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William Humphrey MBE MLA  
Chairperson  
Public Accounts Committee

23 March 2021

Dear Mr Humphrey

**PUBLIC ACCOUNTS COMMITTEE EVIDENCE SESSION – NIAO REPORT ON SPEEDING UP JUSTICE: AVOIDABLE DELAY IN THE CRIMINAL JUSTICE SYSTEM**

Thank you for your letter of 19 March in relation to a Public Accounts Committee evidence session on the NI Audit Office (NIAO) report 'Speeding up justice: avoidable delay in the criminal justice system'.

As requested, I have attached (Annex A) a written update on progress in implementing the NIAO recommendations. I trust this will be of use to the Committee at its meeting on 25 March.

You also asked for a more detailed explanation of the need to defer this inquiry until the autumn.

The period between now and the summer will be critical to the continued recovery of the justice system as, for example, we continue to expand court capacity and manage backlogs. This is not just about increasing physical capacity. Increasing the throughput of cases requires intense effort from staff across a range of front line criminal justice organisations, including the PSNI, Public Prosecution Service and the NI Courts and Tribunals Service.

Ensuring this is planned and delivered as successfully as possible, and in a way that takes into account the impact of restrictions and manages risks to staff and users of the justice system, will involve senior staff from each of these organisations.

I trust the attached progress report highlights both the work that has gone into delivering improvements to date, but also that delivering improvements and speeding up justice requires a system-wide response, involving the above organisations and the judiciary.

As you are aware, preparing for a Public Accounts Committee Evidence Session is resource intensive and key staff from the relevant front line justice organisations, as well as the Department, would be required to prepare for the inquiry, impacting on the resources devoted to recovery.

For these reasons, I would be grateful if, exceptionally given the COVID-19 context, the Committee would be willing to defer the hearing until the autumn. In these unprecedented times, given the pressures on the criminal justice system and its staff, this would ensure that the system can remain fully focussed on COVID-19 recovery.

Yours sincerely



**Annex A**

**NIAO Report on Speeding up Justice: Avoidable Delay in the Criminal Justice System - March 2021 Update**  
**Background**

1. Speeding up justice is one of the biggest challenges facing the justice system and is a priority for the Department, its criminal justice partners and the Criminal Justice Board<sup>1</sup>.
2. The speed that cases progress matters to victims and witnesses, their families and their communities and can help offenders to better understand the implications of their actions and create a better opportunity for rehabilitation.
3. However, reducing the time it takes to complete criminal cases is a challenging and complex issue and reforms take time to embed and for their impact to be seen.
4. The Department works closely with criminal justice partners to deliver a Speeding up Justice programme with the following strands:
  - Performance Reporting
  - Research and Analysis
  - Working in Partnership
  - Legislation
  - Improvement Projects.
5. It is pleasing that statistics for 2019-20 show that the average time taken to complete all criminal cases fell to 149 days from 167 days in 2018-19. That represents an 11% reduction and 149 is the lowest figure in four years.
6. However, we know that the average time taken for some cases remains high and we continue to focus on these areas.

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<sup>1</sup> The Criminal Justice Board is the main strategic oversight group for the criminal justice system in Northern Ireland. The Board is chaired by the Minister of Justice and members include the Lord Chief Justice, Sir Declan Morgan; the Chief Constable, Simon Byrne; the Director of Public Prosecutions, Stephen Herron; and the Permanent Secretary for the Department of Justice, Peter May.

7. It is too early to be specific, but there is no doubt that there will be delays until the system returns to normal following the ongoing impacts of COVID-19.

### **Recommendation 1**

*The Department, in consultation with the Lord Chief Justice, should ensure that adequate administrative support is provided to the judiciary to facilitate more effective management of cases and case progression in the Crown Court. Both the PSNI and the PPS should ensure that any corresponding arrangements which are required to improve case management are also implemented.*

### **Update**

1. In response to this recommendation the Department consulted with relevant criminal justice organisations and the Office of the Lord Chief Justice to develop a pilot to more effectively support judicial management of cases and case progression in the Crown Court.
2. As a result, four Case Progression Officers (CPOs) were appointed in January 2019 – two in the NI Courts and Tribunals Service (NICTS) and two in the Public Prosecution Service (PPS) – in Belfast and Newry/Craigavon.
3. An evaluation of Case Progression Officers was planned for 2020 to inform further roll out. Due to the impact of COVID-19, this was postponed but is planned for later this year, and will be led by the Department's Economics Unit and Analytical Services Group.
4. Nevertheless, initial feedback from NICTS has been positive and four additional CPOs have been appointed by NICTS. There is currently a CPO in each Crown Court region: Antrim, Belfast (Laganside), Coleraine, Craigavon, Dungannon and Newry. The Department has agreed to fund these posts for a further year pending the evaluation. The additional CPOs will also help support ongoing work to recover the justice system from the impact of Covid-19.

5. The Department is currently working with PPS to consider how best to utilise CPOs in 2021-22.

## **Recommendation 2**

*The CJINI [Criminal Justice Inspection NI] plays an important role in holding the criminal justice system to account. The Department should establish an effective system for monitoring the implementation of the CJINI's recommendations to support improvement.*

## **Update**

1. The Department has developed a comprehensive register of all Criminal Justice Inspection (CJINI) recommendations made since 2010.
2. Updates on progress against individual recommendations are provided by relevant criminal justice organisations. These are analysed by the Department and an annual update is now provided to the Criminal Justice Board. The next update to the Board – on all CJINI reports and recommendations from 2010-11 to 2020-21 – is due to be presented to the Criminal Justice Board in May 2021.

### **Recommendation 3**

*The Department should establish an action plan and timetable for the eradication of the committal process.*

### **Update**

1. Key to delivering this recommendation has been the development of a Criminal Justice (Committal Reform) Bill ('the Bill').
2. Having received Executive approval on 22 October 2020, the Bill was introduced to the Assembly on 3 November and proceeded through second stage on 16 November. It is now at Committee Stage.
3. The Bill is designed to help tackle some of the key challenges faced by the criminal justice system. It will help tackle delay in the most serious cases which are heard in the Crown Court and will improve the experience of victims and witnesses on their journey through the criminal justice system.
4. The Bill seeks to:
  - expand the use of direct committal to a wider range of offences - to all offences that, as an adult, are triable only on indictment. This will bring more offences, more quickly to the Crown Court and is a more extensive roll out than was originally planned. It includes a range of offences including terrorism related offences and serious sexual offences;
  - remove the need for oral evidence at the committal hearing (for those cases that will not yet be directly committed). The experience of giving sometimes traumatic oral evidence, particularly under cross-examination, at both the committal hearing and then again at the Crown Court trial can have a significant impact on victims and witnesses; and
  - smooth the operational outworkings of direct committal.

5. Abolishing oral evidence at the committal hearing can be achieved shortly after Royal Assent of the Bill. If agreed, provisions around direct committal will have a longer lead in time - around 18 to 24 months - due the complexity of operational changes, the development of legal aid rules, the timing of IT changes and training.
6. The first phase roll out of direct committal (to all offences that, as an adult, are triable only on indictment) represents around 25% to 30% of the Crown Court caseload.
7. In deciding on which offences should be included in the first phase, the Department sought to strike the right balance between:
  - the number of cases that would give a meaningful first phase roll out and a meaningful evaluation; and,
  - ensuring the roll out could be successfully managed, given the changes it will bring to the criminal justice system.
8. Learning and evaluation from the first phase of direct committal will be used to develop a timeline for future roll outs, and the Department's intention over the medium to long term is to eradicate the traditional committal process entirely. It should be noted that the process of abolishing committal proceedings in England and Wales lasted approximately 10 years, however it is envisaged that a quicker rollout will be achieved in Northern Ireland.



## **Recommendation 4**

*The Criminal Justice Board (CJB), working with the Criminal Justice Programme Delivery Group (CJPDG), should establish a clear and shared understanding of the end-to-end criminal justice process, with a focus on securing effective collaborative working to reduce avoidable delay in the management of cases*

### **Update**

1. In order to help establish a clear and shared understanding of the end to end criminal justice process, the Department worked with key justice partners to map out processes as criminal cases progress through the justice system. As a result, two end to end justice system maps have been developed, one at a high level and the second at a more detailed level.
2. In conjunction with the performance reporting and working in partnership initiatives outlined below, the system maps are used by the Department and justice partners to analyse blockages in the system and identify potential delays and areas where collaborative working will reduce avoidable delay.
3. For example, this shared understanding of performance at key stages of the system helped facilitate improvements introduced in 2019-20 that contributed to the average time taken to complete all criminal cases falling to from 167 to 149 days.

## **Recommendation 5**

*The CJB, working with the CJPDG, should take a lead in developing and implementing protocols around the sharing of performance and financial management information between justice organisations.*

### **Update**

#### ***Performance information***

1. Data has been developed by the Department's Analytical Services Group to measure and monitor end to end processing times and identify areas for improvement. This is based on information from the Causeway system (the criminal justice electronic messaging system) resulting in consistent information across the justice system. It informs Outcome 7, Indicator 38 in the Programme for Government.
  
2. Using this data, a new suite of performance dashboards, a one page performance infographic and more detailed performance tables have been developed. These provide consistent information for Crown, magistrates' and youth courts, analysing data by region and offence type, broken down into the five key stages of the system:
  - Stage 1 – offence reported to PSNI to suspect charged/informed;
  - Stage 2 – suspect charged/informed to file submitted to PPS;
  - Stage 3 – file submitted to PPS to prosecution decision;
  - Stage 4 – PPS decision to first court appearance; and
  - Stage 5 – first court appearance to court disposal.
  
3. Performance information is shared on a quarterly basis and used by a range of groups to analyse performance including:
  - the Criminal Justice Board;

- the Criminal Justice Improvement Group<sup>2</sup>;
  - the Speeding Up Justice Programme Board; and
  - Crown Court Cases Performance Groups (further information on these Groups is provided below in relation to Recommendation 6).
4. The Department has also established a project to roll out the enhanced management information reporting capability that is now available from the Causeway system, following its reprocurement in 2019. As part of this roll out, the Department consulted with staff working in key areas of the justice system and identified a range of management information reports for development. Some of these reports have been developed and used to investigate causes of delay and design improvements, contributing to the average time taken to complete all criminal cases falling to from 167 to 149 days during 2019-20.
  5. Further staff training is underway with a view to rolling out enhanced management information reporting across justice organisations during 2021. As part of this project, protocols around the sharing of information will be established.
  6. Financial information is shared by criminal justice organisations with the Department of Justice on a monthly basis. Further work is planned to develop financial and justice system data models.

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<sup>2</sup> The Criminal Justice Improvement Group (CJIG) has replaced the Criminal Justice Programme Delivery Group. CJIG consists of the senior leaders of justice organisations with a focus on improving the effectiveness of the criminal justice system.

## **Recommendation 6**

*The CJB [Criminal Justice Board], working with the CJPDG [Criminal Justice Programme Delivery Group], should establish processes which ensure that performance is analysed consistently, and that lessons which can deliver performance improvements are learned and shared across the system.*

## **Update**

1. Working in partnership, so that performance is analysed consistently, and that lessons which can deliver performance improvements are learned and shared across the system, is a key strand of the Departmental led, system-wide Speeding Up Justice Programme.
2. As noted above, a new suite of **performance dashboards**, a one page performance infographic and more detailed performance tables have been developed. These provide consistent information for Crown, magistrates' and youth courts, analysing data by region and offence type, broken down into the five key stages of the system. Performance information is shared on a quarterly basis and used by a range of groups to analyse performance including:
  - the Criminal Justice Board;
  - the Criminal Justice Improvement Group;
  - the Speeding Up Justice Board; and
  - Crown Court Cases Performance Groups.
3. A range of forums have also been established to ensure that performance is analysed consistently, and that lessons learned are shared across the system. For example:
4. Newly established **Crown Court Cases Performance Groups (CCCPGs)** met for the first time in March 2019 in Londonderry, Belfast, Antrim and Craigavon/Newry to identify issues and lead performance improvements at a local level. Chaired by Judges, the groups bring together key justice stakeholders including:

- PSNI;
  - Public Prosecution Service;
  - NI Courts and Tribunals Service;
  - Office of the Lord Chief Justice;
  - Department of Justice; and
  - defence lawyers.
5. These Groups met again at the end of 2019. They did not meet during 2020 because of the impact of COVID-19 but plans are being developed for virtual sessions to be held in the first quarter of 2021-22.
6. Performance information is used by CCCPGs so that performance is analysed consistently by region and by offence type and issues causing delay can be discussed and solutions identified.
7. A **Working Together** Board, jointly Chaired by PSNI and PPS facilitates the two organisations working together to improve file quality, improve the effectiveness of decision making and reduce avoidable delay. The Board also oversees the Indictable Cases Process<sup>3</sup>.
8. In June 2019, a further series of **Indictable Cases Process information and awareness sessions** were held for defence practitioners across six court regions and new information and awareness material was produced. These awareness sessions were planned to be held annually. They could not be held during 2020 because of the impact of COVID-19 but plans are being developed for virtual sessions to be held in the first quarter of 2021-22.

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<sup>3</sup> Following a successful pilot, the Indictable Cases Process (ICP) was implemented in May 2017 for 4 offences: serious assault cases; serious drugs cases; murder/manslaughter cases and conveying a list A article in/out of prison. The five key principles underpinning ICP are: early engagement between PPS and PSNI; early engagement between PPS and defence; proportionate evidence required to meet the Test for Prosecution; supporting effective judicial case management; and supporting the delivery of effective sentencing.

9. As noted above, **Case Progression Officers** have been appointed in order to provide additional administrative support to the judiciary in managing cases (Recommendation 1). A Case Progression Arrangements Forum has been established to:

- review progress of the delivery of case progression arrangements;
- bring Case Progression Officers together on a regular basis to review monthly progress reports and performance information; and
- identify best practice and lessons learnt and apply those consistently, as appropriate, across the system.