

INDEPENDENT REVIEWER OF TERRORISM LEGISLATION

RESPONSE TO NON-JURY TRIALS CONSULTATION

1. This document responds to the Northern Ireland Office's consultation on the extension of non-jury trial provisions in the Justice and Security Act (Northern Ireland) 2007 after July 2025.
2. The Northern Ireland Office should consider, as a factor, the question of delay within non-jury trials. I am unwilling to support an extension of non-jury trials (whose merits I considered in the previous consultation¹) unless this aspect is considered and addressed.
3. Delays are tolerated within non-jury trials that would not (I believe) be tolerated if the judge was sitting with a jury. For example, in the case of *The King v Henry Fitzsimmons, Colin Duffy and Alex McCrory*:
 - After the prosecution had called the vast majority of its evidence (§18), the Court delivered an admissibility ruling on **30 September 2022**: [2022] NICC 27.
 - On 14 October 2022 the prosecution closed its case, oral submissions on no case to answer were heard on **10 January 2023** (§1), and the Court determined that there was a case to answer in a ruling delivered on **31 March 2023**: [2023] NICC 9.

¹ Note, 17 November 2022, publicly available at <https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2022/11/IRTL-response-to-NJT-consultation-Nov-2022.pdf>.

- In a ruling delivered on **21 March 2024**, the Court found the remaining two defendants not guilty, neither of who had given evidence: [2024] NICC 10.

4. It is inconceivable, I suggest, that the Court would have permitted a jury trial to run for almost 18 months from the close of the prosecution case, to verdict.

5. It is possible that judge-only trials may be conducive to delay. Without a jury to mind, it may be tempting to put the convenience of busy legal professionals, juggling a heavy caseload or busy list, over considerations of timeliness. Start-stop cases with lengthy adjournments would not I think be tolerated by jury members in the same way.

9.1 Delay continues to be a widely acknowledged and persistent feature in the Northern Ireland criminal justice system. The Lady Chief Justice recently commented that whilst terrorism trials are complicated cases, they have "...frankly been taking too long within the criminal justice system and this must change"².

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² R v Coyle [2024] NICA 22.