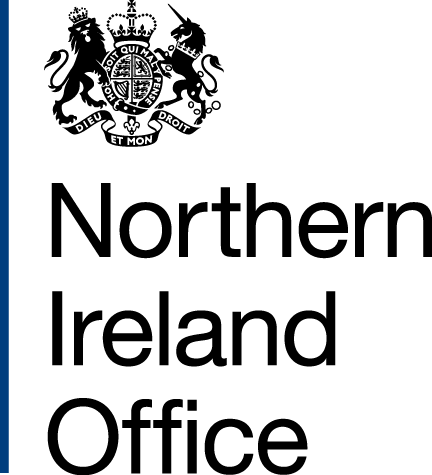
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**CONSULTATION PAPER**

CONSULTATION PAPER

Non – jury trial provisions

Justice and Security

(Northern Ireland) Act 2007

Date in Arial 16pt

**CODE OF PRACTICE FOR THE EXERCISE OF POWERS IN THE JUSTICE AND SECURITY (NORTHERN IRELAND) ACT**

**December 2012**

**Non – jury trial provisions in Northern Ireland**

The Northern Ireland Office is seeking your views on non-jury trial provisions contained within the Justice and Security (Northern Ireland) Act 2007. These provisions are temporary, however may be extended for a period of two years by Order approved in both Houses of Parliament. The provisions were last extended in July 2015. At that time, a commitment was made to hold a full public consultation prior to the next expiry of the provisions in July 2017.

The provisions under the 2007 Act allow the Director of Public Prosecutions for Northern Ireland (DPP) to certify that a trial on indictment is to be conducted without a jury in a specific case, provided a statutory test is met. Today in Northern Ireland, there is a strong presumption for jury trials in all cases, with less than 2% of all Crown Court cases per year held without a jury. However, the severe threat from Northern Ireland related terrorism and the presence of violent paramilitary groups continues to pose risks to the criminal justice system which can necessitate non-jury trials in a small number of cases.

**We are seeking your views on a proposal to extend the non – jury trial provisions under the 2007 Act for a further two years.**

As part of our consultation on this proposal we welcome views on whether the conditions in the statutory test for the DPP to issue a non-jury trial certificate (in Section 1 of the 2007 Act) and the current grounds on which the DPP’s decision to issue a certificate may be challenged (in Section 7 of the 2007 Act) remain appropriate (see further information below for full detail of how these provisions currently operate). The Northern Ireland Office is in the process of reviewing these specific aspects of the provisions. Our review has so far indicated that the conditions in the DPP’s statutory test remain relevant and that the grounds for challenge are in line with current case law (see below for further information on our initial review). **Any views submitted as part of this consultation will also inform a decision on whether any amendment by primary legislation is required.** If the decision is that amendment of the provisions is required, the Government would seek to bring forward legislative provision to make such amendment but as this would require primary legislation this is unlikely to happen before any further extension of the provisions in July 2017.

In accordance with Section 75 of the Northern Ireland Act 1998, the Northern Ireland Office has undertaken an Equality Screening exercise[[1]](#footnote-1) prior to the launch of this consultation to indicate whether or not there are likely equality of opportunity and/or good relations impacts associated with extending the non-jury trial provisions. The provisional outcome of the screening exercise is that the likely impact of extending the provisions is “minor” in respect of 2 of the section 75 categories (religious belief and political opinion) i.e. the policy is not unlawfully discriminatory and any residual potential impacts on people are judged to be negligible, and “none” in respect of the other categories. To help inform this screening exercise and in order to determine whether a full equalities impact assessment is required, we are welcoming any views you might have on the potential impact of non – jury trial provisions on equality in Northern Ireland. Following the conclusion of this consultation, we will review this screening exercise to assess whether our initial assessment made about the likely impact of the provisions remains accurate.

**All views received during this consultation will inform the Secretary of State’s decision on whether it is necessary and appropriate to seek an extension of the provisions through parliament in 2017.**

This is a 12 week public consultation which commences on **16 November 2016** with all replies due no later than **8 February 2017.**

**Please note, responses to this consultation, or a summary of such responses, may be published in the interests of ensuring an informed and transparent debate. If you do not wish for your response to be made publicly available or for it to be attributed to you, please clearly state this in your submission. Enquiries and responses can be submitted as follows:**

**Email:**

[NJTconsultation@nio.gov.uk](file:///C:\Users\donnellye\Desktop\Consultation%20Document\NJTconsultation@nio.gov.uk)

**Writing:**

*Public consultation:*

*Non – jury trial provisions*

*Northern Ireland Office (SPG)*

*1 Horse Guards Road*

*London SW1A 2HQ*

**Introduction:**

**Non – jury trial provisions in Northern Ireland**

**The 2007 Act**

Non – jury trial provisions contained within the Justice and Security (Northern Ireland) Act 2007 apply only in Northern Ireland. These replaced the former so-called “Diplock” system which existed from 1972 until its repeal in 2007. For more information on the Diplock system, please see Annex A.  Provisions under the 2007 Act are separate from those contained in Section 44 of the Criminal Justice Act 2003, which enables trials to be conducted in England, Wales and Northern Ireland without a jury, where there is danger of jury tampering.

The Criminal Justice Act (2003) (CJA) provides a higher threshold for non - jury trial than in the 2007 Act. The latter requires the DPP in Northern Ireland to be satisfied that there is a *risk* that the administration of justice might be impaired if the trial were to be conducted with a jury. The CJA requires *evidence* of a real and present danger that jury tampering would take place. Under Section 44 of the CJA, the prosecution may apply to a judge of the Crown Court for the trial to be conducted without a jury. If an application is made and the judge is satisfied that two conditions are fulfilled, he must make an order that the trial is to be conducted without a jury. The first condition is that there is evidence of ‘a real and present danger that jury tampering would take place,’ the second is that ‘notwithstanding any steps (including the provision of police protection) which might reasonably be taken to prevent jury tampering, the likelihood that it would take place would be so substantial as to make it necessary in the interests of justice for the trial to be conducted without a jury.’[[2]](#footnote-2)

Given the exceptional context in Northern Ireland, which is explained in more detail in the following sections, our current view is that provisions in the CJA are not adequate to deal with the current situation at the present time. The system under the 2007 Act was designed specifically to address the unique challenges faced by the Northern Ireland criminal justice system and, subject to the outcome of the consultation and further consideration; we consider these challenges to remain today.

Non – jury trial provisions within the 2007 Act are temporary and may be extended by order approved in both Houses of Parliament for a period of two years. There is no limit in the legislation on how many times these provisions can be extended. The provisions were most recently extended in July 2015, via The Justice and Security (Northern Ireland) Act 2007 (Extension of duration of non-jury trial provisions) Order 2015. This was the fourth extension since their establishment in 2007.[[3]](#footnote-3)

**The Director of Public Prosecutions’ Test**

Non – jury trial under the 2007 Act is only possible where the Director of Public Prosecutions (DPP) for Northern Ireland certifies a specific case, against a defined statutory test. The DPP can only issue a certificate for a non – jury trial if first, he *suspects* that one or more of the following four statutory conditions, which are laid out in section 1 of the 2007 Act, are met. In short:

**·**       **Condition one** is that the defendant is, or is an associate of, a person who is a member of a proscribed organisation, or has at any time been a member of an organisation when it was, at that time, a proscribed organisation whose activities are (or were) connected with the affairs of Northern Ireland.

**·**       **Condition two** is that the offence was committed on behalf of such a proscribed organisation, or such a proscribed organisation was otherwise involved.

**·**       **Condition three** is that an attempt has been made by, or involving, a proscribed organisation, whose activities are (or were) connected with Northern Ireland, to prejudice the investigation or prosecution.

**·**     **Condition four** is that the offence was committed as a result of, or in connection with, religious or political hostility.

**Furthermore, the DPP must be *satisfied* that, in view of one or more of these conditions being met, there is a risk that the administration of justice might be impaired if a jury trial were to be held.**

**How non – jury trials work in Northern Ireland**

The decision for non-jury trial is made on a case by case basis, taking into account the circumstances of both the offence and the defendant.  The system is designed to uphold the administration of justice. The DPP can only issue a certificate for non-jury trial where he is satisfied there is a risk to the administration of justice in light of his suspicion that one or more of the four statutory conditions have been met . A certificate can be made and lodged with the court at any point before arraignment (i.e. the start of the criminal trial, where the charges are read to the defendant and he is invited to enter a plea).

The Police Service of Northern Ireland (PSNI) provide an initial view to the Public Prosecutions Service (PPS) on whether the case is one in which a certificate for non-jury trial should be issued. If the PSNI indicate that a certificate should be issued (or if PPS consider that the matter should be considered further notwithstanding an initial view from police that a certificate for non-jury trial is not appropriate), the PSNI is then asked by the PPS for a considered view on whether the conditions for non-jury trial are satisfied. This view is provided by a senior officer within Criminal Justice Branch and will rely upon any material facts or information, including intelligence. In accordance with internal PPS procedures a recommendation will then be made to the DPP who will decide whether to issue a certificate.

In a non – jury trial, a single judge sits alone to hear the case. The judge must give reasons for a conviction. Any person convicted before a non – jury court has a right of appeal on either sentence or conviction without leave.

Only a small number of non – jury trials are held in Northern Ireland each year. During 2015, 15 certificates for a non – jury trial were issued by the DPP. In 2015, just 1.6% of all Crown Court cases in Northern Ireland were conducted without a jury. As at 4 October 2016, 14 certificates for non – jury trial have been issued in 2016, with 0.5% of all Crown Court cases conducted so far in 2016 without a jury.[[4]](#footnote-4)

**Challenging the issuing of a non – jury trial certificate**

**Case law**

A legal challenge can be brought against the issuing of a certificate for non-jury trial only on the grounds of dishonesty, bad faith or other exceptional circumstances such as lack of jurisdiction or error of law.[[5]](#footnote-5) These restrictions do not apply however where the challenge is brought under the Human Rights Act that a public authority has breached Convention rights.

This provision reflects the well-established principle that prosecutorial decisions may only be judicially reviewed in limited circumstances. For instance Lord Steyn said in the case of *R v DPP ex parte Kebilene* in 2002 that “absent dishonesty or mala fides or an exceptional circumstance, the decision of the Director to consent to the prosecution...is not amenable to judicial review.” This principle was recognised in the *Re Shuker and others* casein 2004, concerning a challenge to the Attorney General’s power to deschedule[[6]](#footnote-6) an offence under the previous (now repealed) system for non - jury trials in Northern Ireland. Former Lord Chief Justice of Northern Ireland Brian Kerr ruled that, while the decision was reviewable by the courts, there should be significant restraints on the extent of review that may be undertaken by the courts of such a decision.  An example of when the courts would be prepared to intervene was given – namely where there was bad faith on the part of the decision maker.

The grounds for challenging the issue of a non – jury trial certificate, as set out in Section 7 of the 2007 Act, were challenged in *Brian and Paula Arthurs’ Application (2010)*, with the applicant arguing that the DPP’s decision that there should be a non - jury trial was substantively flawed, procedurally unfair and in breach of Article 6 European Convention on Human Rights (the right to a fair trial). The Court dismissed the application on all grounds, agreeing with the decision in *Re Shuker* mentioned above. The Court found that Article 6 did not apply to the DPP’s decision as that decision was not determinative of any criminal or civil charge and did not undermine the right to a fair trial (which can happen before a judge alone). The Court also found there was no common law unfairness: the DPP must act fairly in the sense of reaching a dispassionate decision based on some material which led him rationally to decide the statutory conditions are met but the nature of the decision does not require the full panoply of judicial review nor that the DPP must seek or receive representations before making his decision.

The Court also recognised that the statutory language in Section 7 of the 2007 Act was inspired by the principle of exceptionality applicable in the context of prosecutorial decisions generally.

**Protecting sensitive information in a judicial review**

Certificates set out which conditions in the 2007 Act have been met. This means that someone challenging the issuing of the certificate will have some information on which to base their challenge. They may not have access to all the information which informed the DPP’s decision (for example confidential material such as intelligence or other sensitive national security related information).

If a challenge was brought by way of judicial review (within the confines of Section 7 of the 2007 Act) to the issuing of a certificate and there was relevant sensitive information held by the DPP, the disclosure of which could damage national security, that judicial review could protect the information via the established public interest immunity procedures or there is now  a mechanism for protecting such information via closed material procedure and the appointment of a special advocate under the Justice and Security Act 2013.

**Consultation Proposal:**

**Extending non – jury trial provisions for a further two years**

There are no limits to the number of times non – jury trial provisions under the 2007 Act may be extended. However, it is important to note that these provisions were designed to be a temporary measure. This Government remains fully committed to seeing an end to non – jury trials in Northern Ireland, where safe and compatible with the interests of justice. The figures set out in Annex B help illustrate that the use of non – jury trials in Northern Ireland has steadily declined in recent years.[[7]](#footnote-7)

Today in Northern Ireland, there is a strong presumption for a jury trial in all cases. The DPP for Northern Ireland may only issue a certificate for a non - jury trial if he *suspects* one of the four statutory conditions within the test is met and is *satisfied* that there is a risk that the administration of justice might be impaired if the trial were to be conducted with a jury.

Academic research referenced in the Panel Report, commissioned as part of the Fresh Start Agreement in 2015, suggests that paramilitary organisations continue to use violence or the threat of violence to exert a powerful influence over communities. This research indicates that approximately 1,000 people were driven out of their homes between 2012/13 and 2014/15 due to paramilitary intimidation from within their own community.[[8]](#footnote-8)

The threat level for Northern Ireland – related terrorism[[9]](#footnote-9) in Northern Ireland remains at SEVERE. The activities of violent paramilitary groups continue to pose risks to the criminal justice system in Northern Ireland. Threats and acts of violence towards the police and public bodies demonstrate continued attempts at intimidation of individuals and communities.[[10]](#footnote-10) Given this unique context, it is the Northern Ireland Office’s position that juries can still be at risk from tampering in Northern Ireland and that this risk to the administration of justice justifies the continuation (for the time being) of provisions allowing for a non - jury trial in the limited circumstances provided for in the 2007 Act.

**It is for this reason that we are proposing that non – jury trial provisions under the 2007 Act are once again extended for a period of two years.**

Prior to the most recent extension of the non – jury trial provisions under the 2007 Act in July 2015, the Northern Ireland Office carried out a targeted consultation with a number of key groups and individuals with specific expertise and interest in the area. Expert advice gathered at this time indicated that there was a continued need to ensure a mechanism was in place to prevent the intimidation of jurors by paramilitary organisations, a form of perverting the course of justice one respondent described as being “formidably difficult to detect.”[[11]](#footnote-11) Annex A provides further information on the 2015 consultation exercise.

**Review of the provisions**

As stated, the Northern Ireland Office is currently undertaking a review of two specific aspects of the provisions; the four statutory conditions in the test for the DPP to issue a certificate and the current mechanism for challenging the issuing of non - jury trial certificates. Our review has so far indicated that the provisions for non - jury trial under the 2007 Act remain necessary and appropriate, although submissions received during the consultation on the two aforementioned aspects of the provisions will inform this review further.

Please note, any decision to amend the provisions following the review would result in the government seeking to bring forward primary legislation to amend the 2007 Act. This would be a separate, subsequent exercise and could not be achieved as part of an Extension Order.

**The DPP’s Test: Four statutory conditions**

Figures provided to us by the Public Prosecution Service (in Annex B) have revealed that conditions one, two and four have featured regularly in non - jury trial cases between 2016 - 2011 (in 93, 72 and 59 per cent of all cases respectively). Condition three has also been used, albeit less frequently, featuring in 7 per cent of all non - jury trials since 2011. Please note, the DPP may decide that he suspects *more than one* condition is met during one case.

**Current mechanism for challenging the issuing of non - jury trial certificates**

The review is also considering the grounds for challenging a certificate for non - jury trial. Our view is that the existing grounds for challenging a non - jury trial certificate in section 7 of the Act (‘Limitation of challenge of issue of certificate’) reflect the general position that the DPP’s decisions (including those related to prosecutions) are generally only amenable to judicial review on limited grounds. These grounds were upheld by the Court in *Brian and Paula Arthurs’ Application (2010).*

**Equality Screening**

In accordance with Section 75 of the Northern Ireland Act 1998, the Northern Ireland Office has undertaken an Equality Screening exercise[[12]](#footnote-12) prior to the launch of this consultation to indicate whether or not there are likely equality of opportunity and/or good relations impacts associated with extending the non-jury trial provisions. The provisional outcome of the screening exercise is that the likely impact of extending the provisions is “minor” in respect of 2 of the section 75 categories (religious belief and political opinion) i.e. the policy is not unlawfully discriminatory and any residual potential impacts on people are judged to be negligible, and “none” in respect of the other categories. To help inform this screening exercise and in order to determine whether a full equalities impact assessment is required, we are welcoming any views you might have on the potential impact of non – jury trial provisions on equality in Northern Ireland. Following the conclusion of this consultation, we will review this exercise to assess whether our initial assessment made about the likely impact of the provisions is still accurate.

**Annex A**

**Background on non – jury trials in Northern Ireland**

**The “Diplock system” 1973 – 2007**

The non – jury trial system contained in the Justice and Security (Northern Ireland) Act 2007 replaced the old system (that was known as Diplock) that existed in Northern Ireland from 1973 until its repeal in 2007.

In his 1972 report, Lord Diplock argued the terrorist intimidation of jurors in Northern Ireland was an obstacle to dealing effectively with terrorist crime in the courts. The intimidation of jurors was the key factor in Lord Diplock’s recommendation to move to non- jury trial in terrorist cases. This system of non – jury trial was given effect in the Northern Ireland (Emergency Provisions) Act 1973 and subsequent Emergency Provisions Acts and then the Terrorism Act 2000. If a person was charged with a scheduled offence they were automatically tried before a Diplock Court unless the Attorney General certified that the offence was not to be treated as a scheduled offence (the effect of which was the case was be tried before a jury), a process known as “descheduling.”

The average number of cases dealt with in the last five years of these arrangements (up until 2007) was 62 per year.

Following a public consultation on the Diplock arrangements in 2006, and in line with “normalisation” in Northern Ireland, the then Secretary of State announced a new system would be put in place.  This system would mean **a presumption of jury trial in all cases.**  Non-jury trial would be retained for certain exceptional cases where there is a risk from paramilitary and community-based pressures on a jury. This system was given effect in the 2007 Act and is the subject of this public consultation.

**Policy background**

The system in the 2007 Act is risk-based: it enables the DPP to issue a certificate for a non-jury trial in relation to an indictable offence if he suspects one or more of four conditions in the Act apply, and he is satisfied that in view of that there is a risk that the administration of justice might be impaired if the trial were to be conducted with a jury. The four conditions relate to connections between the offence, or the defendant, and a proscribed organisation connected with the affairs of Northern Ireland; an attempt, connected to such an organisation, to prejudice the investigation or prosecution; or connections between the offence and religious or political hostility.

The system is temporary, and next expires on 31 July 2017. However, its operation can be extended for periods of two years. This reflects Government’s view that this is an exceptional system that ought to be kept in force for as short a time as is necessary. Government has made clear on many occasions its aspiration to return to jury trial for all cases[[13]](#footnote-13) as soon as the security situation in Northern Ireland allows. The threat level for Northern Ireland – related terrorism in Northern Ireland remains at SEVERE.

**Targeted consultation 2015**

Prior to the last extension in July 2015, the Secretary of State conducted a targeted consultation in order to gather views from 35 interested groups and individuals, including the representatives of the main political parties in Northern Ireland, Independent Reviewers, Human rights and other NGOs, security forces and practitioners in the criminal justice system. This method of a targeted consultation was consistent with how extension had been approached in the past, aiming to target those with a direct interest and knowledge of the area.

Out of the 19 responses received by the Northern Ireland Office in 2015, five provided views clearly in favour of extension, three responses clearly opposed extension and 11 expressed no clear preference. Those in favour of extension cited the current security situation in Northern Ireland as justification for continuing with the provisions, considered necessary, proportionate and valid for the administration of justice in a small number of cases, to protect against the risk of perverse acquittals that may result from the intimidation of jurors. One of those in favour, Lord Carlile, QC, indicated that the intimidation of jurors is a form of perverting the course of justice that can be “formidably difficult to detect.”

Some of those opposed argued for an end to the current system of non-jury trial based on their view that the threats to the administration of justice in Northern Ireland are now effectively no different to those in the rest of the United Kingdom. Even if presented with a legitimate and specific threat, they argued that there are other ways to protect the integrity of trial by jury. Calls were also made to engage in a full and thorough public and parliamentary debate on the matter, to introduce stricter conditions by which the Director of Public Prosecutions can issue a certificate for non-jury trial, and to better enable certificates to be challenged. The non-jury trial system was also said to undermine Northern Ireland’s progress towards normalisation.

Some of those expressing no clear preference nonetheless provided information that could support the extension of the provisions for a further two years, including that the security situation in Northern Ireland has not changed greatly since the provisions were last extended in 2013. One view also indicated that the current arrangements for challenging a certificate are considerably limited but acknowledged that in 2010 the High Court held that the arrangements did not engage or breach Article 6(1) of the European Convention on Human Rights. Another view indicated that although the provisions were designed to be temporary, non-jury trials are still at this time serving a useful function. It was recognised by some that an end to non-jury trial in Northern Ireland would be a positive step towards normalisation as and when this is deemed possible.

**Further information**

Criminal Justice Act 2003, Section 44:

<http://www.legislation.gov.uk/ukpga/2003/44/section/44>

Justice and Security (Northern Ireland) Act 2007:<http://www.legislation.gov.uk/ukpga/2007/6/contents>

The Justice and Security (Northern Ireland) Act 2007 (Extension of duration of non-jury trial provisions) Order 2015

<http://www.legislation.gov.uk/ukdsi/2015/9780111136560/contents>

The Justice and Security (Northern Ireland) Act 2007 (Extension of duration of non-jury trial provisions) Order 2015: EM Explanatory Memorandum

<http://www.legislation.gov.uk/uksi/2015/1572/pdfs/uksiem_20151572_en.pdf>

The Fresh Start Panel report on the Disbandment of Paramilitary Groups in Northern Ireland June 2016

<https://www.northernireland.gov.uk/publications/fresh-start-panel-report-disbandment-paramilitary-groups-northern-ireland>

**Annex B**

**Non – jury trials in Northern Ireland statistics**

**Table 1: Certificates issued for non – jury trial by the DPP under the 2007 Act (2007 – 2016)**

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **2007** | **2008** | **2009** | **2010** | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** |
| **Certificates issued** | **12**\* | **25** | **11** | **14** | **28** | **25** | **23** | **18** | **15** | **14\*\*ca** |

Source: Northern Ireland Director of Public Prosecution’s Office

\*Please note, provisions under the 2007 Act were brought into effect on 1 August 2007

\*\*Until 4 October 2016

**Table 2: Crown Court cases disposed of by means of a non - jury trial under the Justice and Security (Northern Ireland) Act 2007 as a percentage of all disposals (2013 – 2016)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Year** | **J&S 2007 Act** | **Other** | **Total** | **% J&S 2007 Act** |
| **2013** | **36** | **1917** | **1953** | **1.8%** |
| **2014** | **28** | **1660** | **1688** | **1.7%** |
| **2015** | **17** | **1063** | **1080** | **1.6%** |
| **January – August 2016 [PF]** | **5** | **969** | **974** | **0.5%** |

Source: NI Courts & Tribunals Service

[PF] Provisional Figures

**Table 3: Number of Crown Court defendants dealt with, whose cases were tried by means of a non - jury trial, under the Justice and Security (NI) Act 2007 as a percentage of all defendants dealt with (2013 – 2016)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Year** | **J&S 2007 Act** | **Other** | **Total** | **% J&S 2007 Act** |
| **2013** | **65** | **2526** | **2591** | **2.5%** |
| **2014** | **63** | **2100** | **2163** | **2.9%** |
| **2015** | **25** | **1369** | **1394** | **1.8%** |
| **January - August 2016 [PF]** | **7** | **1186** | **1193** | **0.6%** |

Source: NI Courts & Tribunals Service

[PF] Provisional Figures

**Table 4: Number of cases in which each condition has been met (2011 – 2016)\***

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Year** | **Number of Cases in which Condition Met** | | | | **No. of Certificates issued** |
| **Condition 1** | **Condition 2** | **Condition 3** | **Condition 4** |
| **2011**  **2012**  **2013**  **2014**  **2015**  **2016\*\*** | **27**  **21**  **22**  **18**  **14**  **13** | **23**  **16**  **16**  **12**  **13**  **9** | **4**  **1**  **3**  **0**  **0**  **0** | **8**  **10**  **21**  **16**  **7**  **11** | **28**  **25**  **23**  **18**  **15**  **14** |
| **2011-16** | **115** | **89** | **8** | **73** | **123** |

Source: Northern Ireland Director of Public Prosecution’s Office

\*Please note, the DPP may decide that he suspects *more than one condition* has been met in one case

\*\*Until 4 October 2016

**Table 5: Percentage of cases in which condition has been met (2011 – 2016)\***

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Year** | **Number of Cases in which Condition Met** | | | | **No. of Certificates issued** |
| **Condition 1** | **Condition 2** | **Condition 3** | **Condition 4** |
| **2011**  **2012**  **2013**  **2014**  **2015**  **2016\*\*** | **96%**  **84%**  **96%**  **100%**  **93%**  **93%** | **82%**  **64%**  **70%**  **67%**  **87%**  **64%** | **14%**  **4%**  **13%**  **0%**  **0%**  **0%** | **29%**  **40%**  **91%**  **89%**  **47%**  **79%** | **28**  **25**  **23**  **18**  **15**  **14** |
| **2011-16** | **93%** | **72%** | **7%** | **59%** | **123** |

Source: Northern Ireland Director of Public Prosecution’s Office

\*Please note, the DPP may decide that he suspects more than one condition has been met in one case

\*\*Until 4 October 2016

**Table 6: Acquittal rates for those Crown Court Defendants dealt with *where a plea of not guilty is entered* by those in non - jury trials, compared with those in jury trials (2013 – 2016)**

|  |  |  |
| --- | --- | --- |
| **Year** | **Non - jury trials** | **Jury trials** |
| **2013** | **13.64%** | **24.87%** |
| **2014** | **27.45%** | **25.21%** |
| **2015** | **47.62%** | **20.80%** |
| **January - August 2016 [PF]** | **20.00%** | **22.63%** |

Source: NI Courts & Tribunals Service

[PF] Provisional Figures

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1. [Please click here for more information on the Equality Commission’s Section 75 guidance](http://www.equalityni.org/S75duties) or go to http://www.equalityni.org/S75duties [↑](#footnote-ref-1)
2. To date, one non - jury trial has been conducted under Section 44 the Criminal Justice Act in 2011 in the England and Wales Court of Appeal. [Please click here to view more information on the case.](http://www.bailii.org/ew/cases/EWCA/Crim/2011/8.html) Or go to http://www.bailii.org/ew/cases/EWCA/Crim/2011/8.html [↑](#footnote-ref-2)
3. Prior to the most recent extension of the provisions in July 2015, views were sought via a targeted consultation from a range of interested parties. Please see Annex A for a summary of this. [↑](#footnote-ref-3)
4. Please see Annex B for a breakdown on the use of non – jury trials in Northern Ireland over the past 5 years. [↑](#footnote-ref-4)
5. As set out in section 7 of the [Justice and Security (Northern Ireland) Act 2007](http://www.legislation.gov.uk/ukpga/2007/6/pdfs/ukpga_20070006_en.pdf) [↑](#footnote-ref-5)
6. Under the previous so called “Diplock system” which existed from 1973 - 2007, if a person was charged with a “scheduled” offence they were automatically tried before a Diplock Court, unless the Attorney General certified that the offence was not to be treated as a scheduled offence. If this took place, the effect of this would be that the case would be tried before a jury, a process known as “descheduling.” [↑](#footnote-ref-6)
7. Please see Annex B for a breakdown on the use of non – jury trials in Northern Ireland over the past 5 years. [↑](#footnote-ref-7)
8. The Northern Ireland Housing Executive (NIHE) accepted 1,223 cases in which people were presenting as homeless as a result of intimidation over the 2012/13 – 2014/15 period. Around three – quarters of these cases were as a result of paramilitary intimidation. [The 2015 Panel Report, page 9](https://www.northernireland.gov.uk/sites/default/files/publications/newnigov/The%20Fresh%20Start%20Panel%20report%20on%20the%20disbandment%20of%20paramilitary%20groups.pdf). [↑](#footnote-ref-8)
9. The threat level for Northern Ireland-related terrorism is set separately for Northern Ireland and Great Britain (England, Wales and Scotland) [Click here to view the latest information from MI5 on NI Threat Levels.](https://www.mi5.gov.uk/threat-levels) [↑](#footnote-ref-9)
10. In 2015 there were 16 national security attacks, 32 paramilitary style shootings/ attacks and 209 Bomb disposal team callouts. So far this year there has been one death caused by an under-car explosion and 4 paramilitary related murders. [↑](#footnote-ref-10)
11. Evidence provided to the 2015 Northern Ireland Office targeted consultation by Lord Carlile - QC, Independent Reviewer of National Security Arrangements in Northern Ireland. [↑](#footnote-ref-11)
12. [Please click here for more information on the Equality Commission’s Section 75 guidance](http://www.equalityni.org/S75duties). [↑](#footnote-ref-12)
13. Subject to the UK wide provisions allowing for non-jury trials [↑](#footnote-ref-13)