



Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

OFFICIAL REPORT
(Hansard)

**Briefing on Actions Being Taken in
Response to Criminal Justice Inspection
Northern Ireland's Follow-up Report
'Avoidable Delay'**

16 September 2010

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Briefing on Actions Being Taken in Response to Criminal Justice Inspection Northern Ireland's Follow-up Report 'Avoidable Delay'

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Members present for all or part of the proceedings:

Mr Raymond McCartney (Deputy Chairperson)

Lord Browne

Mr Thomas Buchanan

Mr Paul Givan

Mr Alban Maginness

Mr Conall McDevitt

Mr David McNarry

Ms Carál Ní Chuilín

Mr John O'Dowd

Witnesses:

Ms Maura Campbell

) Department of Justice

Assistant Chief Constable Will Kerr

) Police Service of Northern Ireland

Ms Mandy Kilpatrick

) Northern Ireland Courts and Tribunals Service

Mr Raymond Kitson

) Public Prosecution Service

The Deputy Chairperson (Mr McCartney):

The Committee will now receive a briefing from officials on the actions they are taking in response to the findings of the Criminal Justice Inspection (CJI) report, on which the Committee has just been briefed. A briefing paper has been provided by the Department.

I apologise for what I hope everyone will see as an unavoidable delay. I welcome Maura Campbell, deputy director of the justice development division in the Department of Justice; Will Kerr, Assistant Chief Constable in the PSNI; Raymond Kitson, senior assistant director in the Public Prosecution Service; and Mandy Kilpatrick, head of the customer services group in the Northern Ireland Courts and Tribunals Service. I invite the witnesses to make their presentation to the Committee.

Ms Maura Campbell (Department of Justice):

Good afternoon. Thank you very much, Deputy Chairman. The Department is very grateful for the opportunity to brief the Committee today on its programme of work to speed up justice by tackling avoidable delay. Delays in the justice system are a recognised problem, and improving the speed of justice is a key issue for the Department and its delivery partners across the justice system.

I welcome Dr Maguire's early comment that he believes the Department is taking the issue seriously. In fact, the Minister of Justice made it clear on a number of occasions, including in a keynote speech on 7 June, that eliminating unnecessary and wasteful delay is one of his top priorities.

The briefing today is very timely, because, as the Committee heard earlier, the Department is still at a relatively early point in what will need to be a longer-term programme of work. Therefore, it is helpful to have the Committee's views on the Department's proposed way forward at this stage.

The criminal justice system is complex and multifaceted, and, as was discussed in the earlier evidence session, there is no single reason for delay. Therefore, there will be no quick fix and the Department must look critically at the system from end to end, which will require a sustained effort on our part.

We are grateful to Dr Maguire and his team for providing us with an independent perspective on how best to move forward on what has been a very difficult and, at times, frustrating issue. We welcome the acknowledgement in his report that the justice system did respond positively to the recommendations in his previous report. However, unfortunately, as he said, the actions taken

in response to that report have not yielded the results that we had hoped for.

I hope it is clear from the action plan that we submitted to the Committee in advance of this meeting that we have taken the recommendations in Dr Maguire's latest report seriously and are considering very carefully all the issues raised. In some areas, we believe that we have already begun to make progress in addressing those recommendations.

I want to give the Committee an overview of the key issues of our work to date before taking any questions that you may have. I made some notes during the earlier sessions and, as I go through, I will try to refer to some of the key points that Dr Maguire raised.

Although we have invested a great deal of effort in tackling delay over a number of years, we are continuing to increase our understanding of the underlying causes against a very dynamic backdrop. As was said, there has been major organisational change across the justice sector on the foot of the criminal justice review. Although that was right for its time, the structures that followed have created something of a managerialist or target-driven regime. In particular, the separation of the investigative and prosecutorial functions could be argued to have had the effect of reinforcing the disaggregation of the justice system into its constituent parts and making it more difficult to differentiate effectively between the serious harm cases at one end of the spectrum and lower-level offending at the other.

Delay has, in part, been a symptom of volume, with too much detail and too many cases being put into a system with finite capacity. As Dr Maguire said, over the past year or so, the volume of cases has risen by about 12%. Within that, there has also been a 13% increase over the past 12 months — a rolling period to the end of July 2010 — in the proportion of cases that are indictable rather than summary.

We can see from the provisional in-year figures for the first quarter of 2010-11, which are included in our submission, that there has been some improvement in four of the five areas that we measure under the public service agreement (PSA) targets. We have exceeded the standard set for adult charge cases heard in the Magistrate's Court and are on course to meet the target for youth charge cases. However, performance relating to summons cases for adults and youths has been disappointing, and we remain concerned about performance in pre-committal stages. That represents some further modest progress since Dr Maguire's report was published. However, we

agree that we have not yet delivered the step change that we think is needed.

We also agree with the chief inspector that delay is not simply about systems and procedures. We recognise the human cost. We are particularly concerned about the impact on victims and witnesses and the unnecessary stress and anxiety that unnecessary delays can add to their experience of the justice system. We want to ensure that, in taking our programme forward, we improve the victim's journey through the criminal justice process.

We recently established a stream of work to examine in detail the impact of delay on victims and witnesses, so as to ensure that, as we reform and streamline our procedures, the human aspect is not forgotten. We are also mindful of the impact of delay on those on remand in prison, who are, of course, innocent until proven guilty. Delay has a human and financial cost and does not represent best value for the taxpayer.

Through our new programme, we have been able to build on the progress that we have made to date and to learn from the lessons of our earlier experiences. It is a measure of the importance that we place on the new programme that it is being driven directly by the Criminal Justice Board and is being personally overseen by the Minister of Justice. The programme consists of four multi-agency project groups, each of which is sponsored by a member of the Criminal Justice Board. Those groups are the case preparation group, which is co-chaired by Raymond and Will; the case management group, which is chaired by Mandy; the youth cases group, which is chaired by the chief executive of the Youth Justice Agency, Paula Jack; and a governance and accountability group, which I chair and which draws all the strands together and reports on progress to the Criminal Justice Board and to the Minister. That group also leads the work on issues affecting victims and witnesses of crime, which I mentioned earlier. Each of those project groups benefits from agency membership, so we can ensure that decisions are made on the basis of systems-wide knowledge and experience. We also have a performance standards reporting group, which is the successor to the delay action team, and it analyses performance information.

I should point out that those strands of work were a direct response to the chief inspector's emerging findings, which he helpfully shared with the Criminal Justice Board on foot of a request in December 2009, so they closely mirror the observations and recommendations in his final report. We are very keen to continue to engage with the Criminal Justice Inspection team without in any way wanting to cut across Dr Maguire's independence. We are currently discussing with him

how that might be best achieved.

As you heard earlier, one of Dr Maguire's key themes is joined-up working. The structure of the programme itself promotes joined-up working, and I can confirm that justice partners are working closely together at all levels in the system. I am sure that my colleagues can elaborate on the detail of that. The collaboration between agencies is extending from the Criminal Justice Board right down to the front line, because we recognise that we will be successful in the programme only if we work together.

The Criminal Justice Inspection report rightly highlights that relationships are important, and we agree. However, we need to strike the right balance between working together and respecting operational independencies. It is always important to respect the legitimate right to have differences of opinion. In fact, healthy debate is a vital part of policy formulation. However, we have a shared commitment to speeding up justice, and that is underpinned by strong joined-up strategic leadership. Of course, we will always continue to look for ways to strengthen the joins between justice partners.

In that regard, I wish to make special mention of the development of our thinking around targets. As the chief inspector noted, we need to move to a more effective set of performance measures that are supported by a common data set, which is sometimes referred to as a single source of truth. Our existing targets are based on corresponding PSA targets that apply in England and Wales. However, as the Criminal Justice Inspection report identifies, comparisons with England and Wales and other jurisdictions can be problematic because there is no system elsewhere that is directly comparable with the system in Northern Ireland. As Dr Maguire's report points out, there are different legislative provisions, policies, practices and cultures. Although we know that we need to do better, our view is that comparisons with previous local results would be the best indicator of improving performance.

Another limitation that we found with the current measures is that they reflect only the pre-trial stages. As you have seen from the papers submitted, we are developing a new performance framework with a suite of performance measures that give us a more accurate and detailed picture of how well the system is working. In particular, we want to be able to examine the end-to-end performance of the whole system and to take a more dynamic view of the complex processes that combine to form the system. Indeed, the Criminal Justice Inspection report makes a number of

useful recommendations in that area. However, perhaps most importantly, we think that devolution provides us with an opportunity to do that entirely within the Northern Ireland context. In developing the new performance framework, we need to strike the right balance between speed and quality, because the latter should not be sacrificed simply in an effort to meet targets, and we must avoid unintended consequences, such as simply displacing delay from one part of the system to another. In other words, we are aiming for a more comprehensive and sophisticated methodology that supports a whole-systems approach to delivery.

Another theme in the chief inspector's report is tackling operational blockages. A considerable amount of working is now ongoing across the programme, and some highlights were included in the papers that we submitted to the Committee. A good deal of that has been informed by the findings of the Criminal Justice Inspection, and its independent assurance can give us greater confidence that we are tackling the right areas. As you will have seen from the action plan that we submitted, we are working hard to address all the issues raised in the Criminal Justice Inspection report. Again, my colleagues can provide more detail on that, if required. However, it might be useful if I provide just a flavour of the types of work now in train across the programme.

First, the Public Prosecution Service and the police have recently implemented a streamlined file for non-court diversion files to increase the speed at which low-level crime can be dealt with. Allied to that, they have established a speedy justice hotline for non-court diversions, which provides police officers with access to prosecution decision-makers from 8.00am to 8.00 pm, seven days a week. Secondly, we are examining reasons for the adjournment of cases through a pilot study to identify the underlying patterns and issues that must be addressed, and we are also auditing youth cases to identify factors that slow down or speed up the process. Finally, as I mentioned earlier, we are undertaking a piece of work to enable us to better understand the impact of delay on victims and to develop ways in which it can be mitigated.

That is only a small sample of the programme, but, overall, we feel that it is an ambitious and far-reaching programme of substantial scope. It will require long-term commitment not just to the delivery of new processes and procedures but to the cultural change that is needed to make the programme work. We recognise that sustained leadership is needed to ensure that the reforms are effective in the wider system. The Criminal Justice Board and the Minister are wholly committed to speeding up justice and ensuring that the drive and energy required will remain in place to see

it through. That determination is shared by those of us who are working on the programme. Through the programme structures, we will report regularly to the Criminal Justice Board and provide it with performance statistics. As the programme moves forward and an improved performance framework is developed, those reports will be enhanced.

In addition, the new criminal justice delivery group will bring together the most senior representatives from the criminal justice sphere, including the Minister of Justice, the Attorney General, the Director of Public Prosecutions and the Chief Constable. The Minister has already agreed that that group should consider the issue of delay in the justice system at its very first meeting.

There will also be an ongoing engagement with the Lord Chief Justice. The Committee may recall that, in his start-of-term speech, he outlined the initiatives that are being taken forward by the judiciary. He said that a criminal courts judicial committee had been created to look at issues relating to the progress of criminal cases and to make recommendations to him on ways to tackle delay.

There are many challenges ahead, not least the reductions in public spending that will be announced later this year. However, there are also opportunities ahead with the advent of the new Causeway system, which facilitates the electronic sharing of information across justice agencies. We will continue to work together to reduce delay, and we know that we cannot afford to slip into a silo mentality. As part of that work, we will aim to bring a greater focus on the human aspects of the system and, in particular, on the impact of delay on victims. We will consider ways to innovate and become more efficient so that we can invest constrained resources in the right way. That will partly be about ensuring proportionality, freeing up capacity and giving victims a timely response that will allow them to move on with their lives. We will also continue to deliver against the chief inspector's recommendation. As part of that, we will continue our engagement with the Criminal Justice Inspection to ensure that we have the continuing benefit of their independent challenge and quality assurance.

If the Committee is content, I will leave it there. My colleagues and I are happy to take any questions that members may have.

The Deputy Chairperson:

Thank you very much. One of the themes developed in the previous evidence session was file preparation. The analysis in the 2006 report is very similar to that contained in the recent report. My question is for Will. Dr Maguire said that he will return to the report in a year's time, so how confident are you that the police will be in a better position as regards file preparation?

Assistant Chief Constable Will Kerr (Police Service of Northern Ireland):

That is a valid observation. I will provide a bit of context. We admit that there has been an issue with quality in the past couple of years, and I will take you through some of the detail on why there has been an issue and what we are doing about it. However, the quality issue, as with avoidable delay, has been a symptom of volume in the system. That was beginning to be discussed at the end of the previous evidence session in response to Lord Browne's question.

I will quantify the volume of cases, and I will take you back to the points that Dr Maguire made in his presentation. He mentioned the criminal justice review and the fact that the architecture of the justice system is 10 years old. The system was disaggregated and the investigative and prosecutorial functions separated. That change was right at the time. I do not disagree with it at all. There were political reasons for it. However, it left us with a system that counted performance in the criminal justice system as a series of individual parts rather than linking a composite body with a defined, joint purpose. A number of reports on aspects of public service over the past couple of years could all come under the same title, 'Hitting the Target but Missing the Point'. To a large degree, that also applies to the performance regime in the criminal justice system.

What do I mean by volume? Last year, we submitted just over 60,000 full case files to the PPS. We have done a lot of detailed work with the PPS in the past year, but, under the system that operated prior to May 2010, we would have had to submit a full case file for the 10,000 of those cases that involved diversionary disposals — in other words cautions, informed warnings and a range of other options that are designed to prevent people from having to enter the formal court system — as well as for the 18,000-odd cases in which there was no prosecution. Therefore, although we know that half of the files that are put into the system are highly unlikely to reach a court at all, a significant amount of police officers' time is taken up with those files when they could be on the streets. Officers must sit down and compile full case files against a fairly onerous standard even though they know that those cases will not end up at full trial.

During the past year, we have spent a great deal of time having some really mature and constructive conversations with the PPS. We reached the stage whereby, in May 2010, we introduced a streamlined decision-making process for diversionary decisions. Now, there is a prosecutor at the end of a phone line from 8.00 am to 8.00 pm, seven days a week, whom a police officer can phone to get a decision immediately.

I will give you a practical example of the impact that that has had on our efforts to keep police officers on the streets and of the impact that it will subsequently have on quality. Let us say that someone is caught in the street for minor drugs possession, has no previous convictions and is not going to be prosecuted; in those circumstances, it takes just 25 minutes to go from detection on the street to a caution being administered. Under the previous system, it would have taken a significant amount of time to process that. It would also have taken an officer off the street for a significant amount of time. We have also agreed with the PPS on using the exactly the same streamlined process for less serious no-prosecution files. It is really starting to make an impact on the front line, particularly bearing in mind the difficult operational environment that exists in Northern Ireland at present. That represents one third of case files that we submit to the PPS.

Why does that impact on quality? It impacts significantly. Because the system was unable to separate less serious cases from more serious cases and dispose of them quickly, we knew that we had to put the best-quality evidence in a good file and get it into the prosecutor quickly in order to get the case to trial. I will put my hands up and be quite frank about this. Officers were less able to separate the cases that required more time and effort from those that did not because they all ended up going down the same route with the same amount of information. Therefore, the system that has been agreed with the PPS over the past six months is already starting to impact significantly on quality.

Another symptom of the quality issue during the past number of years has been the accountability regime. Administrative time limit (ATL) targets always led to battles between timeliness and quality. When do you start the clock? When do you submit the file? To be honest, that is a perfect example of hitting the target but missing the point. The Policing Board's targets, the method by which the Chief Constable and I are held to account under the Police (Northern Ireland) Act 2000, have maturely looked at that and put confidence in the criminal justice system as being the indicator and mark of success for our involvement in that system.

Some of it, quite frankly, has been about having a stable platform on which to address quality issues. From the start of the Patten severance regime, we have churned 12% of our organisational front line resources every year for seven or eight consecutive years. That means that the biggest impact has been on the front line and on those officers who are more likely to be involved in front line investigations, such as response officers and neighbourhood officers. That has made it difficult to achieve a stable platform on which to address quality.

Last but not least, it has been an issue of personal responsibility and accountability. From October onwards, we will implement an agreed streamlined file and accompanying process with the PPS. A rigorous quality assurance process will be applied to individual case preparation in the PSNI. Effectively, the process has six trigger points, two of which involve request for information (RFI) data. It goes from remedial — how the case can be fixed quickly and submitted — to being punitive. At the punitive end of the sanction, we apply the Police (Unsatisfactory Performance and Attendance) Regulations (Northern Ireland) 2010. The ultimate sanction is dismissal. Therefore, to answer your earlier question, it is, effectively, based on a three-strikes-and-you-are-out approach.

At present, we appoint one officer to every 50 applicants. They are well paid. We do not believe that it is unreasonable to expect someone to submit a quality basic crime file. If he or she does not, a process will be initiated. Ultimately, if there is no improvement within a defined period, that person will lose his or her job. The issue of volume cannot be underestimated as far as the Police Service is concerned.

The Deputy Chairperson:

There has been criticism of the training, and it has been said that there is a need for more training. Are you satisfied that the training is adequate?

Assistant Chief Constable Kerr:

Absolutely. The training is now joint training with the PPS. We are sitting with prosecutors and investigating officers to work out what basic evidence we need to put in the files to get cases to a first appearance at court, at which stage a plea would be entered. There has been a fundamental change in the past six months.

Mr McDevitt:

Ms Campbell, will you clarify who is going to be on the criminal justice delivery group?

Ms M Campbell:

The Minister of Justice, David Ford, will chair the group, and he will be joined by the Attorney General, the Director of Public Prosecutions and the Chief Constable.

Mr McDevitt:

In the papers that you provided, it says that that group will be made up of the Attorney General, the acting Director of Public Prosecutions, the permanent secretary of the Department of Justice and the director of justice policy at the Department of Justice.

Ms M Campbell:

The permanent secretary of the Department of Justice and the chairperson of the Criminal Justice Board, who is a director within the Department of Justice, will also be joining that group to support it in an official capacity.

Mr McDevitt:

It is just that the Chief Constable was not mentioned.

Ms M Campbell:

Will had picked up that that was a transcription error.

Mr McDevitt:

A transcription error, yes.

I will move on to the substantial stuff. Coming back to the Chairman's question, I was struck by recommendation 14 in the 2006 report, which said that it is critical that more robust quality mechanisms and processes are put in place and that supervisors, who are gatekeepers between the investigating officer and the PPS, are targeted for enhanced training provision. Perhaps you could outline in specific detail what steps are being taken to address the fact that that 2006 recommendation was not met in this inspection.

Assistant Chief Constable Kerr:

Would you like me to answer that?

Mr McDevitt:

Yes, you or whoever is most appropriate.

Assistant Chief Constable Kerr:

I am quite happy to start. I refer you to my earlier answer, particularly on volume. First, we still had a 12% churn of staff, and, therefore, it was quite difficult to embed a training programme, bearing in mind that that 12% churn also applied to first-line supervisors, the people who would be supervising the investigating officers. Secondly, until we had identified what would go in a streamlined file and introduced the streamlined process, we were still asking police officers to put in 60,000 full case files, half of which would be disposed of before they ever got to trial. That was the issue then, but that has been addressed and resolved over the past six months. Significant progress has been made and, over the past couple of months, we have had joint training programmes, which are already starting to have a specific impact.

We have very clear operational challenges at the minute. My obligation is to keep as many police officers out on the street protecting communities as I possibly can. That is exactly what we are doing and what we will continue to do. However, we absolutely understand the importance of the quality of evidence, because we are, in many respects, gatekeepers of the criminal justice system as a whole. The quality of the evidence that we put into the files will determine how quickly cases can run through the rest of the system. We understand that entirely. We have a very detailed piece of work in play. I will not rehearse the answer that I gave earlier, but I will say that, ultimately, we will hold people personally accountable for those standards.

Mr McDevitt:

Why do you believe that you are continuing to fail young people in the criminal justice system?

Assistant Chief Constable Kerr:

That is due to a combination of factors. Any criminal justice system must be three things: speedy, so that the more serious cases can get to court quickly and with good quality evidence; visible, so that victims and communities can believe that we are on their side; and proportionate. The range of options that we use to prevent young people from coming into the criminal justice

system has to be addressed. We have had this conversation in a different format in a different Committee under a different agenda when we looked at the safeguarding board for children. However, as a professional police officer, I see a very clear link between the intergenerational cycles of deprivation and offending. We see the same small number of young people from the same small number of families again and again and again. There is no enforcement solution to that. We are not going to arrest our way out of that, because that small number of people need support as much as they need punitive sanctions.

Again, what is missing in the system is an ability to join up with the rest of the public sector so that we involve not just the police but the education and health sectors and local government. We must deal with the needs of those young people as a whole rather than just arresting them and expecting them to go to court.

Mr McDevitt:

I absolutely agree. However, we are dealing with the unfortunate few who have found themselves in the system. Why is it that the system does not seem to put a priority on expediting the process for young people in the criminal justice system? The latest Criminal Justice Inspection report found that there was a delay at every point along the line — in investigations, in the prosecution process and in court administration. It seems that, in the great scheme of priorities, we are very good at talking the talk about young people but we are not very good at affecting the significant administrative or procedural change that would have a positive impact on them.

Assistant Chief Constable Kerr:

The priority young offender programme is aimed at doing exactly that. The new director of the Youth Justice Agency is sitting at the back of the room, and I am sure that others can add to my comments. I cannot pretend to be an expert in that field, but I know that the scheme is about identifying young people most at risk, including those who have entered the offending cycle, and dealing with them quickly through the courts by providing a full range of interventions and support during that process. The priority young offender programme is one way of progressing cases more holistically.

Ms Mandy Kilpatrick (Northern Ireland Courts and Tribunals Service):

We have recognised a problem with youth cases in particular. Quite often, when a young person

is put in custody or is picked up by a policeman and charged, the public prosecutor may decide on the option of diversion. The prosecutor will then issue information about that option to the young person. However, because that looks like legal-type documentation, the young person, quite understandably, does not see diversion as an option and waits until he gets a summons to go to court. At that stage, his solicitor at court advises him that he should really be thinking about diversion as an option. Quite often, the judge will then say, "I will put the case back to see if diversion works". We realise that young people need advice at a much earlier stage to try to prevent that stage from being strung out, and we have been working with defence solicitors to try to encourage their involvement at that earlier stage.

One of the other initiatives for youth cases is the integrated offender management programme. The police are going to launch that in H district, which covers the Country Antrim area. The programme is unique because, unlike so many other initiatives where the individual has to have accepted their guilt, in this programme, there can be intervention from the moment an individual arrives in a police station. Prolific young offenders tend to be young problem children. When I first heard about that programme, I wanted it to be worked on so that it could be rolled out very soon.

The programme helps offenders with even the very basic things. For example, the structure in those young people's lives is normally quite poor, so it is difficult to get them to attend anything. The scheme provides a mentor and the support to try to ensure that they get to where they need to be and get out of the system long before they come near a court. I realise now that that scheme does not have all the answers and that there is still an awful lot to do on the youth front. However, it is certainly not something that we take lightly.

Ms M Campbell:

It is a huge area. For the purposes of that programme, the focus is on the two-pronged approach of tackling persistent young offenders and diverting first-time offenders. We are also conscious that the Hillsborough Castle Agreement contained a commitment to undertake a review of youth justice, and I understand that that is likely to come before the Committee in the near future, possibly next month. My understanding is that the issue of delay in youth cases will be a factor in that review as well.

Mr McDevitt:

I have one brief question for Mr Kitson. He is the official named in a letter that we received from the Minister of Justice this morning about clerical errors in special treatment orders and the specific error made in Derry Crown Court in February 2009. Mr Kitson, have you spoken to the family of the victim in that case?

Mr Raymond Kitson (Public Prosecution Service):

No, I have not, but I intend to. In fact, I have actually offered to assist in ensuring that the family is notified of it [*Inaudible*]. As a matter of joined-up justice, I felt it appropriate, given the particular circumstances of that case, to offer [*Inaudible*]. As a matter of fact, I have offered to do that personally.

I wish to add to the response to the previous question. Between 2008 and 2010, 22 of our professional legal staff were involved in joint police training. During that period, 63 sessions covering 20 subjects were delivered to the police. We have youth specialists who deal with youth cases. As regards the time that we have from receipt of the file to a decision being issued, we are meeting criminal justice standards, and we will continue to meet them.

Mr McNarry:

You are welcome, Mr Kitson. I compliment you on your presentation. If your scriptwriter is available at any time, I would not mind borrowing him.

It was good to hear you say that you have taken the issues seriously and learnt from previous experiences. You have given a lot of assurances that will be recorded in the Hansard report. Would you be willing to provide the Committee with regular progress reports on implementation of the recommendations in the inspection report?

I have a couple of other questions. Dr Maguire said that he appeared before the Northern Ireland Affairs Committee for 10 minutes. Have you appeared before that Committee? I also want to know whether the PPS reject any of the report's recommendations. Going back to the points I made about the previous report, the current report indicates that, as a result of engagement during the inspection, new approaches are being undertaken to enable the system to deal with problems. That is good, and you have, so far anyhow, been consistent in saying that to the Committee. However, it would be useful to know why another Criminal Justice Inspection

report had to be prepared before what I consider to be due consideration was given to adopting new approaches. Does that indicate — based on your assurances to the Committee — that there was a mentality problem in addressing the previous inspection report and that, whatever the problem was, we do not now have it? Will your approach be to implement the recommendations, bearing in mind that I have asked whether you reject any of them outright?

Ms M Campbell:

I will take those questions in order, if I may. I am happy to appear before the Committee again to provide it with regular implementation progress reports on how we are delivering the programme. I would like to take that away and give some—

Mr McNarry:

Would you consider writing to the Committee?

Ms M Campbell:

We could also provide written reports. I would like to consider how best to do that and the timing involved. I am also conscious of Dr Maguire's commitment to provide annual follow-ups, with which we would want to dovetail to ensure that the Committee is given a comprehensive picture of progress.

Mr McNarry:

Dr Maguire's assurance was that such reports could be either quarterly or annually, which I appreciate. However, you are now part of the implementation body, and I do not want to hear a year from now that recommendations are not being implemented. However, if you have problems, this is the place to bring them. Members could be made aware of them, just to see whether, through devolution, there is something that we can help you with.

The Deputy Chairperson:

After today's briefing, the Committee will work on a proposal to invite departmental officials back, perhaps on a six-monthly basis.

Mr McNarry:

Yes, that would be helpful.

Ms M Campbell:

You asked about appearing before the Northern Ireland Affairs Committee. I have not appeared before it on this topic. I am not certain whether other colleagues have. To the best of my knowledge, they have not. However, I would like to go back and check that.

Mr McNarry:

Sure you are dealing with us now.

Ms M Campbell:

You asked whether we reject any of the recommendations. Part of the reason that we are keen to have a continuing engagement with the inspection is that, although we are happy with the bulk of the recommendations, we think that the emphasis in some could be slightly finessed. We may want to discuss with the chief inspector the timing or prioritisation of the report's recommendations.

Given that so much work is under way, if we start down a particular course of action and conclude at an early stage that it is not going to be productive, we would like a facility that enables us to go back to the chief inspector and say that resources would perhaps better deployed elsewhere.

Mr McNarry:

You have already identified some of the areas. Are you able to tell us what those are?

Ms M Campbell:

I will invite colleagues to come in that. One issue on which I would welcome further discussion with the chief inspector is the time frame of our consideration of statutory time limits. In his report, he recommended that we do that within three years. It could be beneficial to look again at whether that would give us sufficient time to see what impact the current programme is having. It would be a significant step forward to go down that route. Colleagues may want to come in about the recommendations that are specific to their organisations.

Mr McNarry:

This is one area that you have focused on, and we will hear about the others. You are saying that you need a bit of time on a specific aspect, and that is fine. At what stage will you be able to tell the Committee that you have had a discussion and accepted a recommendation or that you would

like to tweak it? We have a report in front of us, but it is not fair to the Committee or the political establishment to be working on the basis of what you have said. You are taking this seriously, you have learnt and you have given a lot of assurances. However, when asked whether there is anything that you might reject, we will probably hear some. I need to know the status of the report vis-à-vis what you are going to do with it and the time frame within which you will address the problems.

Ms M Campbell:

I refer you to the action plan that we submitted in advance of the Committee meeting. Everything that we have said is consistent with what is contained in that action plan, in which we recorded where we are with each of the recommendations and how we would respond to them. We may need to refresh and update that action plan as we provide the reports to the Committee.

Mr McNarry:

That would be very useful. If you hit any brick walls, we would like to know about it.

Ms M Campbell:

Certainly.

You asked why we needed the further inspection, whether there was a mentality problem and whether the new approach could succeed. I would not characterise the work that followed the 2006 inspection report as a failure in that there was some progress made on delay. It is just that it was not sufficient progress. There is learning that we can build on. We are now zoning in on a number of areas in which we feel that we can make maximum impact.

As a system, we are also becoming a bit more mature in how we manage complex cross-cutting programmes. We have had the introduction of the causeway IT system, for instance. That required a massive amount of multiagency co-operation, but it is now in place and working successfully. The new sentencing framework has been implemented, and it created a lot of new complex interdependencies between the agencies. It is still in its early days, but it is also working well. We are learning from our experience of previous implementation to take the new programme forward.

Mr McNarry:

What you are saying is that those are the valid reasons why things that might have been achieved were not achieved. You are really saying that there was no obstructive mentality but that things got in the way that are not in the way now.

Ms M Campbell:

There are still major challenges, one of which is that we are trying to effect a major cultural shift across a range of very large and diverse organisations. It takes a sustained effort to make that kind of change.

Mr McNarry:

What worries me is that, according to the chief inspector, no one is able to compel you to do anything. They can only keep an eye on you and monitor what you do. This is a different political phase. No one is flying in for a couple of days a week; this is the real stuff. You may not have been used to that, but that is the difference now. We are accountable. Therefore, there is a certain reliance on your help in taking us through this, because we do not want to reach a position where things are not implemented and only somewhere down the line do we hear the good reason — or perhaps hear no good reason at all — for that. I am most keen that we work with you, because, at the end of the line, we share the same objectives. I want you to know that, although we may pressurise and scrutinise you — you seem to be giving a good account of yourself so far in the dock — we want to work with you. And do not, for goodness' sake, put us in the dock.

The Deputy Chairperson:

That was more of a comment than a question. *[Laughter.]* I will hand over to Carál.

Mr McNarry:

I have never been in the dock — yet. *[Laughter.]*

Ms Ní Chuilín:

There is time yet, David. *[Laughter.]*

You partly, but not fully, answered David's question about why it took a second report before the recommendations were adopted. We are, with respect, cynical about this, although we

acknowledge that there is goodwill and intent. My concern is about the quality assurance around the preparation of cases. Are there targets or a template for that?

The diversionary youth justice scheme is, in my view, used very badly. I come from a background of not wanting kids to go through the criminal justice system. However, I know some youngsters in my area in North Belfast who been through the youth diversionary scheme on at least six occasions. It is not working. Is there a quality assurance for that?

The credibility of the people who provide mitigating support is becoming diminished and their integrity is being stretched, in my view, by yourselves, as a result of this process. Some of those people work in the community and also want to keep youngsters out of the criminal justice system, but their integrity is being stretched beyond what is acceptable.

I am keen to know how you are going to communicate all this beyond those who are in the criminal justice system, for example, to the community and voluntary sector, to residents, to local groups and to stakeholders. It strikes me that all this needs to be communicated to people in plain English and in a non-jargon way. If we encourage people to bring evidence forward, those people need to have the confidence in you that that evidence will be taken seriously, because it is still a big thing for people to do that. People need to know that you are going to handle that evidence right and that it will be used, not necessarily to result in convictions, but that something will, at least, be seen to be done. I have had the experience of talking to people who have taken that step and been left with egg on their face.

To sum up: there was a couple of questions on the youth justice diversionary scheme, on how people are going to be consulted on that and on how information will be communicated to stakeholders. I also raised concerns around whether there is a template for the governance and quality assurance of the preparation of files. Whoever wants to answer those questions is more than welcome to.

Ms M Campbell:

I will perhaps take those questions in reverse order so that I can reply to some of your points. I know that my colleagues will want to come in.

Ms Ní Chuilín:

Suit yourself.

Ms M Campbell:

You make a fair point that we do have to communicate more widely about what we are doing and how we are doing it. We have started down that path in that we held a workshop last week with Victim Support Northern Ireland and the National Society for the Prevention of Cruelty to Children (NSPCC) as part of the effort to better understand the impact on victims. That is our starting point. We identified a number of areas for follow-up, including looking at victims of particular types of crime, especially victims of child abuse, sexual violence, domestic abuse and those bereaved through murder or manslaughter. Through the governance and accountability group, we are in the process of developing a communications strategy. I will factor some of the points that you made into that strategy —

Ms Ní Chuilín:

With respect, Maura, the youngsters who go through the diversionary stuff are not normally going to be prosecuted for sexual abuse of children, murder, manslaughter or anything else, so it does not apply to them.

Ms M Campbell:

Yes, but there is another area around diversionary measures that we need to consider as well. I also want to make a general point. The member who spoke previously said that there needs to be absolute transparency about how we take this programme forward, so we will give a commitment today that we will be transparent with the Committee about what we are doing and keep it informed of progress against the action plan. We recognise that we are in a different era to direct rule. Will Kerr will pick up on final preparations.

Assistant Chief Constable Kerr:

My answer will be short. There is a streamlined file format that has got minimum standards. It has been agreed for diversionary disposal and for lower-end, no-prosecution decisions. At the minute, we are in the process of agreeing that format for the summary file — the first appearance — so, the answer is yes, that is exactly what is taking place.

To answer your second question concerning the youth diversion scheme: yes, there are issues

with it, but the very valid point made by Mandy about integrated offender management tried to address exactly that problem. There were three different strands to that. There was rehabilitate and resettle; for some it was a homelessness issue, for others a lack of parental control, still others one of stability, educational health or deprivation. There is also a catch and control approach — sometimes there just has to be an enforcement solution, but as a last resort. There is also a prevent-and-deter strand.

I do not want to rehearse the whole argument here. It may be something that the Committee is interested in looking at. We are keen to give a presentation at any stage.

Ms Ní Chuilín:

I would be keen to have that, and keen for you to give a presentation on what is a multi-agency approach.

Assistant Chief Constable Kerr:

We would be delighted to do so.

Ms Ní Chuilín:

To put my comments in context: for young people or anybody who needs support, whether emotional or through social housing, that is a given. There are all sorts of reasons and, without putting words in your mouth, you indicated that they included poverty and inequality. Setting that aside, I am talking about issues around interfaces or whatever — a specific type of reoffending that does not necessarily relate to homelessness, low educational attainment or having no support at home. There are prolific reoffenders who have none of those problems.

Assistant Chief Constable Kerr:

And those are the ones who will come into the catch and control category. There simply has to be an enforcement solution for them. If you want to take up my offer of a presentation, we would be delighted to give a more detailed presentation.

I am conscious that Mr McNarry asked questions around the bits of the report that we disagreed with or would change. I am happy to come back to the Committee to answer some of those points, but I am aware that other members have questions.

Mr O’Dowd:

I want to return to the assistant chief constable’s comments about files, file quality and measures that the PSNI would take against officers who are, in a sense, not producing the goods. The report states that the PSNI does not have quality measures in relation to files. The CJI had to go to the PPS to assess the quality of files submitted. The PSNI does not appear to have any quality measures. Paragraph 4.15 of the report states:

“The PSNI do not have a specific measurement or target for file quality.”

Assistant Chief Constable Kerr:

I will separate my answer into two strands. To say that we do not have any quality assurance mechanisms is an overstatement: we absolutely do. Where they working as effectively as they could have? No, they were not. Why? That is because I think that we put too many safety nets around police officers. That is one of the areas in which my emphasis differs from that in the CJINI report about the role of what we call our occurrence case management teams; in other words, justice management teams in police stations. To me, this is also about the responsibilities of individual officers. The other side of that coin is that part of the challenge for us had been that, until we set down a minimum standard in such cases, it was difficult to have a standard against which to hold somebody to account, particularly when punitive standards were going to be imposed. We have that now and we are developing it even further, so we actually have standards against which to hold an officer to account and we use the request for information data to feed that individual performance review system.

Mr O’Dowd:

Sorry, Mr Kitson, do you wish to comment?

Mr Kitson:

I was just going to agree with what Assistant Chief Constable Kerr said. Our only slight difference is that we are at the stage of finally agreeing those minimum standards, but once they are in place for police investigation files, they will help us and the police to assess the quality of product that is being produced.

Mr O’Dowd:

This may be a cheap shot: the PSNI and the PPS have a formal working relationship protocol

dating back to 2006, but the report states that that has not been signed by the Chief Constable, and that interviews with police staff in particular:

“indicated a broad awareness of the protocol but limited access or knowledge of its content.”

Are you going to share the new agreement with us?

Assistant Chief Constable Kerr:

I am quite happy to answer that question. The bottom line is that we have not agreed a new protocol for the simple reason that things are changing so quickly at the minute. Let us be honest about the issue. We are in the process of changing so many tangible things that will make such a difference to prosecutors and front line officers. However, if we were to change the protocol every single time that we amended one of those working relationships, we would have four or five new versions of the protocol a year. By the middle of next year, when all those changes are embedded, we will change the protocol once and once only.

Mr Kitson:

We did that with the original protocol when the PPS started — *[Inaudible.]* The Chief Constable did not *[Inaudible.]* However, as the assistant chief constable said, it is an organic document. There will come a time when there are sufficient changes to put out a new agreed protocol. That will happen.

Mr O’Dowd:

I wish to go back to the assistant chief constable’s original answer about reducing the number of files submitted to the PSS. Will you refresh my memory of that?

Assistant Chief Constable Kerr:

I will give you an example. The PSNI and the PPS submit between them around 60,000 case files every year. Around one sixth of those — 10,000 cases — are diversionary cases, which, in other words, are cautions and formed warnings. One third of the case files are no prosecution decisions. Therefore, around half of the case files that we put in every year are unlikely to end up in the formal court system.

The protocols and working arrangements that were in place before we agreed the new

streamlined process under that case preparation project of the Criminal Justice Board involved providing broadly the same information in the same sort of detail. Since agreeing the new protocols for diversionary cases from May this year and the lower-end, no prosecution decisions from 1 August this year, there has been a substantial reduction in the amount of paperwork and bureaucracy in the system. That means that officers can actually separate out the more serious cases that they need to spend more time on and carry out more enhanced quality investigations. For me, it also means that officers can be kept out on the street for longer doing what it is that the community expects them to do and what they are paid to do. There is, therefore, a big issue about volume. I think that that issue could be covered in some more detail the next time that the CJI comes back to the panel.

Mr O'Dowd:

Therefore, around 20,000 files will contain less paperwork for the PSNI's end of the operation?

Assistant Chief Constable Kerr:

Yes. It will take a bit of time for that to build up. We started with the less serious no prosecution cases. There are about 18,000 to 20,000 no prosecution cases submitted to the PPS every year. Over time, a majority of those will end up being like that. We brought in some sample files to show the Committee. It is a case of reducing the volume of paperwork without undermining the quality of the evidence, and that is also a key issue.

Mr O'Dowd:

That obviously has a knock-on effect on your operations. That will certainly free up a significant number of staff in order to move on the other 40,000 cases in a much speedier fashion.

Mr Kitson:

That will obviously be the position. I wish to reassure the Committee — the assistant chief constable referred to this — that the fact that a file is streamlined does not mean to say that there is any diminution in the quality of the product. Prosecutors have to be assured that they are getting sufficient, quality information from the police investigation to allow them to make the correct and properly informed decision. I do not want the Committee to think that streamlined files equal shortcuts. A proper police investigation must always be carried out. The issue is about trying to reduce the impact on the file content while making the proper informed decision. It would be open to a prosecutor to say that they would prefer more information to be in a

particular file to allow them to make the correct decision.

Mr O'Dowd:

If one third of your caseload has been reduced, are you over-resourced?

Mr Kitson:

No. Although one third of the case load has been reduced, the same dignity of application and consideration to each file still has to be given. We are simply lessening the amount of information that the police need to put into the file, but when the decision is made, the file will be given the same care and consideration as before. The impact is more on the police than on the prosecutor.

Mr O'Dowd:

Well, I will have to think that one over.

Mr Kitson:

You would not want the prosecutor to give any less consideration to a file in the future?

Mr O'Dowd:

No, certainly not. Perhaps it is an unfair question, but if the quantity of the caseload is reduced, will the same amount of resources be required at the other end? I do not know the answer to that myself.

Mr Kitson:

We may be in violent agreement on that point and perhaps are disagreeing only over the terminology. The caseload will not be reduced as a prosecutor will still make the decision about whether to prosecute. However, you are quite right in that there will be less paperwork for the prosecutor to consider when making that decision. Your argument is that that should take the prosecutor less time, and that is the debate. Perhaps we should allow the system to bed in and come back to the Committee at a later date.

Mr O'Dowd:

Certainly; that is fair enough.

Assistant Chief Constable Kerr:

I feel professionally obliged to add a comment in support of my colleague.

Ms Ní Chuilín:

You don't have to; I don't. *[Laughter.]*

Assistant Chief Constable Kerr:

I do, though. The investment that prosecutors can make in serious crime cases and in their time and support to the police in case progression will be significantly enhanced. Furthermore, the new system will importantly allow us to take some of the volume of cases at the lower end of the spectrum out of the system; therefore, it will allow prosecutors to concentrate on the cases that matter.

Mr O'Dowd:

OK.

The Deputy Chairperson:

No other members have indicated that they wish to ask a question, so I will finish off the session by asking one of my own. Are there any budgetary implications or constraints that will affect your ability to deliver the action plan?

Assistant Chief Constable Kerr:

My goodness, where would you like us to start?

Ms Ní Chuilín:

Yes, yes, yes and yes I think is the answer, Raymond. Four yeses.

Mr Kitson:

Mr McDevitt raised the issue of training and, as part of our considerations for Budget 2010, one of the options we looked at was to cut training. However, we realised that, in many ways, that would prejudice what we are trying to do, which is ensuring that the police get it right the first time with all the arguments that the chief inspector previously apprised the Committee of.

Ms M Campbell:

Frankly, we cannot afford not to make progress in tackling avoidable delay. As the team from CJINI said earlier, resources will be freed up once we begin to see some results.

The Deputy Chairperson:

Do you see it as a priority?

Ms M Campbell:

Yes, we absolutely do.

The Deputy Chairperson:

I thank all four witnesses for appearing before the Committee. We will discuss what action we will take and perhaps propose that the witnesses return to brief the Committee on progress every six months.