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**Building a fair, just and safer community**

**STATUTORY TIME LIMITS**

**CONSULTATION DOCUMENT**

**Date**

**This consultation begins on 22 December 2015.**

**This consultation closes on 28 March 2016.**

**MINISTER’S FOREWORD**

When appointed Minister for Justice, I said that one of my priorities for devolution would be to create a faster, fairer justice system. A key part of achieving this will be the introduction of statutory time limits (STLs). I remain committed to this vision and to that end I would like to see more flexibility on the type of STL scheme which can be delivered.

I am conscious that it will not now be possible to deliver a new STL scheme in this Assembly mandate as it would require primary legislation to amend the Criminal Justice (Northern Ireland) Order 2003 to facilitate a more flexible scheme. Therefore this consultation seeks your views on how the 2003 Order might be amended, and the type of STL scheme, which would then be possible.

This paper builds on the previous consultation on this subject, which took place in December 2013, and it takes into account the views already expressed by our key stakeholders.

This is a fundamental reform. I am proposing STLs as part of an ambitious programme of work to help speed up our justice system. STLs are not, however, the sole means by which performance improvements can be made. Rather an STL scheme should be seen as a framework within which the justice organisations would operate.

This consultation considers options and we would like your views on the options and our conclusions. It is your opportunity to tell my Department what you think and your chance to help us deliver the change.

**David Ford MLA**

**Justice Minister**

**EXECUTIVE SUMMARY**

* We are seeking views on:
1. how we might amend the Criminal Justice (NI) Order 2003 (the 2003 Order) to enable a flexible statutory time limits (STLs) scheme to be introduced in the next mandate; and
2. the length of time that respondents feel would be appropriate for an STL.
* Three independent reviews[[1]](#footnote-1) recommended that STLs be introduced as a means of delivering a radical improvement in processing times for criminal cases. We take the view that performance improvements are possible, and STLs can provide a helpful process framework.
* We have also taken cognisance of the views of our key stakeholders both in response to our earlier consultation and other conversations in recent months.
* It is clear from those discussions that stakeholders would prefer that any time limit should commence from the date of the offence or an alternative very early stage in the process. This is not possible under the 2003 Order, hence we are seeking views on how that Order might be changed.
* As the main driver for STLs is improving performance in the Youth Court and the impact of delay on young people, we continue to propose that STLs be introduced into the Youth Court in the first instance and then subsequently into the adult courts.
* Separately, but related to the introduction of STLs, we shall shortly be reporting on performance against an Administrative Time Limit (ATL) of 120 days from the date of the offence.
* A response form is provided on page 15, but replies can take any form. The closing date for responses is 28 March 2016.

**1. INTRODUCTION**

1.1 In February 2012, the Minister announced his intention to introduce statutory time limits (STLs) for youth justice cases within this Assembly mandate.

1.2 In reaching his decision, the Minister considered three independent reports on the criminal justice system: the Review of the Youth Justice System, published 26 September 2011; the Review of Northern Ireland Prison Service, led by Dame Anne Owers, published October 2011; and Avoidable Delay, a progress report by Criminal Justice Inspection, published January 2012.

1.3 All three reviews highlighted delay in processing criminal cases as a significant challenge and concluded that STLs should be introduced as a means of delivering a step change in performance in the criminal justice system.

1.4 The consensus across all three reviews was that priority should be given to the Youth Court, where cases take longer to complete on average than in the adult Magistrates' Courts.

1.5 To develop this further the Department of Justice issued a consultation in December 2013 on Time limits in the Youth Courts. Follow up discussions with key stakeholders have made it clear that there is a preference for a time limit starting at the time of the alleged offence is reported or at an alternative very early step in the process. As it stands the Criminal Justice (Northern Ireland) Order 2003 provides for the creation of a time limit for a specified stage, starting at the point of charge or, for summons cases, the date the complaint is made by the Public Prosecution Service (PPS). Therefore, in order to facilitate an earlier start point as, preferred by stakeholders, primary legislation is required. This will amend the Criminal Justice (Northern Ireland) Order 2003 and provide more flexibility on the type of scheme that can be delivered.

1.6 It is also clear also from those discussions that the proposed STL should not be set at the 120 days we had proposed. Equally, we need to remain mindful that there will always be cases, which cannot be delivered to a set process time frame and, in the interests of justice, a method of seeking an extension will be needed.

1.7 When speaking at a recent Justice Committee seminar, the Lord Chief Justice suggested that the system should aim for a much shorter duration of 70 days initially, with a view to reducing this progressively to get youth cases to court in around 50 days (which is the target achieved under the "benchmark" Hull Youth Justice arrangements from arrest to final disposal).

1.8 We want to find the best approach to introducing STLs. To that end we have been reviewing the existing legislation contained in the 2003 Order.To deliver the flexibility we believe we require for STLs for both adults and young people we will need to make changes to Articles 12 and 15 of the Order.

1.9 Separately, but related to the introduction of the STL, we will shortly begin to report performance against an ATL.

**1.10** **We remain committed to introducing SLTs, but we want to ensure we get it right. This consultation gives you the opportunity to help us do so. We would therefore welcome your views on the various options set out below**.

**2. PURPOSE OF CONSULTATION**

* 1. The purpose of this consultation is to seek:
1. confirmation that you agree with the Department’s intention to proceed with STLs in the new mandate;
2. views on the flexibility required of the 2003 Order in respect of the start point from which the STL will be calculated; and
3. views on the length of time appropriate for an STL.

2.2 Section 3 illustrates possible start times from which the STL will be calculated.

2.3 Section 4 sets out a range of proposals on the possible length STLs.

2.4 A list of those notified of this consultation is at Appendix 1. This list is not meant to be exhaustive and responses are welcomed from anyone with an interest in or views on this consultation paper.

**3. REVIEW OF STATUTORY TIME LIMITS IN NORTHERN IRELAND: OPTIONS**

3.1 Consultees are invited to comment on the following options so that we can be sure the changes to the 2003 Order will enable a meaningful STL scheme to be developed.

**Option 1**

* **Start the STL at the point the offence is reported to the police.**

**Pros**

1. Starts at the point the victim is affected
2. Can be measured as offence date is recorded on the Causeway criminal justice IT platform.

**Cons**

1. Makes Criminal Justice Organisations accountable for a stage when no-one may have been made amenable for the offence.
2. Duplicates the 6 month limit for initiating criminal proceedings.

**Option 2**

* **Start the STL at the point when a suspect has been identified.**

**Pros**

1. Further into the investigative process

**Cons**

1. Data is currently not recorded on the Causeway criminal justice IT platform

**Option 3**

* **Start the STL at the point of arrest/first point of contact between suspect and police.**

**Pros**

1. Covers the stages recommended by the Youth Justice Review

**Cons**

1. First point of contact could occur before an arrest so the two are not strictly analogous.
2. Data is currently not recorded on the Causeway criminal justice IT platform.

**Option 4**

* **Start the STL at the date of first interview with suspect.**

**Pros**

1. Starts at the point when suspect is formally questioned by police.

**Cons**

1. Data is currently not recorded on the Causeway criminal justice IT platform

**Option 5**

* **Start the STL when the accused is informed that the case is being proceeded with.**

**Pros**

1. The STL clock would start when there is some certainty around the case as it starts when the investigation is complete and police are satisfied that there is a case to answer.
2. Can be measured centrally as the date when the accused is informed is recorded on the Causeway criminal justice IT platform

**Cons**

(i) There is no analogous stage at an early point in the charge process; some might equate this stage to charge.

**4. Length of Time That Would Be Appropriate for an STL**

Based on the option you have chosen above, which of the following do you feel would be the appropriate length of time for an STL.

**Option 1**

* **120 days from start point to bringing the case to trial.**

This is the length of time that the Department of Justice proposed initially and it is the time limit we will shortly be reporting on performance against as an ATL.

**Option 2**

* **70 days from start point to bringing the case to trial**

This proposal stems from comments the Lord Chief Justice made at a Justice Committee seminar in recent months. He suggested that the system should be aiming for a much shorter duration of 70 days initially, with a view to reducing this progressively with the ultimate aim of getting youth cases to court in around 50 days

**Option 3**

* **50 days from start point to bringing a case to trial**

Under the “benchmark” Hull youth justice arrangements an average of 50 days was achieved from arrest to final disposal. Whilst our finish point is less challenging than that of the Hull model, option 3 would take into account the Lord Chief Justice’s view that although we have a different system in place in Northern Ireland it might ultimately be possible to get youth cases in particular to court in around 50 days.

**Option 4**

* **Other**

Is there any other length of time that you feel would be appropriate for an STL?

**5. EQUALITY**

**5.1 Section 75 of the Northern Ireland Act 1998 requires all public authorities in Northern Ireland to have due regard to equality of opportunity between the nine equality categories and have regard to promote good relations between persons of different religious belief, political opinion or racial group. Public authorities are also required to meet legislative obligations under the Disability Discrimination Order, particularly in the formation of public policy making.**

**5.2 The Department of Justice is fully committed to fulfilling its Section 75 obligations on the promotion of equality of opportunity, good relations and meeting legislative requirements in Northern Ireland.**

**5.3 The options set out in this policy consultation have already been subjected to an Equality Impact Screening, as well as the Department’s shared future proofing from the earlier consultation in December 2013 on this subject matter.**

**5.4 There have been no equality issues identified and initial pre-policy screening has not identified any other Section 75 impacts at this stage. However, we would welcome views from respondents who might identify any area in which they feel the approaches outlined in the document could have adverse equality impacts.**

**6. NEXT STEPS**

6.1 The Department will consider the responses to this consultation and from those bring forward legislation in the next mandate to make the necessary amendments to the 2003 Order.

**7. HOW TO RESPOND**

7.1 The Department welcomes views on the issues raised in this consultation paper. The consultation will run from 22 December 2015 and all responses should be submitted by 28 March 2016. Appendix 2 provides a questionnaire for completion by respondents which is also available on the Department’s website. Responses can be sent by e-mail, fax or post as below.

7.2 For queries and responses to the consultation please contact:

*Consultation Co-Ordinator*

*Speeding Up Justice Branch*

*Massey House*

*Stormont Estate*

*Belfast*

*BT4 3SX*

*Tel: 028 90 169645*

*Email:* SpeedingUpJustice@dojni.x.gsi.gov.uk

7.3 When responding, please state whether you are making a submission as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

**Additional copies and alternative formats**

7.4 An electronic copy of this document is available to view and download from the consultation section of the Department of Justice website (<http://www.dojni.gov.uk>).

7.5 You may make copies of this document without seeking permission and if you require further printed copies, we would invite you to access the document through our website. If you do not have access to the internet and require us to provide you with further copies, please contact us with your specific request.

7.6 Copies in other formats, including Braille, large print or audio cassette may be made available on request. If it would assist you to access the document in an alternative format, or a language other than English, please let us know and we will do our best to assist you.

**Confidentiality**

7.7 At the end of the consultation period, copies of responses received by the Department may be made available publicly. A summary of responses may also be published on the Department of Justice website. If you prefer all or part of your response or name to be anonymised, please state this clearly in your response. Any confidentiality disclaimer that may be generated by you or your organisation’s IT system or included as a general statement in your fax cover sheet, will be taken to apply only to information in your response for which confidentiality has been specifically requested.

7.8 Any personal data which you provide will be handled in accordance with the Data Protection Act 1998[[2]](#footnote-2). Respondents should also be aware that the Department’s obligations under the Freedom of Information Act 2000[[3]](#footnote-3) may require that responses not subject to specific exemptions in the Act be communicated to third parties on request.

**Complaints**

7.9 Any comments, queries or concerns about the way this exercise has been conducted should be sent to the following address:

Standards Unit

Department of Justice

Block 5

Knockview Buildings

Stormont Estate

Belfast

BT4 3SL

or e-mail to Standardsunit@dojni.x.gsi.gov.uk

Appendix 1 – List of Consultees

This consultation document has been sent to the following organisations:

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| **SUJ: FFJ stakeholder group** |
| **Inner East Youth Project** |
| **VOYPIC (Voices of young people in care)** |
| **Include Youth** |
| **Start 360** |
| **Children’s Law Centre** |
| **NIACRO** |
| **NICCY** |
| **CJINI** |

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| **Stakeholders involved in STL Pre-consultation** |
| **Include Youth** **NIACRO** **Law Society** **Independent Advisory Group, Limavady** **Parents’ Group, Youth Justice Agency** **Prosecutor: Public Prosecution Service** **Young Offenders, Woodlands** **Chief Executive, Youth Justice Agency** **Opportunity Youth** **The Children’s Law Centre** **Lecturers University of Ulster** **NICCY** **PSNI YDOs** **PSNI response Officers** **PBNI****Young men in custody at Hydebank**  |

Appendix 2 – Questionnaire for Respondents

Please Note this form should be returned with your response to ensure that we handle your response appropriately.

***1. Name/Organisation***

**Organisation Name**

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**Title**  **Mr [ ]  Ms [ ]  Mrs [ ]  Miss [ ]  Dr [ ]   *Please tick as appropriate***

**Surname**

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**Forename**

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***2. Postal Address***

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| **Postcode**            | **Phone**       |
| **Email**       |

***3. Permissions* - I am responding as… *(choose one)***

|  |  |
| --- | --- |
| **An Individual [ ]**  | **An Organisation [ ]**  |
| 1. Do you agree to your response being made available to the public?

**Please tick as appropriate [ ]  Yes [ ]  No** | 1. The name of your organisation ***will be*** made available to the public

Are you content for your response to be made available?**Please tick as appropriate [ ]  Yes [ ]  No** |

**CONSULTATION OPTIONS [continue on separate sheet of paper as required)**

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| **Option 1: Start the STL at the point the offence is reported to the police.** |
| **Yes / No**     **Comments:**      |

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| **Option 2:** **Start the STL at the point the suspect is identified.** |
| **Yes / No**     **Comments:**      |

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| **Option 3:** **Start the STL at the point of arrest/first point of contact between suspect and the police.** |
| **Yes / No**     **Comments:**      |

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| **Option 4: Start the STL at the date of first interview with suspect.** |
| **Yes / No**     **Comments:**      |

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| **Option 5: Start the STL when the accused is informed that the case is being proceeded with.** |
| **Yes / No**     **Comments:**      |

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| **Length of Time That Would Be Appropriate for an STL:** **120 days from start point to bringing the case to trial** |
| **Yes / No**     **Comments:**      |

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| **Length of Time That Would Be Appropriate for an STL:** **70 days from start point to bringing the case to trial** |
| **Yes / No**     **Comments:**      |

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| **Length of Time That Would Be Appropriate for an STL:** **50 days from start point to bringing the case to trial** |
| **Yes / No**     **Comments:**      |
| **Length of Time That Would Be Appropriate for an STL:** **Is there any other length of time that you feel would be appropriate for an STL** |
| **Yes / No**     **Comments:**      |

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| **Any further comments?** |
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1. *“Review of the Youth Justice System” led by John Graham, published 26 September 2011; “Review of Northern Ireland Prison Service”, led by Dame Anne Owers, published October 2011; and “Avoidable Delay, a progress report” by Criminal Justice Inspection, published January 2012.*  [↑](#footnote-ref-1)
2. 1998 c.29. [↑](#footnote-ref-2)
3. 2000 c.36. [↑](#footnote-ref-3)