Northern Ireland Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Criminal Justice System: Progress on Reducing Avoidable Delay

21 June 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr Seán Lynch
Mr Peter Weir
Mr Jim Wells

Witnesses:

Mr David Lavery	Department of Justice
Mr Nick Perry	Department of Justice
ACC George Hamilton	Police Service of Northern Ireland
Mr Barra McGrory	Public Prosecution Service

The Chairperson: The Committee requested the permanent secretary to attend to present the next six-monthly progress report on progress to reduce avoidable delay in the criminal justice system. Mr Perry is joined by Barra McGrory, director of the Public Prosecution Service, and Assistant Chief Constable George Hamilton from the PSNI. Mr Lavery has stayed on from the last session, which will probably be helpful in the context of some of the questions that members will ask. I welcome everybody to the meeting. I now hand over to Mr Perry.

Mr Nick Perry (Department of Justice): I am grateful for the opportunity to brief the Committee on our plans to speed up our justice system. Barra and George have joined David and me to give the prosecution and policing perspectives. I will keep my introduction brief, because both George and Barra would like to say a few words, and because I know that the Committee will have a range of questions. I am also conscious that the Committee has expressed concerns and frustrations about the situation, and I would like to address some of those points directly at the outset.

It is true that delay has been a stubbornly intractable problem for several years. It is, however, one we are determined to crack. The Minister made it absolutely clear at devolution that modernising the justice system and redesigning it to meet Northern Ireland's needs was one of his top priorities, with reshaping criminal legal aid, reforming the prison system and speeding up justice at the top of the list. We have made, and are continuing to make, good progress on the first two. Progress on the third is proving slower than we had hoped, despite sustained effort, and that is why we are now coming to the Committee with further proposals — some quite radical, like statutory time limits — to ensure that change happens. This is partly about changing processes, but it is also about changing mindsets, and I will say more about that in a moment.

All of us who have senior leadership roles in the justice system share the Minister's commitment to tackling delay. Speedier justice features in every meeting that the Minister has with the Lord Chief Justice, who he and I met last week; in every meeting of the criminal justice delivery group, where the Minister discusses these issues with the Chief Constable, the Director of Public Prosecutions (DPP) and myself; in my bilateral meetings with the Chief Constable, where he generally raises the issue before I do; and at every meeting of the Criminal Justice Board, which David Lavery chairs and which is driving the reform programme.

There has been some progress. Some important improvements have been delivered, particularly in charge cases, which now take about half as long as they did in 2006. Our system is capable of handling cases very quickly indeed. Just last week, a case went through all its stages, from the offence being committed to the offender going to prison, in only two days. Another went through in three days. While such swiftness will not always be appropriate in criminal matters, in lower-level cases in which the offender pleads guilty, we want to move to a position where such rapid resolution becomes the norm, freeing the courts to deal with more serious matters. However, despite those encouraging signs, progress in other areas has been less consistent, and we have not been able to sustain earlier gains. That reality is reflected in the disappointing statistics that the Committee has seen in the recent six-monthly reports. As Dr Maguire acknowledged, that has not been due to any lack of effort on the part of those involved. Indeed, we have delivered the majority of the recommendations made in the 2010 report by the Criminal Justice Inspection Northern Ireland (CJINI), but both the Minister and I, like the Committee and others, remain concerned that more has not been achieved. The status quo is not acceptable. As Dr Maguire pointed out, what is needed now is a step change in performance.

There are two reasons why major change in this area is proving slower than we would wish it to be. The first is the complexity of the system, not just in terms of the constitutional separation of functions between the police, the prosecution, the judiciary and the Department of Justice (DOJ), although that is part of it, but also because the independent private legal profession plays a major role. The second reason is some of the culture and behaviours within our system. Quite properly, we put great emphasis on fairness and independence as essential components of justice, but we need to move to a position where, culturally speaking, timeliness is also part of what we mean by justice. In relation to that, and as the Committee is aware, the Minister has concluded that the introduction of statutory time limits, properly targeted and combined with robust safeguards, could provide a catalyst for new thinking, leading to the step change we all want to achieve. However, time limits alone are not the whole solution. Further procedural and legislative reform is also needed.

You said, Chairman, at the February session, that you wanted to hear about an action plan, and I will come to that shortly. Before I do, I shall be clear about what the Department's role is. The Department's responsibility is to set the strategic and policy framework for change. The model we generally adopt in the justice system for implementing reform is to work together in voluntary partnership. We have achieved some important successes in this way, for example, the introduction of public protection sentences, the Causeway programme, the multiagency public protection arrangements and the introduction of electronic tagging. In the case of delay, however, that approach is not delivering improved performance at the required rate, and we need to evolve our approach.

Given the Minister's overarching political responsibility for the justice system and the fact that most criminal justice organisations are funded by the Department, we have, understandably, been asked why we do not simply order our arm's-length bodies to meet the targets that they signed up to. The constitutional position, of course, is that neither the Minister nor I have the authority to direct the Chief Constable, DPP or Lord Chief Justice on operational issues or in the exercise of their statutory responsibilities, and nor would the Committee wish us to have that authority. Nor is it appropriate or lawful for the granting or withholding of resources to be used as a means of directly influencing decision-making in independent justice organisations, but nor is it necessary, as has been suggested, to bang heads together, at least at the top. The challenge is not getting buy-in from the leaders of the justice organisations for change, because we already have it. The Chief Constable and the director are fully committed to playing their role in speeding up the justice system, and the Lord Chief Justice has separately issued practice directions for the Crown Court and Magistrates' Courts. Our focus, by which I mean that of the criminal justice delivery group and the Criminal Justice Board, is, therefore, on system improvements and looking again at the statutory framework within which operate the hundreds of independent decision-makers in the justice organisations and across the wider justice system.

Such statutory change, by definition mandated by the Assembly, is not only an appropriate mechanism for ministerial or departmental intervention; it is also binding on all the constituent elements of the justice system. The areas that we are considering include, as I said, the introduction of time limits. However, we are also examining what role legislation might play in setting out how cases should be managed and expedited by those involved in the process. As the Committee heard in its earlier session, we are also planning reforms to criminal legal aid legislation to remove perverse incentives to prolong cases, for example, by reforming the payments available for guilty pleas.

I will turn to the specifics of what we are currently doing. As I said, we have an action plan, and it is about more than simply introducing time limits. We will, for example, bring forward proposals to encourage earlier guilty pleas and to reform the committal process. I believe that the Committee will receive a separate briefing on the consultation responses in July. We propose to streamline the summons process, removing the need for summonses to be signed by lay magistrates and enabling the Public Prosecution Service (PPS) to issue them more quickly. We hope to include provisions on that in the Fairer, Faster Justice Bill, as we are presently calling it, later this year.

We want to extend the use of live video links for expert witnesses, creating a presumption that this will be the norm unless there is good reason to do otherwise. A draft of the consultation paper on this was previously shared with the Committee and will issue shortly. We want to improve the speed of forensic evidence from Forensic Science Northern Ireland (FSNI). The use of field testing kits for cannabis is planned for roll-out in the PSNI from September, and George may wish to say a word about that. FSNI is also working towards rapid analysis or staged reporting of evidence, which will provide shorter, more focused reports at earlier stages in a trial.

We want to ensure that courts are used appropriately and that minor offending is dealt with proportionately. That is why the Minister has brought forward fixed penalty notices for first-time non-habitual offenders, empowering the police to deal with low-level offending at the scene. We are also developing proposals for prosecutorial fines, which could be given as an alternative to going to court and which would apply to cases where an offender who is pleading guilty would probably receive a fine in court. The PSNI and PPS have also been working together to pilot a number of important initiatives, including streamlined files for cases that are likely to end in a guilty plea; case-ready charging, so that files are trial-ready at an earlier stage; and having gatekeepers who can monitor file quality and charging decisions. George and Barra may also wish to say a word about those.

Finally, we have provided a paper that sets out early draft proposals on how a statutory time limit might work in Northern Ireland, and we would particularly welcome the Committee's views on these. The paper includes operational details, but, crucially, it also sets out the proposed safeguards. Those safeguards are critical, as the Minister has made it clear that time limits must improve the experience of victims and that it should not be the case that offenders escape justice because of a failure of the system. The proposals are based on existing legislation, and the procedural detail will be contained in regulations. As the paper sets out, we intend to subject those regulations to full public consultation, and we will, of course, engage with the Committee as we take this forward. The regulations will be subject to negative resolution procedure.

Taken together, it is our collective view that these new measures, in combination, have the potential to deliver greatly improved performance. Because the system is complex, great care is needed when taking forward any reform. Therefore, later this year, we will be piloting many of these measures in the youth court. That will include testing the impact of taking a triage approach to dealing with young people accused of an offence. It is a new way of managing youth cases and one that we know has delivered great benefits in other jurisdictions, including Hull, which a delegation from here visited last week. We believe that it has the potential to deliver real benefits in Northern Ireland, and not just in terms of speeding up justice. The pilot will also give us an opportunity to place together in a coherent package the initiatives that the PSNI and PPS are trialling and to see how much time we can take out of the youth court process. We will, of course, continue to brief the Committee on developments.

As senior leaders in the justice system, we are committed collectively to delivering improved performance. There is a responsibility on everyone who works in the justice sphere, regardless of independence, to challenge delay and focus on completing cases in a timely fashion. We are working in partnership on an ambitious programme of reform, and we want to use the visibility of the programme to engender a new culture and promote change across the system. I will now, if I may, pass over to George and Barra to say a few words.

The Chairperson: Just before you do that; I welcome Barra and George being here, but we initially asked for just you to come here because we want to focus on what the Department is doing. That is

why we had the six-monthly reports. On previous occasions, the PPS and police did not come to those meetings because I wanted to drill down into the Department's role in this. The PPS and PSNI always make themselves available whenever the Committee asks them to. Maybe I understand; you have used the word "collective" on quite a number of occasions. However, I wanted to talk about just the Department, so I am curious as to why you felt it important to bring them along.

Mr Perry: That is precisely the point, Chairman. I am very happy to talk about just the Department if that is what you want to talk about, but it is a collective enterprise to try to move this forward. There are things that the operational agencies can do that the Department cannot, and that is why it is a collective enterprise to try to crack this problem.

The Chairperson: I hear your explanation. They are very important and busy people, and, now that they are here, I do not want to waste their time by saying that I want to focus on just the Department, so I will open it up for Assistant Chief Constable Hamilton.

Assistant Chief Constable George Hamilton (Police Service of Northern Ireland): Thank you, Chairman. In the context of those comments, we are still grateful for the opportunity to talk about the progress and challenges that face us collectively — for my part, the Police Service — as we try to tackle delay.

Chairman, I seek to reassure you and the Committee of our continued resolve to reduce unnecessary delay. The PSNI's commitment in that regard is inextricably linked to one of the four fundamental principles of policing, which is bringing to justice the perpetrators of harm. We strive to do that expeditiously so that justice is done and is seen to be done. Of course, that has a direct link to enhancing community confidence in policing and the wider criminal justice system.

As the Committee will be aware, the PSNI, alongside its criminal justice partners, has delivered on the majority of the recommendations in the two Criminal Justice Inspection reports on delay. Therefore, we are disappointed that, despite that, we have not seen a greater reduction in delay in the system, although there have been some signs of improvement. We previously outlined to the Committee that a more strategic approach to criminal justice reform is needed rather than simply addressing suites of individual Criminal Justice Inspection recommendations. That requires a system-wide approach to reform, including delivery of the relevant statutory framework.

My predecessor, Will Kerr, suggested to the Committee that that strategic programme of work would take three to four years, and we are at the midway point. To date, substantial elements of the programme have been delivered. However, some aspects, such as reform of committal proceedings, legislative support to encourage early guilty pleas and the legal aid issues, are still being developed. Furthermore, the current programme, although properly focused on the statutory agencies, omits key participants in the system, namely the judiciary and the defence.

The PSNI's work to tackle unnecessary delay as part of the wider programme of reform has included creating capacity in the criminal justice system by removing cases that are not really required to enter it of necessity; reform of our internal processes and procedures and continuous improvement of quality; getting it right first time; and streamlining cases and processes in the wider justice system. On behalf of the Police Service, I will touch briefly on the work on each of those four elements.

The criminal justice system is much larger than the portion measured by the criminal justice standards, although the standards are helpful and have brought a much-needed focus on improvement. The standards refer to prosecution cases and, therefore, measure around only 50% of the issues going into the criminal justice system. To improve performance on prosecutions, we must first create more capacity in the system by ensuring that only those cases that need to go court do so and that we do not create delay by clogging up the system. Over the past year and a half, we have developed the use of police discretion. This is about reacquainting officers with their ability to use their discretion to deal with low-level offending. This restorative approach ensures that minor crimes are resolved within seven days of the date that the offence is reported. Indeed, many are resolved within just a few hours, allowing officers to focus on delivering the most appropriate and proportionate outcome to the satisfaction of the victim. To date, over 23,000 discretionary disposals have been delivered for a range of minor offences and incidents, for example, antisocial behaviour. I accept that not all of these cases would have gone through the court previously, but, if we were to compare the seven days that it takes to deal with an offence by discretion against charge files in the Magistrates' Court, we could say that discretion has achieved an 80-day reduction for these victims and witnesses, and that is important for us. It has also achieved a victim satisfaction rate that is consistently above 95% and a recidivism

rate of below 1%. That means that up to 23,000 victims received a high-level service that was tailored to their needs and delivered without delay and with which they have indicated that they are entirely satisfied.

In partnership with the Public Prosecution Service, we have developed and delivered a scheme for managing formal diversions, including cautions and informed warnings. In essence, the PPS makes a decision on diversionary disposal based on a telephone briefing by the investigating officer. To date, over 5,300 cautions have been delivered in this way. The scheme means that diversionary disposals can be delivered as soon as the initial investigation has been completed. These initiatives have also facilitated our work to improve officer visibility on the street and, therefore, public confidence.

Alongside increasing capacity in the system, we recognise the need to get things right first time. It is in no one's interest to have files passed backwards and forwards for amendment and correction between us and the prosecutors. To that end, the Police Service continues to work to improve case file quality. This work has included the introduction of a joint PSNI/PPS quality assurance panel, the creation of interagency regional performance improvement partnerships and a significant programme of officer training. That programme includes training on case file quality, supervision of case files, special measures and initiative-specific training. A significant proportion of that training has been delivered jointly with the Public Prosecution Service.

The Police Service also recognises the importance of our internal support functions and the delivery of consistent case management processes as a key element in reducing delay. Therefore, we have delivered a significant programme of restructuring to maximise the efficiency and effectiveness of these processes. The R4 programme is aimed at putting the right people in the right place at the right time, doing the right thing. In practice, that has resulted in us moving from a large number of small, localised criminal justice management units to four centralised units with clear and effective processes. The Chair visited one of those centres with me in Belfast, and he saw at first hand the investment that the PSNI has made in creating the right infrastructure to improve our case management and file preparation function. This has been a significant factor in our continued improvement in case preparation and submission times to the PPS. For example, in the past year, we have reduced case submission time by five days in summons cases.

Alongside improving capacity and quality, it was also necessary to ensure that we streamlined our processes and our case structures. This work has led to the implementation of a streamlined file format for diversion and no-prosecution cases. We have also applied the learning from this file structure to the development of a streamlined charge file. This is currently being used in a small range of offences across four of the eight police districts and will be made available across the entire Police Service by October of this year. Implementation of this streamlined file has been slower that we would have liked due to the fact that it has been delivered without the supporting statutory framework. In England and Wales for example, under the Narey review and the subsequent legislative framework, the streamlined approach was supported by statutory case management and legislative provision to allow for early guilty plea incentives. Even without that legislative framework, the streamlined file results have been positive, with 72% of offenders pleading guilty on the first occasion and the average time taken until case disposal reducing from 86 to 32 days. That is a reduction of 54 days, which is significant and positive.

Charge cases, however, account for only one third of the cases that go forward for prosecution and, although our performance on charge cases has improved significantly, the same cannot be said for summons cases, which take up to three times as long. The Police Service continues to make improvements in those areas that lie directly within its control, ie case preparation and file submission.

Summons serving is a different story and presents a greater challenge in our drive to reduce delay. Indeed, we are seeing a growth in the average time taken to serve a summons, largely due to the cumulative effect of unserved summonses in the system. Often, that is a result of defendants actively evading the police. In the absence of summons reform, we have agreed to move to a pro-charge approach for all possible and appropriate cases. To assist that process and our continued drive to improve quality, we have introduced a gatekeeper scheme, which provides officers with access to advice from experienced inspectors.

There are a number of key reforms that the director will touch on in more detail, such as reform of committals and encouraging early guilty pleas. Of course, as has already been mentioned by Nick, there is the introduction of statutory time limits. I am hopeful that the time limits proposed to be introduced under the 2003 legislation, while not as radical as they could be, will provide a starting point and will facilitate a more measured approach, reducing the risk of cases being discontinued. To

aid the introduction of those time limits, we will be piloting a triage and an immediate summons scheme for youth cases at the beginning of October. Again, the director will touch upon our plans for that scheme in his comments and our joint plans to tackle delay in indictable files and improve the service that we deliver to victims and witnesses. The Police Service will also be bringing ideas forward to the Criminal Justice Board on how we can develop our ability to share information with other participants more effectively and efficiently. Efficiency and innovation are essential as we face the challenges of reducing delay and needing to reduce costs in the current financial climate.

I trust that outline gives you some reassurance about the ongoing work to reduce delay from the police perspective and evidences some of what has already been achieved. I am happy to take questions on any of that at the appropriate point. Thank you.

The Chairperson: Thank you.

Mr Barra McGrory (Public Prosecution Service): Thank you, Chairman and other members of the Committee, for this opportunity. I want to make it clear that I and all the members of the Public Prosecution Service understand the adverse impact that delay has on all parties in the criminal justice system, whether it is victims, victims' families, witnesses and, in many cases, defendants. We are committed to reducing delay.

I do not want to repeat all of the initiatives that have been outlined in some part by Nick and in a little bit more detail by George. However, there has been a lot of work ongoing that has yet to significantly impact, and we need a little bit more time for those initiatives to bite. I will talk about a couple of them in a little more detail. The second thing that I want to do, which I regard as fundamental, is set out what the Public Prosecution Service would say is a programme of legislative reform that will be required to make the step change that is clearly necessary to reduce delay in the criminal justice system.

Of the initiatives that have already been outlined, the most significant is perhaps the introduction of gatekeepers. It has not gone unnoticed that, in the recent past, I made comments about the quality of police files, and I am very happy to say that a lot of work has been going on between the Public Prosecution Service and the police in that area. A novel and potentially very effective measure is the introduction of gatekeepers, who will be highly trained police officers who will know what is necessary to put in a file to make a speedy decision on the part of the Public Prosecution Service possible. As I understand it, under the gatekeeping system, the gatekeepers will be available constantly. There will be maybe four or five gatekeepers who will be able to receive information electronically and phone calls from police officers who are submitting files. They will be able to give on-the-spot and quick advice on what the Public Prosecution Service will expect and require to make speedy decisions. That measure is being set up. George can give us more details if necessary, but I think that it is planned that there will be four or five gatekeepers, and two have already been recruited. That will allow for a certain element of parallel processing of files, which will be a significant step forward.

Other initiatives, such as streamlining of files and 28-day charge cases, should have a similar effect. The other measure that George touched on is the triaging proposal. It could also have a very significant impact, because it will affect the serving of summonses. The triaging proposal will be piloted in the youth system. Currently, an incident happens, the youth is brought in, material is sent to the PPS, a decision is taken, a summons is issued, and the summons has to be served. There are a variety of methods by which that can occur, and it is an elongated process. When summonses are served quickly, we can deal with those cases very quickly. However, an increasing problem is in effecting early service. Under the triaging system, someone will be bailed to come back on a certain day. Within that period, the PPS can be consulted, a decision can be taken and the summons can be served when the person returns to answer their bail. That should have a significant impact in the youth justice system. If it works there, there is no reason why it should not be rolled out in the criminal justice system as a whole.

As importantly, if not more importantly, I want to set out the measures that the Public Prosecution Service would like the legislature to look at very closely as quickly as possible. The first on the list, but not necessarily in order of merit, is committal reform. A consultation has just closed on the issue of committal reform. The Public Prosecution Service submitted that there should be very robust reform of this process, if not the abolition of it altogether. The proposal put forward in the consultation is the removal of the right to question witnesses at a committal hearing. That is welcome but, in our view, not fundamental enough. It will have a significant impact. It will cut down on time and relieve some of the stress and burdens on some witnesses and victims. However, it still leaves in place a committal process, albeit a more paper-based one. That process in itself is very time-consuming. It is a process

within an overall process and requires very significant resources. In our respectful submission, it might require significantly more radical reform than that which is proposed currently.

From my own experience in the criminal justice system, I know that this matter has been talked about for at least a decade. We would like a more radical approach to be taken to it. There are some spectacular examples of cases in which there is very considerable delay. We currently have a case that has been in the committal process for 18 months. We have other similar cases in which the committal process allows for a variety of applications, such as applications for abuse of process, for anonymity and screening and to call witnesses to give oral evidence, all of which can be repeated later in the Crown Court. So, in our respectful submission, there is no injustice in the removal of those opportunities to the defence at the preliminary stage, as those opportunities will still be there later in the process. If the reform is more radical than is currently proposed, there could be very significant benefits in respect of both cost and time. We would like the legislators to consider that. Reduction in sentence for early guilty pleas is another area in which we say that there should be more robust reform. There is a statutory framework in place whereby a court can or should give discount for an early guilty plea and say so. However, there is no statutory guidance on the precise differential that is left to the common law; it could be as much as 30% or it could be less. The Public Prosecution Service would like to see a clear statutory framework setting out the degree of discount that will be given on the occasion of an early plea and perhaps place an obligation on the court to say publicly and clearly to a defendant that the discount will be available but that it would definitely not be available at a later stage. That could concentrate their minds to plead guilty at that point. That could be enshrined in legislation and would, in our view, make a significant impact on encouraging early guilty pleas.

Another idea that we have put forward to the Department of Justice for consideration is that perhaps defence lawyers should be obliged to advise their clients — and tell the courts that they have advised their clients — that the discount would be available at the early stage and not at the later stage in the way that it is available currently in respect of the right to give evidence. That is a fairly novel suggestion that we have made to the Department of Justice, and we would like to see it seriously considered.

Legal aid is another area that significantly impacts on delay in a number of respects. The framework of the 2011 Rules is similar to that introduced in 2005. It allows a certain fee for a guilty plea 1 initially, and it allows another fee that is significantly enhanced for what they call a guilty plea 2, which is a guilty plea at a later stage in the proceedings. Lawyers appearing for defendants earn significantly more money in the event of a not-guilty plea, and in 28% of cases where there are not-guilty pleas, the defendant pleads guilty at a later stage. There is something wrong with a system where almost one third of those who plead not guilty initially change their minds down the line. We need to put the drivers in place to make sure that guilty pleas are taken at an early stage, and we think that legal aid is one of those drivers. I am not saying that defence lawyers systematically encourage a client to plead not guilty simply because they can earn more money. Nevertheless, minds are not concentrated; let us put it that way. There is certainly no disincentive to do it otherwise.

Mr Wells: That is a lovely way of putting it.

Mr McGrory: That needs to be revisited at the earliest possible opportunity. It is disappointing that it was not considered when the 2011 Rules were brought in.

We find ourselves as prosecutors at a significant disadvantage with legal aid, as we have a fixed budget to prosecute every case in this jurisdiction. We make no differential within that fixed budget between solicitors and barristers. We organise our work in accordance with needs; we use a minimum number of lawyers where possible; we have one lawyer who decides on the directing issue; and, by and large, we have one lawyer who presents a case in court except in exceptional circumstances. In a very small number of cases we will use more than one lawyer in court, but we are up against a system that funds the defence by up to three times as much. Frequently, there will be three lawyers in a case for the defence at any one time, in many more cases that the prosecution have, or there will at least be two.

That is a significant imbalance, and we would like to see significant reform in that area. It might also concentrate the minds of those representing defendants when it comes to the early disposal of cases. There are other reforms that we could look at, such as elections for trial. We frequently get pilloried for prosecuting people for stealing packets of prawns and so on; however, in many of those cases the defendant has elected for trial. The legislature might wish to revisit the range of cases for which election for trial by jury is available to defendants, because it is expensive and time-consuming.

Another system that exists in England that we do not have is plea before venue, whereby clear early guilty pleas can be identified quickly in the magistrates' court even though it is an indictable case that will go to the Crown Court. Where it is obvious that a defendant wants to plead guilty, that could be identified within days and remitted to the Crown Court for sentencing. That could save us the entire process of preparing cases that were never going to be anything other than guilty pleas for committal and then referral to the Crown Court. Why can we not have a similar reform in this jurisdiction?

Other areas such as judicial case management and criminal procedure rules would also be very welcome. The criminal procedure rules in England and Wales are not unlike, in form, the recent practice direction issued by the Lord Chief Justice. The prosecution would say that that has been a most welcome initiative by the judiciary, and it seems to be having some effect. However, it would have considerably more effect if it was enshrined on a statutory basis and perhaps had some time limits built into it, particularly on the defence disclosure obligations and the information that it must give to the prosecution to enable us to inform disclosure decisions. One of the flaws — this is not a criticism — in the practice direction is that it does not compel the defence to respond within a particular time. Some legislative framework would be of significant assistance. That is within the ambit of judicial case management, and some criminal procedure rules would be of significant assistance.

All this has been discussed in the context of statutory time limits. Our position on statutory time limits is that they are not by any means unwelcome, and the raising of the issue has been the catalyst for an examination of what will be required to bring about step change. However, we need to be careful that we get the architecture — infrastructure might be a better word — in place in the way in which we have described to meet the statutory time limits if and when they are brought in generally. There are certain dangers with statutory time limits, and it would not be in the interests of justice if a case were to fall if, for one reason or another, statutory time limits were not met. To cater for that, there is a suggestion that a safety mechanism would need to be built into the statutory time limits to allow cases to be reintroduced or to come back. That might defeat the purpose, so it needs to be given careful consideration. That is not to say that we are against the principle; we have no great difficulty with it. However, we submit to the Committee that all the other issues need to be either brought in before or in tandem with a significant move towards statutory time limits, which, in principle, are not a difficulty. I hope that that has been helpful.

The Chairperson: It has, thank you very much; it has given us plenty to ponder. The permanent secretary might regret having invited you because I will now want to know whether all those ideas are being reflected. As I understand it, your role is to set the overall strategic policy framework. Ideas come from the Public Prosecution Service and the police, and, when you talk about the legislator, you mean the Minister.

I assume that all those ideas will be in the new Faster, Fairer Justice Bill.

Mr Perry: Several of them will be. All the ideas that barristers mentioned are precisely the issues that have been talked about by the criminal justice delivery group and the criminal justice board. We hope to include several of those in the Faster, Fairer Justice Bill. We completely recognise the point that Barra makes about the need, when statutory time limits are introduced, to make sure that there are proper safeguards. Mr Wells mentioned banging heads together. In a sense, statutory time limits are a way of banging heads together at an organisational level to reinforce the impetus for reform that is already there. Many of the ideas that Barra and George mentioned are precisely the things that we are talking about. The Committee will be briefed on some of those shortly.

The Chairperson: When you first spoke, my sense was that statutory time limits were being heralded as a big thing. For the PSNI, it is a starting point and not as radical as it could be; for the PPS, it is not unwelcome. Perhaps I am reading things wrongly, but I detect a difference in emphasis as to how statutory time limits are will be implemented and their real purpose.

Mr Perry: I do not think that there is on the essential or on the principle. As Barra said, we all support the principle. It is about making sure that we implement it in the right way. The criminal justice delivery group signed up to the concept of statutory time limits. The paper that the Committee received was cleared by the criminal justice delivery group, on which the police and the PPS are represented, and we talked it through with the Minister. At that level, we are committed to making statutory time limits work. However, you are absolutely right that they are not enough in themselves. All the other changes have to happen in parallel and, in some cases, precede statutory time limits

going live. Certainly, for any extension beyond the very particular area of youth cases, some of the more radical reforms would need to be in place.

Mr Lavery: It would be right to say also that the announcement of statutory time limits by the Minister has acted as a catalyst. I have seen more activity since he made that announcement than I probably did in the preceding period. It seems to have concentrated minds in the justice system remarkably. It was something that we hesitated to bring forward in the past, because it looked like quite a draconian step; however, it does seem to have acted as a catalyst and incentive. It does not cure the problem of delay, but it creates a necessity to cure it, because there are consequences if you miss statutory time limits. We now have new leadership in the criminal justice system; we have a devolved Minister; and we have a new Director of Public Prosecutions. We have an Assistant Chief Constable who has operated a statutory time limit system in Scotland, where they have been in place for many, many generations and, effectively, act as a discipline on the throughput of criminal cases. We see it as a very useful mechanism for creating a necessity to address delay. However, all the other things that Nick mentioned have to complement that. We are on the same page with what you have heard from the director and the Assistant Chief Constable.

The Committee will be briefed shortly on the outcome of the consultation on reform of committals. We are starting with the most obvious problem: that a committal can be used to put pressure on a witness to drop their case. The first proposal is to abolish that. We have detected in the consultation a desire for what I think the director described as plea before venue. That is the idea that someone indicates, at a very early stage at the magistrates' court, that they want or intend to plead guilty. At the minute, they would have to go through quite a process to get them to the Crown Court to be tried. That has emerged in the consultation. The more fundamental issue is what purpose a committal serves at all. If you have a professional prosecutorial service and an independent prosecutorial service, might it not be possible to create a system where it determines when a case is ready and whether there is evidence to answer and then directly transfers a case — or "sends", as they call it in England — to the Crown Court.

As the director said, all the challenges that can be made at committal can be made at the Crown Court in any event. You will be hearing our proposals on committal reform at a forthcoming session. As you know, we also consulted recently on early guilty pleas, and we will be briefing the Committee at the same time about incentivising early guilty pleas. Speaking about legal aid reform in the earlier session with the Minister, we said that there should be a composite fee, never mind the difference between guilty plea 1 and guilty plea 2. What they have done in Scotland seems to me to be more radical and ambitious, and that is why we have asked for work to be done on a single fee for doing a case, whether the plea of guilty is early, late or is contested. As I said earlier, that has created a 40% increase in the number of early pleas in cases in Scotland. Why reinvent the wheel when they have a good option there?

The difficulty with the criminal justice system is that it comprises several strong agencies that have behaved independently for a long time, and their independence is, rightly, guarded, as it is a necessary protection for the public. However, as far as the public is concerned, those agencies have to behave not only independently but interdependently. Some of the things that we have heard this afternoon are very encouraging about co-operation beginning to take place. I have been dealing with that as head of the Court Service, which was my previous job, since the first Criminal Justice Inspection report in 2006. The sense is that, for a long time, we were talking about reducing delay but not really getting to grips with it. The statutory time limit announcement has really galvanised things; it is a significant intervention by the Minister that has created the necessity to address the issue.

The Chairperson: I agree. I suspect that that is more out of fear that we are getting it wrong, and, therefore, we should put it together to get it right. That is my reading of it. It has concentrated minds.

Mr Lavery: We are also looking at the youth court, which is why I said that we should start there. There can be no area of the justice system where early intervention is more important than in the youth court. We took officials and two judges to Hull last week on a study visit; they told us that early intervention, early triage and early diversion has reduced youth crime by 33% and that 81% of the youths who go through triage do not reoffend and do not come back into the justice system. They told us that they complete a case in the youth court and in the magistrates' court in 46 days; it takes us 207 days on average if it is a summons case.

We need to start somewhere, and the Minister is right in starting in the youth court because that is where early intervention can change lives. That is really important. I looked at what happened in the

Belfast youth court last week; it was not an encouraging picture. We need to be realistic about where we are and the journey that we have to travel. There were 86 cases before Belfast youth court last week; some 80% of them were simply adjourned. That strikes me as completely unsatisfactory. Of those that were dealt with, a quarter were withdrawn for a diversionary youth conference. That decision should have been made before the case ever came near a court; it should have been decided right at the beginning. That is why we have taken the initiative to do a pilot study, starting in October, of early triage. Having seen it work in Hull and in other districts in England, we think that that is where early intervention can make a difference. We have started in the right place. If we get that right, we will look at adult and Crown Court cases. My point is that the youth court is the most important place to start the exercise, because it influences lives. I took over the chairmanship of the Criminal Justice Board. We held the first meeting, at which we discussed statutory time limits in the Juvenile Justice Centre. We spent the morning touring the centre and speaking to the children and young people in it, because that is not something that you do in a committee room; it is very relevant. The announcement of statutory time limits for youth cases in particular is a crucial intervention that we need to get right.

The Chairperson: I could probably go into all the individual items that have been mentioned, but I will not for the sake of time. I want to drill down some of the commentary around whether voluntary partnerships and independent organisations are all equal. Are we all equal? As regards the Department's role, Nick said that it would be unlawful to withhold the resources of the organisations. Surely, you do that already — the bids are made, and you do not give what is asked for. Some sort of challenge function takes place to say that you do not think that they need that and, therefore, they are not getting it. Given that the Department pays for all of that, the organisation with the lead role and the one that pulls it all together is the Department.

Mr Perry: It is. The Department has the lead role in trying to co-ordinate to improve joined-up working across the system. I absolutely accept that that is our responsibility and that is what we are trying to do through the Minister's role, the criminal justice delivery group and so on. You mentioned resources, and you are absolutely right: we do not fund the PPS, but we fund the police, courts and prisons and other justice organisations. When I talked about not being able to use resources as a level, I mean it specifically in the case of saying that, unless you handle this group or this class of cases in a particular way, we will not fund you, although that would be distorting the individual judgement of decision makers in the justice system. I am the accounting officer for a great swathe of those funds, and I take that very seriously. We are driving many efficiencies out of the justice system, as you know. I think that you had a briefing from Anthony Harbinson last week. We have over-achieved against our target last year for efficiencies. My role as accounting officer is trying to ensure that the framework within which the justice system operates encourages cost-effective and efficient working in that area, and that is what we are trying to do. Statutory time limits are part of that incentivisation.

With regard to the Department being at the centre of this and trying to pull things together, yes, I accept that we have a role there.

The Chairperson: It is a lead role; it is more than facilitating dialogue. For example, the PPS may send something to the PSNI. What is its role? I take it that you see the Department's role as more than a facilitator. You say, "This is what we are going to do; you tell me what your organisation needs to make it work; come back to us; the Minister will take a decision on this after hearing everybody's view."

Mr Perry: That is precisely what we do with regard to the legislative changes that we will bring forward to the Committee and to the Assembly. We cannot direct the organisations to behave in particular ways. However, that is precisely what the conversation is about on the Criminal Justice Board under David's leadership and with the Minister at the delivery group.

Mr McCartney: Since the permanent secretary is here, I will go off the subject for a second. As you are aware, there has been a bit of public commentary this week again between the Department and the Committee on the Administration of Justice over the ombudsman's office. Will you address the Committee on that in the future?

Mr Perry: Regarding which aspect?

Mr McCartney: The CAJ made findings on the appointments process, and I know that you have addressed them. I was wondering whether that will come back to the Committee, because it is something that the Committee has addressed.

Mr Perry: The CAJ wrote to the NIO. Do you want me to speak personally?

Mr McCartney: No. I am just asking whether you will speak to the Committee on the issue?

Mr Perry: I believe that a reply has gone from the NIO. Since I have some personal knowledge of it, I would be able to speak. However, perhaps we should look at the situation in a different context.

Mr McCartney: It is something that the Committee would like to discuss.

Mr Perry: I will supply that information.

Mr McCartney: David and Barra were talking about the guilty plea aspect, and you gave the statistic of 38% guilty pleas —

Mr McGrory: Twenty-eight actually.

Mr McCartney: Twenty-eight, sorry. David gave 40% with regard to the Scottish model.

Mr Lavery: Of early pleas.

Mr McCartney: Is that reflected in sentencing? Is there a comparison with sentencing?

Mr McGrory: I do not have that data. However, if there is a regime that rewards an early guilty plea and people are pleading early, they should get that reward as well. If the Department of Justice is going to go even further and abolish not just GP1s and GP2s but bring in a single composite fee, that would probably be an even better driver in magistrates' courts. I doubt whether that would be workable in indictable cases.

Mr Lavery: You are thinking of magistrates' courts.

Mr McGrory: Yes, I presumed that that was magistrates' courts, but there still needs to be a review of that aspect.

Mr McCartney: I think that the proposal from the Department with regard to statutory time limits is to use a provision in the Criminal Justice Order 2003. Why was that not used previously?

Mr Lavery: I am genuinely not entirely sure. It was enacted, I think, following the criminal justice review report of 2000, which suggested a need to address the issue in that way. I have no particular insight into why it was not resorted to at that time. It was then a recommendation of the Criminal Justice Inspection, and that is when this current initiative to get to grips with delay accelerated, and they were very clear. However, you are quite right that that was on the statute book.

Now that we have looked at it to use it, we could make it more robust, which I think was George's point. However, we think that it would be quicker to start with what is on the statute book. That would allow us to use statutory time limits for youth cases, which, as we said, is where we are starting. We will introduce it to adult cases. We may want to use the Faster, Fairer Justice Bill to add more powers to it.

Mr McCartney: Does that not then push back the need for bespoke legislation? By doing that, we push back the many issues that people have raised. It is not a straightforward question about going for statutory time limits and all will be fine because there are issues about some cases running over. This provision was in place but not employed. We had the review, the issue of statutory time limits was brought into the public domain again, and now we are reverting to a piece of legislation that was there and nobody thought it worthwhile. I do not want to sound like a cynic but is that postponing the need for the debate and, perhaps, for bespoke legislation?

Mr Perry: It is certainly not an attempt to stifle debate about the utility of STLs or the protections around them. It just happens to be a vehicle that is already on the statute book. It has limitations, but having reached the conclusion that we should do this, we decided to use it. However, we recognise that by using that particular mechanism, we might need to go even further with the consultation on the regulations to make sure that there is a thorough discussion about this issue.

Mr McCartney: When people were researching or analysing this issue was there a reason why it was not used?

Mr Perry: It is defective in some way, and that is why it was never used.

Mr McCartney: It is defective, but now we are going to use it.

Mr Perry: It has been sitting there waiting for someone to —

Mr McCartney: But if it is defective —

Mr Perry: I do not think that it is defective. However, it does not give the complete flexibility that a bespoke piece of legislation would. Nonetheless, it is sufficient for this purpose.

Mr Lavery: We thought that it was useful that it was on the statute book. I cannot really explain this afternoon why it was not resorted to. I do not know; I was not there. However, the fact that it is there means we do not have to waste time talking about what a statutory time limit regime would look like. We can go quickly forward with proposals to act as an incentive to bring about improvement in performance. As I said, a statutory time limit does not improve performance; it creates a necessity to do so.

We found the 2003 legislation reasonably satisfactory, and that is why we think that it is better to bring it into force now. We may put more powers into the Bill that we are talking about today as well, with an eye to the future of statutory time limits in adult cases. There was mention this afternoon about whether we should be looking at statutory case management, so we are thinking about that as well. We are working with what we have on the statute book and will move on it. However, the Minister is very clear that we should get this up and running in the youth court by 2014-15, and that is what we are determined to do.

Mr McCartney: If we come back to an analysis of this some time in the future, it might be useful to know why it was not employed in the first instance —

Mr Lavery: Yes.

Mr McCartney: — to inform us. If, somewhere, someone felt that it was not sufficient, then —

Mr Lavery: I am only surmising, but my sense is that the imposition of statutory time limits has always been seen in a way as the sort of nuclear option, if I can call it that. My experience of working on reducing delay has been of lots of efforts to improve performance through other means short of statutory time limits. If happened in 2006 when the Criminal Justice Inspection report on avoidable delay came out. It said that if all these administrative improvements — end-to-end targets and various other things — did not work, then statutory time limits should be introduced. We are at the point now where we feel it is necessary to have recourse to statutory time limits. That is because, and I am sorry to be repetitive, it really create a necessity to improve performance, and it seems to me to be already creating that necessity.

Mr McCartney: This morning, the Chair and I met the Lord Chief Justice, who referred to the visit to Hull. One of the things that struck us both was the service level agreement of a 21-day return of forensic evidence. What impact would that have on delays?

Mr Lavery: It would have a huge impact on cases where forensics is critical. However, I looked at this, and, unfortunately, delays are one of these things that everybody agrees is terrible and something should be done about, but it needs to be done by somebody else. So, I looked at how many cases were affected by forensics. Forensics is used in only 5% of youth court cases. So,

achieving that 21-day return will certainly make a difference in the 5% of cases to which it is relevant, but it is not the single thing that is preventing youth cases being completed quickly.

I looked at the cases that were dealt with last week and the range of disposals. One case went through the whole process in 27 days, but another took 630 days. It is such an incredible difference. I looked at the case that took 630 days, and I cannot see any reason for it. There was no forensics in it that I am aware of. However, there are so many interdependencies in every little bit of bringing a criminal case through to conclusion — whether it is an early guilty plea, a diversion or a trial — that there will be an adverse impact if just one agency lets down the system, such as a forensic report or a medical report being late, defence not being ready or whatever. So, we need to get all of these bits working interdependently, as I said earlier. Forensics is certainly one of those things. They changed everything in Hull — they just looked at everything that was causing obstruction, and that is what we are trying to do, through the Criminal Justice Board. We are trying to make it behave like the management board for the criminal justice system, and the director and the assistant chief constable have given a lot of their time. They have not sent deputies; we have the senior leadership team there.

Mr McCartney: You mentioned that everybody has a part to play in this; I am not saying separate because that would be wrong, but is there room for someone, maybe through the Minister, to task a single person to look at all these issues and see what we come up with?

Mr Lavery: He did that in the Youth Court, because, as Nick said, although it is independent, the criminal justice delivery group is, if you like, the Minister's executive team for the criminal justice system. You have the Minister, the Chief Constable or his assistant chief constable, the Director of Public Prosecutions, a senior official from the Lord Chief Justice's office would usually be there, and I would be there as chair of the Criminal Justice Board. Designing and delivering statutory time limits in the youth court by 2014-15 was left to us, and making it happen was given to the Criminal Justice Board. That is about trying to create that joined-up approach. We are now going to pilot it in a joined-up way, probably in Belfast, starting this October. We have in place performance improvement partnerships, which bring all of the agencies together. It will not work if someone does not play their part in it, and that is why what the Chief Justice said to the Minister last week and, presumably, to you today is encouraging. He has made an explicit commitment to improving performance in the youth court. He recognises that it also has a part to play in this.

Mr Elliott: Thank you for the presentation, folks. I have a quick question on the issue of discounts for an early guilty plea. In those cases, how do you protect defendants who are not guilty? In the earlier presentation, which Mr Lavery was here for along with the Minister, we heard about the standard fees process. If that were to come into being, barristers and lawyers would be eager to get some cases out of the way quickly, and there might almost be pressure on defendants to enter a guilty plea at an early stage even if they are not guilty. On the other hand, some people will be determined to go through the entire process even though they are guilty. What protections are there to ensure that it is fair?

Mr McGrory: Certainly an all-in composite fee, which would represent one fee whether a case is contested or guilty, at any stage, in the more serious cases, might be risky from that perspective in the sense that, in cases that are genuine contests, it would create the dynamic that it would be much more efficient for the lawyers to have it disposed of by way of a guilty plea. That would have to be carefully weighed in the balance. However, we have a fairly mature criminal justice system that does not allow any plea bargaining whatsoever, so there would be no suggestion that those who genuinely seek to contest their cases would be forced by circumstances to plead guilty when they really should not be. The general public, too, would be robust enough to resist the urgings of any lawyers who were trying to get them to plead guilty unnecessarily early. The integrity of our legal professions, both solicitors and barristers, would militate against that. Certainly you would not want us to go down the American road, where there is plea negotiation, which becomes a pressure point on those who have genuine contests so that they need to plead guilty to get, for example, a non-custodial sentence. Our courts are very rigorous in upholding a system that simply does not allow that. That concern does not trouble me too much.

The Chairperson: At the moment, when someone puts in their plea at arraignment, a judge would — or some do; you can keep me right on this — say that by going not guilty, if you are found guilty it could result in you getting a stiffer sentence. That will be taken account of in sentencing. Does that happen at every arraignment? Will a judge warn someone that, if they plead guilty now, it will be reflected in the sentence? If you plead not guilty and at a later point you plead guilty, that will have a consequence on the sentence that is reached. Is that common practice?

Mr McGrory: It is not uniformly openly stated. Some judges may state that, and I have seen in open court a judge send the word out that, if there is going to be a guilty plea, the earlier it is submitted, the better for the defendant. Other judges do not necessarily do that, and it is left up to the legal advisers — as it would be a duty on any legal adviser — to say to the client that, if they are going to plead guilty, now is the time to do it. We are suggesting a more formal framework because it would ensure uniformity across the board of which clients would definitely be aware.

The Chairperson: Would that specify that, at this stage, if you plead guilty you will get a 30% — you know, you were heading towards getting 10 years; plead now, you'll get seven.

Mr McGrory: Yes.

The Chairperson: If you do it at this next stage, you will get eight, you will get nine. Is it varying levels?

Mr McGrory: Again, I have no doubt that the judiciary would voice a concern that it would be inappropriate that the court should have its hands tied to declaring specifically what sentence it would routinely be in cases, but I still think you can build in some degree of formal indication to an accused person that there would be significant discount for an early plea that would not be available down the line, without necessarily doing it in a coercive way. Significant improvement could be made in the current system.

The Chairperson: And that, in conjunction with a composite fee, could have significant —

Mr McGrory: I think it would have quite an impact.

Mr Elliott: To follow on, I hear allegations made on a regular basis; some people would say that there are serious delays with the police getting files to the Public Prosecution Service, and in other cases you will hear that police will generally get files there in a reasonable time, and that the delays lie with the Public Prosecution Service. I am trying to establish where the most serious delays are. Are they in the Public Prosecution Service or in the police service? It is not often we get —

Mr McGrory: You have the two of us together.

The Chairperson: Maybe Nick should answer that. *[Laughter.]*

Mr McGrory: I think George and I would be as one on this. We both recognise that there are areas where there could be significant improvement, both on the part of the speed with which prosecutors come to decisions, and on the quality of files and the speed at which they are sent to the Prosecution Service. Now, we have set about implementing a programme of change that we believe will have a significant impact on that. That is what I would like the message to be today; you have a Prosecution Service and a police service that are acting together in seeking to implement the necessary improvements and reforms that we feel are required, without the necessity of getting on bended knee and saying who is to blame for what. We are definitely working on —

Mr Elliott: Does that mean there will be genuine feedback from the Public Prosecution Service, in particular, to the police? The police are quite quick at saying that they send a file off to the Public Prosecution Service and that is the last they hear of it; they do not even know whether the case goes ahead or is dropped.

Assistant Chief Constable G Hamilton: Yes, that happens, and it is a two-way thing. In the past month, I have spent significant portions of time both with the director and with senior staff in trying to get to the bottom of where we are with these quality issues. There are pieces of work ongoing that will help us to work on that together.

To come back to your question about where the significant chunk of delay lies; part of the problem is that, yes, there are quality issues with some police files. There are some frustrations that the police experience around what we call the "hurry up and wait" factor: we get it to the PPS, and then we are waiting for directions. I am satisfied that both the relationship and the work programme between the two organisations, and indeed between the director and me, is in a very good place. I am very optimistic about that, but there are things in the system also.

The single biggest issue that causes delay is getting summonses served. The police have done their investigation, the PPS has looked at the evidence and issued a direction, and then we have to get a summons issued and served. In 80% of those cases, it is served first time, and that keeps us within sensible timescales in the whole system, but in those cases where that is not possible, there is a huge spike in the time taken to get the summons into the person's hands or even into their house, and then to get them before the court. Part of that is because of the archaic way in which summonses have to be issued. We have a professional, independent Public Prosecutions Service that cannot issue a summons; it has to go to a justice of the peace or a lay magistrate to do that on our behalf. Some of the proposals through the Criminal Justice Board that we have been talking about included a consultation on a reform of how summonses are issued and served. I am not passing the buck on that, but that in itself would take a huge amount of time out of the system.

Of course, you could say that the police could be more proactive. We could be, but we are chasing people who do not want to come before the court. They are actively evading the police and normally have a high degree of competence in doing that.

Mr McGrory: It is a very complex problem, as I hope we have all got across today. We are all working closely to see whether we can solve the problem. We recognise that it is a problem. However, as well as putting in place efficient systems between the police and the PPS, those need to be complemented with a radical suite of reform that will make it all work.

The Chairperson: The last one on this is Mr Lynch, and then we will move on.

Mr Lynch: I want to make a quick comment on the gatekeeper scheme. My understanding is that gatekeepers are to ensure that no change takes place, so it could be an unfortunate term. This might be following on from Tom's point, but I want to go to action point 6.11. Protocols between the PSNI and the PPS have been:

"drafted but will not be implemented until all changes have in place."

Why not?

Assistant Chief Constable G Hamilton: Sorry, I am not with you there. Where are you reading from?

Mr Lynch: It is just a note that I took earlier. I do not have the paper on the table now. The protocols that have been drafted between you and the PPS will not be implemented until all changes have been put in place.

Assistant Chief Constable G Hamilton: I am not sure about the specific point on the paper, but a lot of this change is being progressed incrementally. For example, the gatekeeper role is largely focused internally within the police to try to get the quality to the right place to make sure that the decision to charge, for example, is the right one, rather than some other form of disposal. It will be better for both the victims and the system as well actually. The gatekeeping role is focused internally. I take your point about how we define that gatekeeper. However, for us, it is about making sure that the quality is there and that we are not letting stuff out of the Police Service and through to the PPS that will have to bounce back because the quality is not there or it was a wrong decision to charge in the first place or, even if it was not wrong, a better decision could have been taken.

Sitting alongside that, because we are not waiting on everything being fixed collectively, we have the parallel progression. In indictable cases, the Public Prosecution Service, while maintaining its independence, comes alongside the police and gets involved at a very early stage in giving prosecutorial advice. Therefore, the quality of the evidence and what the PPS needs to make a decision is shaped by the PPS through the whole investigative process. We do not abdicate our operational responsibility or independence, but you have two systems that cross over. The gatekeeping looks inwards towards the police, and the parallel progression narrows that distance between the police and the PPS while maintaining the integrity and independence of the two organisations.

Mr Lynch: I raised the issue of restorative justice before, and I think that you mentioned it in your document. Do you, all of you, see a role for restorative justice organisations in the youth justice

system? I know that they have been inspected and accredited by the CJI, so they are capable of playing a significant role.

Assistant Chief Constable G Hamilton: One of the key planks of the discretionary and diversionary scheme is use of the community restorative justice initiatives through both Community Restorative Justice Ireland and Northern Ireland Alternatives, which are accredited schemes. That is a valuable option for us in working with young people — it is not always young people, but it is generally young people — and intervening early so that they do not get pulled into the criminal justice system. It allows us to free up our resources to tackle more serious harm and to invest investigative time in those for whom it is appropriate to go through the court system .

Mr Lynch: Finally, a pilot scheme is proposed for one geographical area. Can you provide more evidence on that?

Assistant Chief Constable G Hamilton: Yes. There are a number of pilots going on, but, in that context, the one that you are referring to started off for west Belfast. We have now extended that to north and west Belfast, and the diversionary element — the restorative caution, if you like — will be delivered by the restorative justice agencies on our behalf. The police do their piece, and we get concurrence or direction from the PPS that it is a sensible way to dispose of that case through community restorative justice. The practitioners in the restorative justice schemes, who have had the training and accreditation and so on, then deliver that diversionary disposal. They are probably better equipped than police officers because they have the time and the programmes in place to move beyond a caution into other means of reducing the likelihood of reoffending, for example.

The Chairperson: OK. Thank you very much indeed for your time; it is much appreciated.