

16 August 2024

REFERENCE: FOI24\87

Dear Madam,

Thank you for your request for information dated 22nd July 2024, as detailed below.

I would like to submit a request for information using the Freedom of Information Act.

1. Please provide the most up to date figures for the length of time taken for a case to be dealt with in: (a) magistrate's court – charge case & summons case (b) crown court – charge case & summons case.

2. Please provide figures for the median length of time taken for cases to be dealt with in all courts over the past three years – 2021/22, 2022/23 & 2023/24 to date.

3. What is the longest waiting time for any case to be dealt with over the past three years 2021/22, 2022/2023 & 2023/24 to date? Please provide details of the type of case (ie offence type, type of court & length of wait)

4. What is the longest time a case has taken to progress through the crown court over the past three years 2021/22, 2022/2023 & 2023/24 to date.

5. Please provide a breakdown of figures for processing times by offence category highlighting which types of offences have the longest waits & which have the shortest waits.

6. Please provide an explanation as to why processing times are so low in NI when compared to other parts of the UK.

7. *What steps are being taken to improve waiting times?*

8. *Specifically looking at rape cases for the year 2023/24 to date – in how many cases have time delays been cited as the reason for a case to collapse or not to be proceeded with – ie the case against Craig Gibson, who was due to stand trial for rape at Craigavon Crown Court in May 2023.*

(In this instance the court heard that it had taken so long to come to trial that the complainant had withdrawn from the case and was refusing to come to court to give evidence.)

Please provide details of the case – charges, defendant's name, complainant (obviously in keeping with reporting restrictions), the name of the court in which case was being heard, how far had case proceeded and the outcome.'

The figures requested in parts 1 – 5 of your request, for cases in 2021/22 and 2022/23, were provided in a previous FOI response (reference FOI 23/46), available at [DoJ Disclosures 2023 | Department of Justice \(justice-ni.gov.uk\)](https://disclosures.justice-ni.gov.uk/2023).

The most recent bulletin on Case Processing Time statistics was published in August 2023, covering cases in 2022/23. The next planned release for case processing time statistics, the Department's official statistics publication on 'Case processing time for criminal cases dealt with in courts In Northern Ireland', is 29 August 2024. This will cover the year 1 April 2023 – 31 March 2024.

The Department has taken the view that any release of figures for the year 2023/24 would provide an indication of content and/or trend of the figures in the forthcoming publication. The figures requested in relation to cases in 2023/24 are, therefore, covered by the following section of the Freedom of Information Act 2000:

- Section 22(1) (intended for future publication)

Qualified Exemptions

The exemption provisions of section 22(1) confers a qualified exemption to our duty under section 1(1)(b) of the Act – to release the information requested. Information covered by qualified exemptions can only be withheld where the public interest falls in favour of applying the exemptions.

We have provided details of our Public Interest Test considerations in Annex A to this letter. You may wish to submit a further FOI request, in order to obtain the figures for parts 1 – 5 of your request relating to 2023/24 cases, following the issue of this publication.

In relation to Q6 and Q7, these do not constitute requests for actual recorded information, and responses to these questions have been provided outside the Department's obligations under the Freedom of Information Act.

In relation to Q6 of your request, tackling delay is one of the biggest challenges facing the criminal justice system and is a key priority for the Minister of Justice, Criminal Justice Board and justice agencies. The speed that cases progress matters to victims, witnesses, and accused and for all their wider families and communities. For those convicted of offences, a speedier system can also help them to better understand the implications of their actions and create a better opportunity for rehabilitation.

Although improvement in delay was noted prior to the Covid-19 pandemic, it was still acknowledged that further progress to speed up justice was required. Between December 2018 and March 2020, the overall average time taken to complete criminal cases had improved from 169 days to 149 days. That was the fastest time since the start of 2016-17 and faster than in 2011-12, the earliest point case processing time data is available. Whilst criminal justice organisations responded quickly, under the oversight of the Criminal Justice Board, the pandemic has resulted in significant backlogs and delay in the system, which continue to take time and additional resources to clear. The number of cases and their complexity is also increasing. Latest Case Processing Time statistics indicate that the average time taken to complete criminal cases has however improved from a high of 226 days in 2021-22 to 206 days in at the end of 2022-23.

The ongoing budgetary constraints and current budgets force the criminal justice system to be reactive rather than proactive.

In relation to Q7 of your request, work to recover and speed up the criminal justice system has been prioritised and is being overseen by the Criminal Justice Board, which includes key justice organisations (PSNI, PPS, NICTS and the Department) and the judiciary. The Department and justice colleagues have agreed a programme of work targeted at reducing avoidable delay with the system. This work takes forward existing work on committal reform, existing and emerging work in the digital arena and is exploring other areas for efficiencies such as early engagement, court remits and out of court disposals. This work will build on the new ways of working that were adopted in response to the COVID-19 pandemic, for example, making better use of technology and digital platforms.

Progress has been made across each of the workstreams. However, the pace and scope of change will be greatly dependent on funding. A brief update on each workstream is provided below.

Committal Reform

- The first phase of Committal Reform was introduced on 17 October 2022, when the option of calling victims and witnesses to provide oral evidence during committal proceedings in the magistrates' court was abolished. Since implementation, the Department has been monitoring progress and no issues have been reported to date. So far over 1,000 cases have been committed to the Crown Court under the new provisions.
- Legislation for Phase 2 of committal reform has been made but not commenced; this will see certain cases directly committed to the Crown Court. This is a complex change to a longstanding process, and detailed work is in progress to take forward implementation.

Early engagement

- The Early Engagement workstream explores opportunities for improving how key stakeholders such as police, prosecutors and defence representatives communicate and engage during case progression.
- The 'Working Together Board' which is jointly chaired by PSNI and PPS has commenced work looking at early engagement between PSNI and PPS.

Out of Court Disposals

- This workstream identifies opportunities to divert cases away from the formal justice system. It will be a key element of reducing demand.
- Work has been undertaken to take forward expansion of the PSNI use of Community Resolution Notices (CRNs) and Penalty Notices for Disorder (PNDs). A review of other out of court disposals is currently underway.
- In November 2023, PSNI and PPS introduced a pilot scheme changing how ‘No File Decisions’ are managed between the two organisations, which is expected to result in fewer case files being submitted to PPS.

Remit of the magistrates’ court

- Work is currently underway to explore potential options to look at the jurisdiction of the courts, where there is potential to divert some cases that would presently be prosecuted in the Crown Court to the magistrates’ courts.

Digital

- The final phase of Managing Digital Evidence went live in autumn 2023, enabling digital evidence to be shared electronically between PSNI, PPS, NICTS and the legal profession.
- Work is ongoing with Criminal Justice Partners to agree a common approach to a revised digital strategy to further support Speeding Up Justice.
- The Department is also exploring the potential for further use of technology across the criminal justice system.

The information sought in part 8 of your request is not held as part of case processing time datasets. Cases where time delays have been cited as the reason for a case to collapse or not to be proceeded with may be derived from individual case court records. However, the Department takes the view that this information, along with the information requested about these cases - *‘details of the case – charges, defendant’s name, complainant (obviously in keeping with reporting restrictions), the name of the court in which case was being heard, how far had case proceeded and the outcome’* - constitutes

criminal conviction data of third parties as defined under Article 10 of the General Data Protection Regulation. Furthermore, the Department has determined this information is held for law enforcement purposes as defined by Part 3 of the Data Protection Act (DPA) 2018. Under Part 3 of the DPA 2018, information can only be released if the data subject (the person convicted) has provided consent for details of their conviction to be publicly released. Alternatively, a competent authority (the Department of Justice in this case) may release the information for the performance of a task necessary for law enforcement purposes.

The Department has determined that neither of these conditions has been met and therefore to release the requested information would contravene the first data protection principle, as it would constitute processing personal information in a manner that was both unfair and unlawful. It would also contravene the second data protection principle as the personal information would be processed for a purpose (ie public release) which it was not originally collected for (law enforcement).

For these reasons, I regret to advise you that the information you have asked for under part 8 of your request cannot be provided, as disclosure could lead to the identification of individuals. Therefore, the Department considers the information you have requested is exempt from disclosure under Section 40(2) (Personal information) of the Freedom of Information Act 2000. As the information requested relates to individuals prosecuted in court, the Department also considers that the information you have requested constitutes a court record and would be exempt under s32 (Information held as a court record) of the FOI Act. S32(1)(a) of the FOI Act states:

*Information held by a public authority is exempt information if it is held only by virtue of being contained in –
any document filed with, or otherwise placed in the custody of, a court for the purposes of proceedings in a particular cause or matter.*

If you are unhappy with the result of your request for information you may request an internal review within two calendar months of the date of this letter. If you request an internal review please do so in writing stating the reasons to the address above.

If following an internal review you were to remain dissatisfied you may make a complaint to the Information Commissioner and ask the Commissioner to investigate whether the DoJ has complied with the terms of the FOIA. You can write to the Information Commissioner at:

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

The Commissioner will not investigate a complaint unless an internal review procedure has been carried out.

Further details on the role of the Information Commissioner and the handling of appeals can be found at: www.informationcommissioner.gov.uk

If you wish to discuss this please contact the Freedom of Information Team using the contact details provided at the top of the first page. Please remember to quote your reference in any correspondence.

Yours sincerely

Freedom of Information Manager

Annex A

Section 22 (1) (intended for future publication)

In favour of release

There is a general public interest in transparency and openness in how Government works.

In favour of non-disclosure:

Publication of statistics and corporate information is according to a pre-arranged timetable. We have assessed the public interest in this case. In line with guidance from the UK Statistics Authority, the strict approach to pre-release access to Official Statistics is based on firm rules set out in the Code of Practice for Official Statistics and bound by The Pre-release Access to Official Statistics Order (2008) (and Northern Ireland (2009) which apply across Government. These arrangements are part of wider rules on statistics aimed at ensuring that the statistics themselves, and the timing of their release, are not subject to political expediencies, to promote public confidence in the veracity and transparency of figures and independence of statistical processes. Any deviation from these rules could represent a breach of legislation.

Conclusion

We have concluded that it would not therefore be in the public interest to release the figures in question in contravention of the rules on Official Statistics generally.