017](#) for full discussion).

For example, despite recommending reductions in the use of Woodlands Juvenile Justice Centre (JJC) as a place of safety under PACE¹, and for remand, there has been little change in these practices. Over a period of five years, remand and PACE transactions have consistently accounted for around 90% of all JJC transactions (CJINI, 2015: 29). In effect, this means many of those held in the JJC are there pre-sentence. Additionally, many of those held under PACE/on remand are not subsequently given a custodial sanction.

¹ Under the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE) a young person can be held in a 'place of safety'. A 'place of safety' is defined as any juvenile justice centre, hospital, surgery or other suitable place. Police stations are considered largely unsuitable. Reasons why a young person might need a place of safety include the lack of appropriate accommodation to return to following charges. In NI most young people who require a place of safety are transferred to Woodlands Juvenile Justice Centre (there are very few other accommodation options available) (see DOJ, 2011 for further discussion).

Recommendations were also made for there to be a significant reduction in the use of custody for looked after children. Youth Justice Agency statistics demonstrate, however, that since the Review the proportion of looked after children in custody has not decreased. Indeed, despite a decreasing custodial population, the proportion of those in custody who are looked after has actually increased (Spain and McCaughey, 2017).

Table 1: Movements within JJC by Looked After Status 2012/13-2016/17



Source: Spain and McCaughey, 2017: 7

Progress on bail has also been limited. A Bail Bill was planned to respond to issues raised in the Review including the application of relevant, proportionate and realistic bail conditions, the participation and understanding of young people in the bail process and the need for the provision of appropriate bail packages. Although the Department of Health, Social Services and Public Safety and the DOJ had agreed a multi-agency and cross-departmental PACE/Bail Action Plan, it is reported that the DOJ did not continue to offer personnel support for the Plan (CJINI, 2015). This has not, therefore, been progressed.

Barriers to Implementation: Economic, Historical and Political

So what are the barriers to implementing the recommendations of the YJR?

- The need for legislative reform: To ensure full development and compliance with some of the recommendations, significant legislative reform is required. For example, in order to ensure that all interactions with, and responses to, children and young people who come into contact with the justice system are guided by the best interests principle, appropriate training of professionals such as police, judges and legal professionals, is required. Without legislative requirement this will remain as it is, lacking direction, commitment and appropriate investment.
- Lack of investment: There is a lack of investment and commitment by the DOJ in the PACE/Bail Action Plan and the withdrawal of key roles supporting young people (particularly looked after). As such, inconsistent approaches to bail and remand remain troubling. The CJINI noted the loss of momentum across a number of recommendations which may be explained by the lack of, or withdrawal of, investment and financial support (i.e. early intervention and prevention programmes). Budget cuts are an ongoing challenge to both justice agencies and community organisations, which meant there was less potential to increase investment on progressing recommendations (CJINI, 2015: 58).
- The politics of the past, party politics and political instability: The instability of the NI Assembly, as well as party politics, impacts on the degree and momentum of progress. In order for the government to move on key recommendations it is essential that appropriate legislative mechanisms are implemented. However, the required

legislative changes will continue to be frustrated by a lack of a working Executive, and in the longer term, finding political consensus across a range of core issues (i.e. the minimum age of criminal responsibility).

References:

Criminal Justice Inspectorate Northern Ireland [CJINI] (2015) *Monitoring of Progress on Implementation of the Youth Justice Review Recommendations*. NI: CJINI.

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Notes

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