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Lawyers fear for fate of innocent people under 'instant justice'

BY FRANCES GIBB, LEGAL EDITOR

PLANS for "instant justice" under which thousands of petty offences will be diverted from the courts will put innocent people under pressure to plead guilty, lawyers said yesterday.

The plans, which have the backing of Ken Macdonald, the Director of Public Prosecutions, would involve thousands of offenders being punished by prosecutors, in consultation with police, instead of going before magistrates.

But yesterday Shami Chakrabarti, director of the civil liberties pressure group Liberty, said that defendants should not be denied "the protection of the court".

"There could be pressure on people who are innocent to plead guilty," she said.

Bruce Houlder, QC, of the Bar Council, said that the proposals — part of the Government's Respect Action Plan — were "packed with disturbing phrases which point to a weakening of guarantees of individual liberty in the name of what is called community or social justice".

The Respect Action Plan talks of maintaining necessary legal safeguards, he added. "At no point do they say what that might mean. If that means lawyers, what do they suggest is wrong with the usual due process of trial and punishment? "Pleas of guilty are usually dealt with on the first hearing in no time at all. In more complex cases the court has the opportunity to look more deeply into any relevant social causes. There is none of that in these proposals for instant justice."

The Law Society of England and Wales also sounded a note of caution, saying that safeguards must not be overlooked.

Kevin Martin, the president of the society, said: "All defendants must be able to seek independent legal advice before deciding whether to accept an administrative penalty and they must be entitled to go to court if they dispute the allegation.

"We accept that there may be some cases where it might be possible to extend the use of administrative penalties, but these important safeguards must not be overlooked. We will scrutinise any proposals which are put forward by the Government."

The plans are being drawn up by Lord Falconer of Thoroton, the Lord Chancellor, and Mike O'Brien, the Solicitor General, to speed up the criminal justice system and cut costs.

As much as £350 million a year is spent on legal aid for magistrates' court cases. About half of all cases before magistrates — what the DPP has described as a "surfeit of lowlevel criminality" — could be diverted from the court system. The proposals were first floated before Christmas by Mr Macdonald in a lecture to the Howard League for Penal Reform. He said: "Anyone accused, even of a very low-level crime, should always have the option of recourse to the courts if that is their choice."

But low-level offending could "clog up the courts, arguably delaying the more serious cases and putting off trials for unacceptable periods of time".

Prosecutors were routinely involved in diverting low-level cases from the courts in several other countries, he said. Public prosecutors operating within transparent and publicly available guidelines could operate similarly in England and Wales, he said.

Last week the Prime Minister unveiled his Respect Action Plan for dealing with antisocial behaviour, calling for moves to tackle low-level crime outside the court system.

A spokesman for the Department for Constitutional Affairs said: "Lord Falconer is a big reformer and this is the next step to make the criminal justice system more efficient, linked into what the PM said about bringing the system up from the 19th century into the 21st century."

Lord Falconer published a White Paper on magistrates' courts in November, promising reforms. If they were approved, there would still be discretion for defendants to have their day in court, he said.

Dominic Grieve, the Shadow Attorney-General, said that there was "a danger of sending a signal that some crimes are not so serious and can be dealt with in some administrative way".

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