



Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

**OFFICIAL REPORT
(Hansard)**

Fine Default in Northern Ireland

23 June 2011

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Seán Lynch
Ms Jennifer McCann
Mr Basil McCrea
Mr Alban Maginness

Witnesses:

Mr Tom Haire)	Department of Justice
Mr Gareth Johnston)	
Mr Peter Luney)	Northern Ireland Courts and Tribunals Service

The Chairperson:

I welcome Gareth Johnston, the head of the justice strategy division in the Department of Justice; Peter Luney, the deputy head of business planning for the Northern Ireland Courts and Tribunals Service; and Tom Haire, the head of criminal law in the Department of Justice. I will hand over to Gareth for the next 10 minutes, after which members will have an opportunity to ask questions.

Mr Gareth Johnston (Department of Justice):

Thank you, Chairman. Peter is here today to provide an insight into the current arrangements for

fine payment. Tom is co-ordinating the proposed consultation on behalf of the fine default project group.

For a number of years, the focus of development in the justice system has been on more serious offenders, with a new sentencing framework including public protection sentences. I think that it was the management guru Richard Carlson who said, “Don’t sweat the small stuff.” However, we have realised that, in the justice system, we have to sweat the small stuff, whether it is the way in which we deal with reports of minor crime or about having efficient systems for less serious offences. As part of that, we need to tackle the problem of people who end up in Northern Ireland prisons for fine default — over 5,000 people over the past three years. The Minister of Justice is convinced that the fine default problem must be tackled as a matter of priority. He is, therefore, putting forward a series of proposals for public consultation, the outcome of which should lead to new legislative powers in the justice strategy Bill next year.

Fines are the most frequently used penalty in Northern Ireland’s courts. Up to 36,000 people are fined each year, and it is far and away the largest disposal used in our courts. In most respects, the fine is also an effective disposal. It is the most appropriate penalty for the vast majority of summary offences. It has an eventual compliance rate of in or around 90%. However, getting to that 90% and dealing with the other 10% comes at a price. About half the fines that are imposed are paid on time without any further encouragement, but considerable and expensive court and police enforcement procedures are required to raise the initial 50% compliance rate to that 90%. At the end of the process, based on our latest set of figures — we are revising and reviewing them — 1,778 people still went to prison in 2009-2010 for defaulting on a fine. Fifty per cent of all the fine default committals to prison in the past four years have been for motoring offences. One fifth of those imprisoned for fine default are for fines of less than £200, and two thirds are for fines of less than £500. The average period of custody is only three or four days. Around 130 people go to prison for not paying a fine for TV licence evasion, which is lower than, perhaps, we thought but is still significant. Of the fine defaulters in total who are imprisoned, 170 are women.

We need to ask whether that is the right pool of people to be ending up in prison. The time of prison staff, the short custody periods that have no rehabilitative effect and, some would say, the

punishment of families are all consequences of the current system. With the devolution of justice, David Ford's view is that the process for setting and collecting fines is ready for review and improvement.

More action has already been taken. First, good means information helps courts in setting fines appropriately. The Northern Ireland Courts and Tribunals Service has recently launched an information initiative to encourage defendants to provide details of their means to the courts. A copy of a means enquiry form is now included with all summonses and charge sheets. The form has been redesigned to include a prominent notice advising defendants that it is in their interests to complete it to help the court in setting the level of fine. People are being actively reminded of opportunities to seek additional time to pay or to pay by instalments, because managing payment is a key way to avoid default. Provisions have also been made to provide courts with a fine payment record, which will contain information on previous fine payments made and whether or not the defendant is in default of payment.

For those who are approaching payment deadlines, an ongoing fine collection scheme — again, led by our courts colleagues — to reduce the number of fine warrants issued for service by the police has been extremely successful. Over the past two years, the scheme has resulted in a 28% reduction in the number of warrants referred to the PSNI in respect of fine default. That equates to an increase of £2.4 million of fines paid without recourse to police enforcement.

In addition, we will be starting a pilot of the supervised activity order in the autumn. That is a community-based disposal for fine defaulters who might otherwise go to prison for non-payment of a fine. It is for adults and for fines of up to £500, and it will involve community activity of between 10 hours and 100 hours of reparation, training or community work.

Although the work of the past few years has been making important inroads, we are still faced with the problem that in 2009-2010, 1,778 people were committed to prison for fine default. I suspect that it could be even greater when the validated figures for 2010-11 are available. Ironically, the efficiency of the new Causeway IT system means that outstanding warrants are being spotted and executed more efficiently.

Costs are another ongoing problem. Concern has been expressed by the Policing Board that the number of police officers enforcing fine warrants is not manageable at a time when there are more important policing priorities. The PSNI and the board estimate that the equivalent of around 50 officers a year is required to enforce fine warrants.

The consultation that we are proposing will deal with targeting the fine, encouraging payment, dealing with default and with potentially more effective ways of delivering the service. The key principles are to differentiate between those individuals who cannot pay, and who therefore need support and alternative solutions, and those who will not pay, who require a different approach. We are considering a number of new options. For example, in order to prevent default, we are seeking views on provision for the deduction of moneys from earnings or benefits. The intention would be to be able to collect the money over a period of time and allow people to manage their payments better. Small amounts — in the case of benefits, very small amounts — would be deducted weekly. Rather than seeing that as a further imposition on those who are already hard-pressed financially, we hope to prevent imprisonment for fine default. The positive impact of that would be to keep people out of custody, to collect, say, £1 a week in a managed manner and to stop the person being whisked off to prison.

Secondly, in dealing with default, supervised activity orders will be an important development. We also want to raise with the Department for Culture, Media and Sport in Whitehall the idea of turning non-payment of a TV licence into a form of civil debt, although that is a non-transferred matter and would require UK-wide action.

We do need to be alert, however, to the “won’t pay” and at the same time ensure that there are sufficient backup powers to deal with cases in which default is deliberate. With so many non-payments arising from motoring offences, could we, for example, create a system of limiting access to a vehicle, wheel clamping or vehicle seizure? Or should we seek to reinvigorate the use of a distress warrant in some way, whereby goods could be confiscated in place of money? We need to ensure that such systems do not end up costing more than they recover.

In moving forward our consideration of those issues, continued interdepartmental co-operation will be important, including with the Department for Social Development on deductions from

benefits, with the Department for Employment and Learning on attachment of earnings and with the Department of the Environment on any vehicle proposals.

Thirdly, with regard to delivering the service, we are proposing a revised model based on a civilian collection service. With considerable pressures on the police and the possibility of civilians having certain powers, a new approach could reap dividends all round. We feel that we can learn from models such as the Enforcement of Judgments Office or the Scottish and English systems, where non-police-led enforcement models work. A fines officer model, with the ability to help people to manage their payments or to adjust the requirements on them without necessarily going back to court, could have attractions. There is the potential to involve the private sector in some of the issues, although patently it would need to be carefully thought through.

We appreciate the importance of equality screening of the proposals and detect the concern that some of them could impact adversely on people on low incomes, although technically that is not a section 75 category. However, for default prevention, our screening has shown that all section 75 categories may benefit, as individuals will be less likely to be imprisoned for fine default. Improving information flows, providing alternative ways to pay and supervised activity orders are all positive options to reduce the likelihood of custody.

We have also screened a civilianised enforcement process, which we see as having no adverse impact on any section 75 category as it changes only the method of fine collection. A specialised civilian model would administer intelligent enforcement where the measures applied are appropriate and tailored to an individual offender.

Finally, all those measures — the administration of deductions, earnings and benefits, civilian enforcement and supervised activity orders — have to be resourced. It is not simply a matter of asking the criminal justice agencies to hand over their savings. For example, for the police, it is not the case that there are officers who do nothing but serve fine warrants whose posts would suddenly be saved, because warrant enforcement takes place at a local level alongside a large range of other duties. So there are not tangible cash savings that can suddenly be released; it is an arm here and a leg there.

Likewise, although there may be 1,778 fine default committals to prison, on average the stay is for only four days, and that represents an average prisoner population of only 20 people in any one day. If the number were halved, a wing in Maghaberry, say, could not be closed. So we need to look at other funding options. We understand that England and Scotland have been permitted to retain some of the income from fines that normally goes back to the consolidated fund to reinvest in services, and that is an option that we particularly want to explore.

That is a quick run-through of the proposals. We invite the Committee's comments on the draft consultation.

The Chairperson:

Thank you very much, Gareth.

Mr McCartney:

I have a number of points. We have to be careful that we do not look at the issue of fine default as a wholly financial matter. In your closing comments, you said that even if the number of fine defaulters were halved, a wing at Maghaberry could not suddenly be closed. However, prison staff might be freed up to do the job that they are intended to do.

We have just had an evidence session with the Prisoner Ombudsman, who told us that one of the reasons why there is a high incidence of self-harming in prison is that prisoners are not getting out of their cells often enough. It does not always have to be the case that if money is saved, a wing is closed down. What might happen instead is that space is opened up for people to live out their lives in a more productive way. A figure of 50 police officers was mentioned. Again, it is the same point. There may be no need for those 50 officers to do that job all of a sudden, but they could do something more productive instead, which would obviously have a big impact on reducing crime, and so forth.

I read through the Prisoner Ombudsman's annual report this morning. In her estimation, it costs £3,000 for a four-day committal of a prisoner. So, taking into account your figures, that means that it costs, in my estimation, well over £5 million. I think that the cost of employing 50

police officers on £25,000 a year is £1.25 million. So well over £6 million is being spent to collect £1 million, if we allow for 1,778 fine defaults costing £1,000 each on average, which I think is generous.

We need to come up with something that deals with the issue of fine defaults in a practical way. We should not reduce this down to saying, "If we save £1 here, the only impact will be that we have less money to spend in other places." I think that we have to look at the matter in a more holistic way, particularly when there is a view that the police sometimes do not respond to crime quickly enough and the fact that 50 police officers are caught up in chasing people who have not paid their TV licences. I think that we need to come up with something that is more inventive. During your survey, did you profile the earning capacity of those 1,778 people?

Mr Johnston:

It was looked at on a case-by-case basis.

Mr McCartney:

Is there a statistic for the percentage of people who earn less than, say, £150 a week?

Mr Johnston:

We do not have that information. However, individuals were encouraged to provide it to the court on the means enquiry form.

Mr McCartney:

I accept that. However, that information would be useful when seeking a solution. People who find themselves in that position and think that it is an uphill task will opt to take the easy way out, and unfortunately, the easy way out for them is to spend four days in Maghaberry. So if we do not have statistics on those people's profiles, we are almost ignoring a part of the problem.

Ms J McCann:

My question follows on from what Raymond said about profiling people's income. You mentioned that you are considering fining people through their earnings and benefits. I think that that is ridiculous, because money would be taken from people who have the minimum amount of

money to live on a week. Even if it is only £1 a week, there are some people who cannot afford that. I really think that that is a ridiculous idea to even think about. I would like to see figures for the number of people on low incomes, the working poor, who default on payments. You mentioned that you are trying to differentiate between the people who habitually do not pay and the ones who cannot pay. I would say that it is the ones who cannot pay who mostly go to prison. I do not know; I am making an assumption, but I think that most people who have the money to pay fines would pay them rather than go to prison.

The Prisoner Ombudsman's office told the Committee that 52% — over half — of the women who go to prison each year do so because of the non-payment of fines. Some of those are the result of the non-payment of dog or TV licences, and, as a result, women are being separated from their children. The economics do not match up, nor do the social factors. Families are being separated for four or five days and children, particularly those of single parents, are being traumatised when their mothers are taken away and put in prison.

You really need to come up with something better. I brought up the issue of community service on a previous occasion. When courts are sentencing people, instead of giving them fines that they know that they cannot pay, there should be an alternative for people to choose to do community service. We need to be more innovative. Deducting fines from people's benefits or from people on low earnings is a no-goer. It is not morally right or acceptable. People cannot afford to pay. We will push more and more people into poverty, and that is the wrong approach.

Mr S Anderson:

Thank you for your presentation. I think that I mentioned previously that repeat offenders know how to play the system. We spoke about offenders spending four days in Maghaberry prison and others, but some of those offenders do not spend even an hour in prison. They take time to present themselves to the PSNI, put several warrants together, and they walk in the gates of prison only to walk out again. They get all those warrants cleared up at a great cost to everyone, particularly the PSNI and the Prison Service. We must look further than that and instead of it being a choice between a fine and four or five days in prison, it should be either a fine or four or five days of community service, through which offenders would work with local authorities. I declare an interest as a member of Craigavon Borough Council, and there are many jobs that local

authorities need doing. We could tell offenders that, if they do not pay their fines, they will have to give four or five days of service back to their local communities.

I like the idea of taking cars away from those convicted of driving offences. That would work particularly well for young people. Many of them are very fond of driving, and losing their cars would almost be like cutting off their right arm. That may be an option.

As has been said, there should be more use of community service. The system is getting clogged up at a great cost, and it has been going on for too long. I sometimes think that perhaps those who play the system are being encouraged to do so. Some time spent in prison clears their warrants; that issue must be examined.

Mr Dickson:

I want to follow up on Jennifer's point about the 1,778 cases of defaulters. We need a more robust analysis of who those people are, their profiles, and why they are defaulting. We need to understand whether they are defaulting because they will not pay their fines. We also need to understand the reasons why they cannot pay. Jennifer is correct. My experience as a local councillor and a constituency representative tells me that attachment of earnings is very hard on families, even when as little as £1 is taken from benefits.

We need to find more creative ways of making reparations for those fines. I agree with my colleague Mr Anderson, and I declare an interest as a member of Carrickfergus Borough Council. We provide a dog pound, and if someone defaults on a dog licence, I do not think that four days in jail is the answer. Four days of mucking out the kennels in the pound would be much more appropriate, and it would bring with it some of the responsibilities of dog ownership.

The Chairperson:

Gareth, would you like to respond to some of those comments?

Mr Johnston:

Yes, Chairman. I take on board all that has been said, and I emphasise that this is not simply a financial matter. We are looking at ways of dealing with the issue of fine default better. We

must take the financial considerations into account. Were we simply talking about finance, in terms of marginal costs, it can be quite cheap to throw people into prison for a few days. I reassure the Committee that we are looking at better solutions rather than just cheaper ones.

I have heard the various challenges that were highlighted around deduction from benefits. At the same time, I am conscious that those fines have been imposed by courts in accordance with the law and are due. We are trying to find more appropriate ways to help people to manage such payments, and a deduction from benefits or attachment of earnings may be a way to do that. In the case of benefits, it may be a small amount of money over a long period. As part of the consultation, we want to hear views from community groups about the impact of that. We particularly want to hear from groups that work with people on low incomes.

It is important to see all this in the context of other work on means enquiry forms and to encourage people to give information on their means to court, so that a full account can be taken in a decision as to whether a fine or some other disposal is appropriate. We also now have the fine payment history to show a court whether there has been a past default, which would be a marker for a sentencer.

I agree that there are those who play the system. For example, people turn up late on, I think, Maundy Thursday because people cannot be released on Good Friday or on bank holidays. I heard a lovely story about one young person who presented himself — I have to say with some drink taken — at a police station late on Maundy Thursday hoping to be turned away at the prison gates. The custody sergeant said, “Yes, very good. I will be with you in a minute” and sat him down. So he arrived at Maghaberry to be told that he was being committed for four days, to which he said, “That can’t be right”, whereupon the prison officer showed him the chit from the custody sergeant, which was timed 12.01 am. *[Laughter.]* I think that the custody sergeant in question was very canny. That story flags up the ridiculousness of the situation that we are in; we need to find a much better one.

In respect of community service options, we want to pilot supervised activity orders for those who default. However, I realise that the point made was to question whether we should be looking at a community option instead of a fine in the first place. I am conscious that,

traditionally, community service has been viewed as a more serious penalty than a fine.

Ms J McCann:

May I just say one thing about that? I am not talking about the current community service. I am talking about community service projects that benefit the community and also help the person taking part. You are right: half of the community service projects now are an alternative to a fine, but I am talking about being innovative and looking at projects that may help the community — pensioners, people who are disabled, and so forth. I wanted to clarify that.

Mr Johnston:

That is a helpful clarification. The problem is that there is a cost involved in administering that sort of placement, to identify and run them, to make sure that somebody completes them and that they do so satisfactorily. It is easy to accommodate small numbers of people. However, accommodating 1,700 people is a different proposition. From the consultation, we want to find out whether there is another way to approach the issue, perhaps through voluntary and community organisations, which could turn that into a more realistic option. We are glad to hear views on that issue in particular.

The Chairperson:

Thank you very much.