COMMITTEE FOR JUSTICE

OFFICIAL REPORT
(Hansard)

Sex Offender Notification

24 February 2011

NORTHERN IRELAND ASSEMBLY

COMMITTEE FOR JUSTICE

Justice Bill: Consideration of Sex Offender Notification Clause

24 February 2011

Members present for all or part of the proceedings:
Lord Morrow (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Lord Browne
Mr Thomas Buchanan
Lord Empey
Mr Paul Givan
Mr Alban Maginness
Mr Conall McDevitt
Mr David McNarry
Ms Carál Ní Chuilín
Mr John O'Dowd

Witnesses:
Mr Gareth Johnston) Department of Justice
Ms Amanda Patterson)

The Chairperson (Lord Morrow):
We welcome Gareth Johnston, who is head of the justice strategy division, and Amanda Patterson, who is head of the public protection unit. I invite you to highlight any points of further information, after which, we will ask some questions.

Ms Amanda Patterson (Department of Justice):
I thought it might be useful for the Committee if I go through the basic factual brief to put what

the review mechanism does regarding the notification requirements into some context. First, I will outline what the discharge of notification requirements actually means for the offender. That requires us to look at sex offender notification, their requirements in the Sexual Offences Act 2003 and previously the Sex Offenders Act 1997, which allow the police to hold information about sex offenders in the community, commonly called, as you all well know, the sex offenders register.

Sex offenders leaving prison, or, in some cases, those who are serving a community sentence, have to provide the police with certain information about their personal details and their whereabouts. They also have to notify the police of any travel plans and any changes in their personal circumstances. That all must be reconfirmed annually to the police.

The information is made available to the police — this is quite important — for the prevention and investigation of crime for wider public protection reasons. It is not a punitive sanction attached to the individual; it is a statutory requirement. It is applied in the court on conviction, and the person will be told at that stage that it is an automatic requirement set out in statute and not something that the court or the judge decides upon.

The length of an offender's notification period is dependent on the seriousness of the crime. The shortest is a two-year period of notification for a caution. The longest is indefinite, which is what we are talking about. That applies to those who have served prison sentences of 30 months or more. So, it is important to realise that there is a large range of sentences with indefinite notification requirements attached to them. They are not all child sex offenders or rapists; it covers a broad area of actual offending behaviour.

The police use the information to assist in managing the risk posed by the offender. If offenders do not comply with their obligations, the police will take steps to report that case for prosecution. Breach of the requirements, for example, if someone does not notify the police that they are travelling abroad or that they have changed their address, is a criminal offence. The person would be brought back to court, and the maximum sentence is five years' imprisonment.

To discharge someone from the notification requirements means that the police will no longer

require them to give them the information about their personal circumstances. The proposed provision will allow the offender who is subject to indefinite notification to make an application to the police after 15 years from the date that they are released from prison. If the person was under 18 at the time of conviction, that period will be reduced to eight years.

The police are then under an obligation to review that case within 12 weeks. They must be satisfied that the offender no longer poses a risk of sexual harm to the public before they can discharge them from their notification requirements; that is the bar that has to be climbed. To reach that determination, the police must take into consideration a detailed list of items set out in statute. Under the public protection arrangements set out in the Criminal Justice (Northern Ireland) Order 2008, the police and different partner agencies will look at the application and carry out a risk assessment to decide whether or not that person remains a risk to the public. There are also a number of other criteria that they have to look at to reach that determination, such as whether the person has reoffended since he has been in the community and various other items listed in the statute. If the individual continues to pose any risk at all to the public, their notification requirements will remain in place.

An offender who is told at that stage that he is not to be discharged from his notification requirements can make another application, this time to the Crown Court, not the police, and the Crown Court will look at the case and the risk assessment again. The police will be at that hearing, and the court will decide whether that person should be discharged from his obligations to notify the police of his personal details. If the court decides that the offender should not be discharged from those obligations or if he does not take advantage of making an application to the court, under the terms of the proposed review mechanism, he can make a further application for discharge after another five years have elapsed. Those are the facts around notification and the review mechanism.

The Chairperson:
You will have heard the Prime Minister's comments yesterday that they will take the minimum possible approach. What has been done in England and Wales to date?

Ms Patterson:

To date, the Government in England and Wales have not published their proposals as to what they intend to do. However, in a statement last week, the Home Secretary said that it was likely that they would make, as you said, the minimum possible changes to meet the judgement. We expect that to mean that an application for an initial review may be made after 15 years, which is the same time frame that we are suggesting, and that the police will make the decision, which is what we suggest should happen in Northern Ireland. However, the likely difference is that — I can say only what appears to be the case, as they have not published their proposals — they will resort to a judicial review for any offender who wishes to challenge the police decision not to discharge the notification requirements.

We imagine that the other aspects, such as the criteria that must be met and the bar that has to be reached, will be much the same as here and in Scotland. The outcomes should be consistent. We are talking about the differences between the processes involved in getting to that outcome. We do not yet know what the further review period in England and Wales will be or any of the other details, because we have gone before them.

The Chairperson:

The Secretary of State for the Home Department also said:

> "We will implement a much tougher scheme."

In order words, there will be no automatic right to appeal. That is the case in Scotland, for instance, where the onus is on the state. Theresa May said that, under their law, that will not be the case. It will be the other way round; the person must apply.

Ms Patterson:

That is right, and that is what we suggest for Northern Ireland: that the application has to be made by the offender. If the offender does not apply, no action will be taken. You are correct to say that, in Scotland, the onus is on the police. They must review every case before 15 years is reached. We have decided to require the offender to apply, which is what we expect the Home Office to do.

Mr Gareth Johnston (Department of Justice):

In that sense, we are being tougher than Scotland.

The Chairperson:

Theresa May went on to say:

"We will deliberately set the bar for those reviews as high as possible."

That is after she said what we talked about. She is going to set the bar higher again. How high is this bar going to be?

Ms Patterson:

Again, it is difficult to be specific without the published proposals and decisions on what those proposals will be. From what we have seen, I can say that the criteria to be used here and in Scotland look similar to those that we have seen in England and Wales until now.

Mr Johnston:

In many ways, the height of our bar is what secures proper public protection. That is what we have focused on in developing these proposals. If someone continues to present a serious risk of causing sexual harm, we want to be in a position of not relieving them from the notification requirements. So, much of the focus has been very much on how we secure public protection.

The Chairperson:

Yes, and I hear that. However, the issue that arose yesterday was whether we would have different legislation from England and Wales on a matter that crosses all political and religious divides in this country and which leaves people aghast. The bar has already been set at a certain height, but without specifying a height, the Minister has stated that she will raise it higher. Would it be wise to wait to see how high their bar is set?

Mr Johnston:

England has the advantage of being able to accelerate its legislation through a remedial Order. It is an affirmative resolution Order, but one that can be done fairly quickly. We have to go through the whole process of primary legislation. The concern is that, if we miss the opportunity of making the provision in this Bill, we are into applications being made to the higher courts for

people coming up to their potential review periods. From enquiries that are starting to be made, we understand that cases could already be stacking up. The risk is that we may find the courts decide to release people because we do not have a satisfactory arrangement in place. So, we are keen to move forward.

Mr Givan:

Why include in our legislation the need to go to the Crown Court? Surely, if the Chief Constable rejects an application to discharge someone from notification, the case could automatically be taken to the Crown Court. Why go the police at all? Why not just automatically go to the Crown Court?

Ms Patterson:

Yes, that was a possibility. However, the police are probably the best placed organisation to decide whether the person involved continues to pose a risk to the public. Police hold that information and they are a big partner agency in the multi-agency arrangements that look at the risks posed by sex offenders. In that sense, the police are slightly more than just a filter; they can make the initial decision. The court's involvement is probably needed to ensure that the decision adheres to and complies with other human rights Acts, but police are the best organisation to make the initial decision.

Mr Givan:

You make a good argument as to why paragraph 5 should not be in the schedule by saying that the police are the best organisation. A court does not put someone on the register; it is in statute, so someone would be automatically put on the register. A judge would not have taken that decision. Why then should a judge get anywhere near thinking about these applications to be discharged? Therefore, we do not actually need paragraph 5. It is giving another potential opportunity for a sex offender to get off the register after a chief constable has deemed it necessary that he should be kept on it.

Ms Patterson:

In the interests of adherence to article 6, for example, of the European Convention on Human Rights, the right to a full public hearing on not just matters of criminal convictions but on matters

of civil obligations, it ensures that this adheres —

Mr Givan:

The legal experts talked about article 6. What is in here is not the bare minimum with regard to the Supreme Court. It is the Department saying that it will go further and comply with article 6. The Supreme Court was in article 8. You are going further and, therefore, it is not the bare minimum.

Mr Johnston:

Bare minimum is a difficult term. If you simply go on the question of what is the bare minimum, you could find that what you develop is challenged in the senior courts and Strasbourg, and people start to get off the hook because we have not provided a proper structure and system. In its recent judgement, the Supreme Court talked about review. You are right: it did not say anything about what exactly that review should involve. However, it quoted a couple of cases, one of which was a French case that went to the European Court of Human Rights. In that case, the court said that it considers that the judicial procedure for removing the information ensures independent review of the justification for the retention of the information according to defined criteria.

We can be pretty confident that, if we include a judicial mechanism, it will stand up to scrutiny by the European Court of Human Rights and by the senior courts here applying European law. If we did not provide for some sort of judicial mechanism, the legal advice that we are getting, and which we renewed this morning, is that, and Amanda will remind me of the exact phrase —

Ms Patterson:

Unwise.

Mr Johnston:

Yes; very unwise. We were told it would be very unwise to move on that basis.

Mr Givan:

Would it not be very unwise for us to move ahead of Parliament, given that, as you said, it requires affirmative resolution? Therefore, Parliament will take the final decision.

Ms Patterson:

They will for England and Wales, but not for us.

Mr Givan:

What was the Supreme Court judgement in regard to?

Ms Patterson:

It was for the UK.

Mr Givan:

So, Westminster has entered into the international agreement on European human rights and, therefore, they are leading on it?

Mr Johnston:

Yes, but Scotland has already done it.

Mr Givan:

Again, that is a matter for Scotland.

Mr Johnston:

Likewise, it becomes a matter for us and for the Assembly. It is not something that Westminster is legislating for.

Mr Givan:

You are saying that it is very unwise for us not to include paragraph 5. The Home Secretary has already made it clear that she will not be including it.

Mr Johnston:

There is a difference between how the English legislation is handled and how ours is handled, which is important. Parliament is sovereign, and what Parliament has done through primary legislation cannot be challenged. Our legislation can be challenged and struck down. For Parliament, someone make an application and say that they do not think that something is right and the courts will made a declaration of compatibility, but the legislation still stands. In our case, if something is incompatible with the European Convention on Human Rights, first, it possibly never gets to legislation because the Attorney General makes an application to the Supreme Court and, secondly, if it has and it is challenged later, it gets struck down. So, the worry is that we end up with something either not getting to the stage of legislation or being struck down. That would leave us with no provision and people would get away from the obligations that should apply to them. Compared with Westminster, we have different standards that we need to meet.

Mr Givan:

I will conclude because I know other members will bring up other points. Europe has not prescribed how this review should be conducted. I am, therefore, reticent to go headlong into something that has not been prescribed by Europe. We do not know whether what we are doing will be struck down.

Mr Johnston:

The amendment proposed by the Department seems to sit squarely with the ruling given by the European Court in the Bouchacourt v France case, which the European Court considered —

Mr Givan:

You may go beyond what is required, but you will not know unless there is a test case. Only if we legislate and that is struck down will we know that what we did is not the bare minimum and that we should have done more.

Ms Patterson:

Even though what we are doing is different to what is proposed in England and Wales, the major agencies such as the police, the Probation Board and the Department are content that what we are

proposing will not negatively impact on public protection and on the ability to protect the public through the use of those notification requirements. That is the essential argument.

Mr Johnston:

We do not foresee different decisions being made here and in England and Wales at the end of the process. Only the mechanism will be different.

Mr Givan:

We do not know that, because they have not published it.

Ms Patterson:

We do not know; that is true. However, that is what we assume will happen.

Mr McNarry:

You made a number of comments. You said that the bar of what secures proper public protection was set by the Department. Is that not a matter for the Assembly to decide?

Mr Johnston:

The Assembly certainly has the opportunity to decide that. However, on this issue, the Department worked with the various agencies that are concerned with public protection arrangements. Based on the discussions that we had, our recommendation is for the proposed scheme, which will provide proper public protection.

Mr McNarry:

If the Assembly decides otherwise, that would have to be accepted.

Mr Johnston:

Ultimately, the Department has to work with whatever legislation the Assembly decides to pass.

Mr McNarry:

That is very good to hear. You recommend a 15-year period. Did you consider longer periods? If so, what lengths did you consider, and what were your reasons for rejecting them?

Ms Patterson:

We looked at the periods in conjunction and co-operation with our colleagues in Scotland and England and Wales. It was considered very important that all the jurisdictions in the UK have the same initial review period.

Mr McNarry:

Why was that considered important?

Ms Patterson:

It was considered important to prevent the movement of offenders from one jurisdiction to the other, including to wherever the most favourable discharge arrangements might be. It is important that there is no encouragement of offenders to move for that reason.

Mr McNarry:

I can see that argument if you are going to reduce it, but if it is increased, surely that would put offenders off travelling to Northern Ireland.

Ms Patterson:

Yes, but we would be encouraging them to go to another jurisdiction. There is a responsibility on all the jurisdictions to be equally consistent to try to ensure that that does not happen, and —

Mr Johnston:

Potentially, offenders could move to another jurisdiction, get off the requirements and then come back.

Ms Patterson:

Precisely. The period of 15 years was chosen as the result of —

Mr McNarry:

So, we are really not setting this law, but are just following others. Is that what you are saying?

Ms Patterson:

No.

Mr McNarry:

You said that you had these chats with the other jurisdictions —

Ms Patterson:

Yes, and we all agreed —

Mr McNarry:

What respect are you paying to this jurisdiction and to this Assembly and its legislature? You are bringing in someone else's law, and you gave reasons as to why it is compatible.

Ms Patterson:

Yes, we are making the provision that we think best suits. There were other reasons for choosing the 15-year period. There is nothing in any statistical evidence or research that we have seen to suggest that, at a specific point in time, reoffending rates for sex offenders change dramatically. The decision to choose 15 years seemed to be an appropriate response. The longest fixed period of notification requirement is 10 years, and it seems a fair and reasonable response to choose 15 years as the point of first review. We must remember that that is only an opportunity for someone to seek discharge of their notification requirements. It is nothing more than that.

Mr McNarry:

I accept your reasoning, although I do not necessarily agree with it, because I still think that the Assembly is the decision-maker for Northern Ireland.

You said that cases are stacking up. How many cases?

Ms Patterson:

At the moment, there are perhaps five or six test cases that we know of.

Mr McNarry:

Is it your opinion that somewhere between five and 10 cases is good enough reason to move on this now?

Mr Johnston:

That represents five or 10 people who could, if we do not move, start to make applications that result in their being released. I would very much rather that we had a robust system in place whereby we were able to make those assessments, rather than it be left to —

Mr McNarry:

Can we go back perhaps 10 years? How many cases would have been stacking up then? How many of those cases resulted in people being released?

Ms Patterson:

We are talking about the fact that we know of a number of potential challenges to the law since the Supreme Court judgement, whereby people are seeking to make a judicial —

Mr McNarry:

So, you reckon that there are between five and 10 cases?

Mr Johnston:

That we know about.

Mr McNarry:

I want to perhaps look at the Chief Constable's role in this. Has that role been discussed with him?

Ms Patterson:

It has been discussed with the police, yes.

Mr McNarry:

With the Chief Constable?

Ms Patterson:

No, I did not discuss it with the Chief Constable.

Mr McNarry:

Even though the Chief Constable is specifically named in the legislation?

Ms Patterson:

I do not know, because the policy development process has been delegated to an officer in the Police Service.

Mr McNarry:

But you think that it has not been discussed with him?

Ms Patterson:

I do not know. That is the responsibility of —

Mr McNarry:

Hansard staff are taking notes. You began by saying no, but now you are shifting ground and saying that you do not know.

Ms Patterson:

I do not know whether he has been informed by —

Mr McNarry:

Do you know, Mr Johnston?

Mr Johnston:

I do not know the answer to that specific question. However, the title "Chief Constable" is the way in which legislation makes reference to the police. That is for legal reasons. Lots of legislation and proposals that we bring forward are in the name of the Chief Constable. Effectively, that means the PSNI. We discuss those at a senior level with the PSNI.

Mr McNarry:

I can follow that. Correct me if I am wrong, but are you saying that you have talked to representatives of the Chief Constable?

Mr Johnston:

Indeed.

Mr McNarry:

Are you saying that they are content to allow his office to take up this role?

Mr Johnston:

Yes.

Mr McNarry:

In that contentment, are they accepting the Crown Court situation?

Ms Patterson:

Yes, they are very much supportive of it.

Mr McNarry:

They are very supportive of it?

Ms Patterson:

Yes.

Mr McNarry:

I realise that it is perhaps unfair to ask you this, but can you give us some analysis of what challenges to the Chief Constable could be interpreted when an applicant goes to the Crown Court?

Ms Patterson:

Under the provisions, the applicant would make the same application again to the Crown Court.

It would not be an appeal against a decision of the police. The statute provides an opportunity for the applicant to make a further application to the Crown Court to discharge his notification requirements. The case would be heard on both sides. The offender's case and the police case would be heard in the Crown Court and the judge would make a decision on it.

Mr NcNarry:

That is in there for a reason, and I do not yet fully understand that reason. My point is similar to the one that Mr Givan alluded to. I know that this is like asking how long a piece of string is, but have you assessed how many applicants you think would take that route?

Ms Patterson:

We can look at those figures on the basis of estimates only. At the minute, in the region of 300 offenders are subject to indefinite notification requirements.

Mr McNarry:

Are those 300 offenders the same offenders that the Minister talked about when he said that there would be only 20 a year?

Ms Patterson:

That is right. We are talking about a 15-year period. It would involve offenders who are coming up to their release date or to 15 years since the earliest time that they could be released, which was late 1997. That means that the first offenders would come on stream next year, if my maths is correct. We estimate that that would work out at about 20 cases a year.

Mr McNarry:

That is not counting those who might be added to it.

Ms Patterson:

The ones who come on stream would do so after that 15-year period. We are talking about the next 15 years. Roughly 20 a year would be able to apply to have their requirements discharged —

Mr McNarry:

Of those 20, how many do you think would access that?

Ms Patterson:

It is like saying how long a piece of string is. However, if you take it on —

Mr McNarry:

You must have a reason for putting that in. I am trying to see what your thinking was. This matter will involve 20 people. In particular, you are saying that it does not stop with the Chief Constable and that a person can go to the Crown Court. How many do you think would go to the Crown Court?

Ms Patterson:

We think fewer than 10. However, that is only a very rough estimate.

Mr McNarry:

Half of them?

Ms Patterson:

It would probably be less than half, if you work on the basis that, after 15 years in the community, most people who are subject to indefinite notification will probably have quite a low risk attached to them. Therefore, we think that fewer than 10 would be turned down by the police.

Mr McNarry:

I just want to be clear about this in my head: the people whom we are talking about who might take that route after 15 years are people who have not reoffended and are not likely to reoffend. You are saying that the figures are likely to be almost a constant. How is that set against the people who do reoffend?

Mr Johnston:

The people who do reoffend —

Mr McNarry:

How many people will reoffend? My understanding is that that is the public fear, and not only around where we are going with this. When those people are let out, people are in fear; they do not want those people in their communities because of what they understand to be a greater risk of reoffending.

Mr Johnston:

In fact, the overall levels of reoffending for those who are subject to public protection arrangements are comparatively modest. I am just checking the figures.

Mr McCartney:

We have figures that show that 75% do not reoffend and 25% do, if my reading of the information is correct.

Mr Johnston:

I expect that we can give you some figures. Suffice it to say that a relatively small number of people under those arrangements reoffend. We are going rather wider than the provisions that we are looking at. This is only one relatively small part of the overall picture of managing sex offenders.

Mr McNarry:

I understand that. I am just trying to get a picture of this. I am very grateful for your explanations, but I do not think that you have a leg to stand on.

Mr O'Dowd:

I suppose that a lot of the points have been covered at this stage. The main concerns raised in the House yesterday were about how we came up with the 15-year ruling. I think that you have explained that, and it is up to members to decide whether or not they agree with it. Why we are where we are has being debated at length. The Supreme Court ruling has been made, regardless of whether or not people agree with it.

We are now down to the crux of the matter, which is whether we should build in to the

legislation a second mechanism that people on the sex offenders register have to go through. I just want to concentrate on that. Is it fair to say that the Chief Constable cannot be seen as an independent reviewer because, in one sense, he is reviewing police procedures? Is that why we have the second mechanism?

Ms Patterson:

That is part of it.

Mr Johnston:

As is article 6 of the European Convention on Human Rights, which is about the right to a fair trial. It ensures that a fair system is in place. It is all right for the Chief Constable to take an initial view as long as there is a judicial phase later on. The European court will look at the whole system that is available, and the second bit can perfect the first, if you like.

Mr O'Dowd:

If we dropped the second bit, would the Chief Constable's decision be open to a judicial review?

Ms Patterson:

Yes.

Mr O'Dowd:

After a number of judicial reviews, could the courts turn round to the Government and say: "You need to sort this out; you cannot continue to bring this back to court"?

Mr Johnston:

The courts could say that after one judicial review. According to our advice, if we do not have a judicial element, it could be found that the system that we have provided is not sufficient. Indeed, before the legislation gets through, we might well find that the Attorney General will have to give an opinion to the Minister on whether or not it is competent.

Mr McCartney:

A decision of the Crown Court cannot be subject to a judicial review.

Mr Johnston:

No.

Mr McCartney:

So, if a person wanted a judicial review of the Chief Constable's decision, they would be referred to the appeals system. If the appeals system said no, the decision could not be reviewed again.

Mr Johnston:

That is exactly it; there is finality there. The police are actually saying that they would much prefer the Crown Court system to the judicial review system, partly because of the cost. Something that is dealt with in the High Court involves affidavits and a lot of senior counsel on all sides, whereas, in the Crown Court, you present your information and the court makes a decision.

Mr O'Dowd:

In December 2010, we got a letter from the Department of Justice that outlined the inter-jurisdictional agreement on a review after 15 years. It stated that similar proposals were coming forward. Were those discussions with the coalition Government or the previous Administration?

Ms Patterson:

They were with this Government.

Mr O'Dowd:

In one sense, this is difficult for us. You can stand up in a Parliament and make a very robust political speech, but, when you sit down with the draftspeople and all the advisers, it is much more difficult to put that very robust political speech into a legal format. That is why I asked the question about where we are coming from with this.

How many people are currently on the sex offenders register in the North?

Ms Patterson:

Are you talking about offenders who are subject to indefinite notification requirements?

Mr O'Dowd:

Yes.

Ms Patterson:

Around 300.

Mr O'Dowd:

Are they monitored by the various agencies and the police?

Ms Patterson:

Yes, depending on the risk that they pose.

Mr O'Dowd:

Once someone reaches that 15-year mark and has not reoffended, are they generally classed as low-risk?

Ms Patterson:

Generally, yes. However, it is very hard to be general. The likelihood is that most of them will be classed as low-risk at that level.

Mr McDevitt:

I have one small constitutional point to ask about, which we asked the legal advisers about earlier. Mr Johnston seemed to have an insight into this matter, and I wonder whether he has been given specific advice. According to an exchange that took place in the House of Commons between Jack Straw and Theresa May, when a declaration of incompatibility is made, Parliament may need to address the issue, but, under section 4 of the Human Rights Act 1998, there is no obligation to do so. Parliament does not actually have to do anything because it has sovereignty. What duty is placed on us as a devolved Administration with a devolved justice portfolio? Where do we stand in that regard?

Mr Johnston:

It is not so much that the ruling places a duty on us, but that it poses a difficulty for us. It means that people who are subject to those requirements could start bringing challenges, whether in the local courts or in Strasbourg. People could start looking to have our law struck down, which could happen, and they could start looking for compensation as well. As we said, some of those cases are starting to stack up. Rather than there being a duty to change the law, the concern is that, if we do not change the law, we will end up in court.

Mr McDevitt:

You are saying that doing nothing presents a much greater risk for us than it does for Parliament. It is materially different, in fact.

Mr Johnston.

Yes.

Ms Ní Chuilín:

Is the decision to put someone on the register for life made by the police?

Ms Patterson:

No, that decision is automatically provided for in statute.

Ms Ní Chuilín:

If it is provided for in statute, the judge cannot make any other decision.

Ms Patterson:

No.

Ms Ní Chuilín:

I ask because you sometimes hear that someone is on the sex offenders register for a specific period. Is that because of the schedules?

Ms Patterson:

The length of sentence that someone receives determines how long they have to notify the police of their details. Someone who is given a sentence of two years is subject to notification requirements for 10 years. Someone who is given a sentence of over 30 months is subject to indefinite notification requirements. For community sentences, it is five years, and for cautions, it is two years. There is a sliding scale.

Ms Ní Chuilín:

If someone is not on the register for life, what happens when the notification period runs out?

Ms Patterson:

That is it.

Ms Ní Chuilín:

That is it. They do not have to go back to the police to apply. Is it just spent?

Ms Patterson:

It does not make any huge difference in that people are not doing anything because of the notification requirements other than informing the police annually that their circumstances have not changed or that they are going abroad for over three days. It does not make any other difference. At that point, the police stop keeping a record of up-to-date information on them. It does not have a huge effect on the individual.

Mr Johnston:

However, if there was information that someone in that position poses a risk, the police could bring an application for a sex offender prevention order. This mechanism is just part of the range of mechanisms that is available.

Ms Ní Chuilín:

If the Chief Constable were to make a decision on the removal of someone's details, would he or she do so on the basis of evidence coming from multiple agencies?

Mr Johnston:

That is written into the legislation.

Ms Patterson:

It is part of the criteria that any assessment of risk has to be looked at.

Ms Ní Chuilín:

So, if someone goes to court because he or she does not like the Chief Constable's decision, would the judge refer to the same process?

Ms Patterson:

The judge has to use exactly the same process.

Ms Ní Chuilín:

The judge would do exactly the same in order to determine risk.

Ms Patterson:

Yes. The statute says that the Chief Constable will follow a process, and the court will do everything in that process. It is the same process.

Ms Ní Chuilín:

The impression is that there are two different processes.

Ms Patterson:

No, there are not.

Mr Johnston:

We are keen to see whether we can reach a consensus on this. The Minister is very willing to hear anything that the Committee wants to say, if it gets us closer to agreement across the House and lets us bring measures that everyone can support at Further Consideration Stage. I know that the Minister will meet the Committee to discuss a specific issue on Monday. He asked me to say that he would be happy to address the matter further then. In the meantime, if the Committee

wants to share its views with us on what may be a consensus on the way forward, we are willing to hear anything that it may want to say.

The Chairperson:

We will keep that in mind, Mr Johnston. The Committee thanks you and Ms Patterson.