



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Extradition Act 2003 and HMIC Report on
Historical Enquiries Team

26 September 2013

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 William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Mr Ford	Minister of Justice
Ms Mandy Morrison	Department of Justice
Ms Louise Warde Hunter	Department of Justice

The Chairperson: I formally welcome the Minister of Justice, David Ford, and his officials, Louise Warde Hunter, head of policing policy and strategy division, and Mandy Morrison, head of legacy branch. The session will be reported by Hansard and published in due course. As always, we are very pleased to have the Minister with us. The Committee has a good working relationship with the Minister. We may not always agree on things, but we can always get down to the detail of information. I appreciate the Minister making himself available to members. Minister, at this stage, I will hand over to you.

Mr Ford (The Minister of Justice): Thank you very much, Chairman, for the welcome. I obviously do not need to introduce the team; I think that you would have known them anyway. I welcome the opportunity to inform the Committee of my response to Her Majesty's Inspectorate of Constabulary's (HMIC) report on the Historical Enquiries Team (HET) and to discuss the forum bar introduction and the changes to aspects of the extradition appeal process. I presume that you wish me to start with the HMIC report.

The Chairperson: Please.

Mr Ford: The Committee is, of course, familiar with the contents of the report and my comments on the day of its publication. At the outset, I should say that I note the distress and grave concern that was caused to victims' families by the findings of the report. I am committed to supporting the Chief

Constable and the Policing Board to restore public confidence in the HET. As you know, I commissioned the report as I wanted to be assured on the adequacy and effectiveness of the HET. I am extremely grateful to the inspectorate and the staff of HMIC for conducting a thorough and detailed review and providing a clear report and set of recommendations to improve the work of the HET. I would like to record my appreciation of the very good work provided by Professor Lundy in her reports regarding the HET's work on reviews of investigations involving the Royal Military Police.

The HMIC report highlights some serious issues and significant shortcomings in the way that the HET operates. I welcome the strong response to the report from the Chief Constable and the Policing Board. I recognise that, on the foot of the report, there is significant work to be done to improve the effectiveness of HET procedures, particularly in cases involving military personnel. However, like Steve Otter, I am confident that the HET can be retrieved and can provide a measure of resolution to the families as it was originally established to do. Mr Otter reaffirmed his view to me when I met him last week, informed by his ongoing engagement with the Chief Constable and the Policing Board on the implementation of the report recommendations.

I am aware of the evidence provided by the Chief Constable when he appeared before the Committee last week. I trust that you will have found it useful to be informed of the work that he is progressing, which I very much welcome. My officials and I will continue to support the Chief Constable and the HET as the vital work surrounding the recommendations from this report is implemented and new leadership is put into place. As members of the Committee will know, implementation of the recommendations is essentially a matter for the Chief Constable and the Policing Board, and I respect the operational independence of both. However, I have key responsibilities as the Minister of the sponsoring Department to ensure that the appropriate governance structures are in place and to be assured that the HET is fit for purpose.

Following publication of the report, I held separate meetings with the Chief Constable and the chair and the chief executive of the Policing Board to discuss the report and its findings. I am assured that the necessary work is being taken forward to enhance the HET's processes and structures. At those meetings, I discussed the respective roles of the Chief Constable and the Policing Board in implementing the recommendations, together with my role in my Department. As you are aware, the Policing Board, in its role to secure the maintenance, effectiveness and efficiency of the police and for holding the Chief Constable to account, has established a working group to examine and consider the implementation of the recommendations. I note the level of concern expressed across the Policing Board at the report's findings. However, I am extremely heartened by the high level of cross-party support in dealing with this challenging issue. I also welcome the broad consensus among all Policing Board members that the HET can be fixed and public confidence secured, and that the Policing Board shares a common interest in addressing concerns about governance and accountability arrangements of the HET.

The working group has already met with Steve Otter, the Chief Constable, Professor Lundy and some of the families affected. Officials from my Department have established an appropriate oversight mechanism for the Policing Board's work on the HMIC report by including this issue as a standing agenda item on Department of Justice (DOJ) and Policing Board engagement and governance meetings. In addition, I have accepted an invitation from the board to meet monthly with the chairperson, in order to be kept updated directly on the deliberations and progress by the working group. The first meeting is to be held on 16 October with Anne Connolly, along with the chair and vice-chair of the working group and the board's director of policy.

I note that the PSNI is also working on an implementation plan for the report's recommendations. Cases have been suspended and no further review summary reports will be finalised until the Chief Constable is content with the procedures and approach of the HET. The future will not be without its challenges, particularly with regard to any greater police involvement in the work of the HET and the officer resource implications. I note, too, the importance of establishing a clear, shared understanding of the future role of the HET.

As members are aware, the role of the HET has evolved over time and achieving consensus with the Policing Board as to its future role is crucial. The backdrop to this, of course, is the all-party working group under Richard Haass's chairmanship, which will look to consider, among other matters, how we deal with the past in a way that is fair, just, inclusive and sensitive. As I have stated on many occasions, dealing with the past goes well beyond the justice system but has an enormous impact on it. The responsibility for dealing with the past requires engagement right across government, including the Office of the First Minister and deputy First Minister and the Secretary of State for Northern Ireland.

Members will also be aware that the report raises matters regarding non-compliance with the European Convention on Human Rights (ECHR) and notes that all HET reviews should meet the four requirements of independence, effectiveness, promptness, and transparency and accountability of an article 2-compliant investigation. As you know, on its establishment, the HET was not intended in itself to be an article 2 ECHR investigative mechanism; it was one measure in a package of measures designed to address the courts' findings in the McKerr case. This has been formally acknowledged by the Committee of Ministers, as detailed in the HMIC report at page 89. However, I fully accept that the identified shortcomings regarding the HET's process raises concerns as to how effective the HET is when taken together with the other measures in meeting the UK's ECHR obligations. I know that this is one of a number of areas where the Chief Constable and the Policing Board are working closely to ensure that the HET moves forward producing the best quality work within the resources available from the Chief Constable.

If members are content, Chair, I will make some brief comments on the 2013 changes to the Extradition Act. As you know, extradition is an excepted matter. Northern Ireland Ministers have no role in extradition cases. I think that it is important that the extradition process here is the same as in England and Wales. This view is supported by the PSNI, the Public Prosecution Service and the Crown Solicitor for Northern Ireland. Not to have agreed to the commencement of the clauses would leave the Home Secretary with a quasi-judicial role in some extradition cases in Northern Ireland that she does not now have in England and Wales. I would stress that it is right that extradition should be a judicial function without any unnecessary political interference. I can assure you that there is no diminution in the consideration of an individual's human rights in extradition cases by applying these changes in Northern Ireland. I would argue that such matters are best considered by the courts and not the Home Secretary. The courts will now have the opportunity to do that and to consider late appeals, including those on the grounds of human rights.

Many of the Home Secretary's functions on extradition are devolved to Scottish Ministers. It is for Scottish Ministers to decide on the introduction of the forum bar in Scotland. They have chosen not to do so at the moment. I am sorry that there was no time before recess to consult in a more timely way with the Committee. The legislative timetable was set by the Home Secretary, who wants this legislation in place as soon as the necessary preparatory arrangements can be made. I hope that the Committee will agree that the proposals provide extra protections to those who are the subject of extradition proceedings. The proposals provide added protection to UK citizens to ensure that they are not sent abroad to face charges that would be better dealt with in the UK. The process will also be court-led and more transparent. I fully support extradition, and, in my view, the proposals strengthen the extradition process.

That concludes my opening remarks. I am happy to take any questions.

The Chairperson: Thank you very much, Minister. We will deal with the HET first, members, and then I will come to anyone who wants to raise the issue of extradition.

What disappoints me a little about the report is the focus on article 2 compliance. The report is not a good report for the HET, full stop. There has been a focus on how it looked at the differential between who the HET said were terrorists and those who worked for the state. When you look at what the report says about general governance, a lack of a clear and accessible complaints process and how different teams seemed to operate under different practices, you see that it is not a good report for the organisation.

I accept the recommendations on what needs to be done to make it a proper, functioning body that is fit for purpose. What does concern me is that the HET indicated that it will go from 40 to 30 cases a month and is looking at whether that should be 20 a month. There is a time frame for when that work was to be completed. Are we any clearer about how many cases the HET plans to operate and the implications of that on the resources available to it?

Mr Ford: I take the point you make, Chair. The fundamental issue is to ensure that the resources are adequate for each case to be done properly, and that has implications for the number that can be done at any time. I am not sure that the Department has, as yet, any more detailed analysis of its expectations of the work rate. I propose to discuss that when I meet the chair of the Policing Board in the middle of next month. That is the sort of issue that needs to be followed through on governance and accountability. The resourcing issue for the HET will be crucial as we look to the coming months and years.

The Chairperson: It is clear that some families feel that they have benefited from the HET. It is important that a public commitment is made that the HET will complete all its work, whatever resources it requires. It would be grossly unfair to those who have not received a report if it did not. Will that be done by making sure that the resources will be available for it to complete its work?

Mr Ford: The difficulty is that the commitment was previously given that the resources would be made available and the resources currently allocated to the HET were believed to be adequate. We are not sure at this stage what additional resources may be required, so it is difficult for me to give an open-ended commitment as to how much is required in personnel or funding for what period of time. However, I recognise that there is a real issue to ensure that the HET does the work that it was given to do properly for each family that has not yet received a report.

Ms Mandy Morrison (Department of Justice): On a point of detail, the Minister approved a business case in April this year for resources for the next two years to deliver 30 cases a month. We had concerns at that time about the HET being able to achieve that, so we put monitoring arrangements in place. They have been falling just short of that in what they have been achieving. Recommendation 11 in the report is for the HET to do a reassessment, so we are waiting for them to come forward with that detail in looking at revising and reviewing the business case that is already approved until the end of March 2015.

Ms Louise Warde Hunter (Department of Justice): Resourcing the HET is part and parcel of the overall PSNI budget. In terms of the planning being taken forward, the Minister has invited his own officials, the PSNI and the board to work together.

The Chairperson: Do you have a time frame for when the Minister will be able to say that the HET is fit for purpose?

Mr Ford: The only answer I can give is to give you an analogy of what happened when concerns were raised about the Office of the Police Ombudsman. It is very difficult to say that everything will be fit for purpose by a particular date. The important commitment is to say that work will resume when everything is fit for purpose, and that will be done as speedily as possible. The important thing that was demonstrated by the ombudsman's issue was to ensure that we got things right and then resumed work.

The Chairperson: At what point would you anticipate a follow-up report being carried out to make sure that HMIC is satisfied, or is that something that has not been considered?

Mr Ford: We have not gone into the detail of that. However, I suspect that HMIC and, possibly, the Criminal Justice Inspection Northern Ireland (CJINI) will look at that work when work has been resumed, or will even do a validation exercise — again, as was done for the ombudsman's office — as work is about to resume. You would do one or two cases in trial and check how that has been done. I need to be careful that I am not seen to be interfering with the operational issues around here, and that work has to be done in cooperation with the Policing Board.

Mr A Maginness: I thank the Minister for his statement and documentation. There is no doubt that HET has taken a very serious hit and is a damaged organisation in the eyes of at least some members of the public, if not broader than that. How can you reassure the public that that damage has been repaired and that HET can continue with its work? Up until the report, a lot of people, certainly in the community that I feel was most affected by those reports, were impressed with its work and drew a lot of satisfaction from the good work that it did. However, damage has been done and people who, perhaps, hitherto had been satisfied might express the view that the reports that they received were flawed.

Mr Ford: Clearly, it is a concern for all of us that what was previously seen as good work may now not be seen in that way. I am not sure whether Louise or Mandy have any particular stats; I have not seen any significant reporting of those who had previously expressed satisfaction with the work that we had done on their behalf by HET now expressing dissatisfaction. We may have some information on that. The crucial issue is to recognise that, in many cases, the work was done well. The difficulty is that people may be worried as to whether their case was done badly but they thought that it was done well. That is part of the issue of getting the follow-up work done correctly to ensure that we have the HET fully fit for purpose, and to ensure that whatever external validation is required, whether that be CJINI or HMIC, is carried out so that we can show that the recommendations that were accepted have been

implemented and that we have a body that is functioning in the way that it was intended to function. However, we have to recognise that there will always be certain limitations and that HET alone cannot solve all of those problems.

Mr A Maginness: Are we at a position where a new senior management team is in place and can be regarded as a confident team of people to deal with HET?

Mr Ford: Members will be aware of the changes at senior level that are going through at the moment. Whether people have confidence in the new senior management is not for me to say in advance, but I believe that the Chief Constable has taken robust action to ensure that there is a new leadership. However, it may well require that external validation to satisfy people. I am not sure whether the Minister saying that everything is well would necessarily be persuasive in this society.

Mr A Maginness: I have one final point, Chair, with your indulgence. Will an independent oversight panel be established?

Mr Ford: Sorry, which —

Mr A Maginness: It is recommendation 10.

Mr Ford: That is the work being done within the board by the specialist working group of the board. That, I believe, is independent. It is not completely outside of existing structures; it is the ongoing work of the board and the specific panel that it set up, under the chairmanship of Brice Dickson. That is the key point. It is the board that I will be meeting, along with the chair.

Mr A Maginness: You are satisfied that that can provide the independence that is necessary?

Mr Ford: I believe that the board has shown that it has provided robust, independent views on a lot of policing matters, and I believe that that is the right forum to address those issues. Clearly, we also have issues to relate to that work in terms of the Department's role in governance, but it is for the board to take the lead.

Mr Elliott: Thanks very much for that. I am conscious that the delivery of reports by HET has now stopped or been suspended. Can you give me any update on that situation and when you expect those to recommence?

Mr Ford: The answer to that, as I said earlier, is that it is very difficult at this stage to give a specific timescale. I will certainly explore that when I meet the board in a couple of weeks' time, but we need to ensure that, when the work resumes, it is robust, has been appropriately assessed and stands up so as to provide confidence. Although we all regret any delay, a delay of a short time to ensure that the work is seen as satisfactory is, I believe, better than rushing to resume work if people still have doubts.

Mr Elliott: Will that issue, or, indeed, that aspect of this investigation, have any impact on reports that have already been delivered in the past number of years?

Mr Ford: As I said to Alban Maginness, I have not seen any sign of a significant number of people who have previously expressed that they were content with the reports suggesting otherwise now. We do not know how people will respond, and part of the purpose of reviewing is to see which reports need to be re-examined. It does appear that we are talking about a relatively narrow group of reports about which concerns have been raised, and much of the work that has been done has not fallen within that narrow category and has achieved satisfaction for relatives.

Mr Elliott: My point may be slightly more expanded. There may be a number of families who may not have been content with the reports, but who fall outside the remit of the HMIC report. They may not be satisfied and may be asking for further clarification or, indeed, investigations of how the review was carried out on their loved ones.

Mr Ford: I accept that that may be the case. What I am saying is that I have not at this stage seen any significant evidence that it is the case. Clearly, we are talking about many hundreds of individual families, each of which — indeed, different members of individual families — may take different views.

Mr Elliott: Will there be any review in your Department of the HET and the issue of some personnel who have either felt that they were forced out of the HET or were dismissed from the organisation in recent years? Will there be any review of that situation dependent on this report?

Mr Ford: I do not think that is a function of my Department, unless I am advised differently. I think that would be getting too close to the operational issues and the staffing decisions of the Chief Constable.

Mr Elliott: On that point, what role does the Policing Board have in that?

Mr Ford: On that particular point?

Mr Elliott: Yes.

Ms Warde Hunter: Sorry, Mr Elliott, do you mean in terms of having an oversight and holding the Chief Constable to account on how he is taking forward personnel issues?

Mr Elliott: Yes. Sorry, for clarification, I am assuming that the personnel in the HET come under the same remit as the personnel in the Police Service.

Ms Warde Hunter: They are meant to be part of the PSNI, and, therefore, if the board had a concern, it could invite the Chief Constable to comment on that through its normal governance procedures.

Mr Elliott: Finally, can you tell me why the report was commissioned with such a narrow remit and was looking only at investigations and how interviews were carried out with former military personnel between 1970 and 1973? Why was the remit that narrow?

Mr Ford: That was the specific key issue raised. The recommendations go wider than that specific remit, but that was the area of concern. It would have been very difficult to ask HMIC to look at everything that the HET had done in all cases. There had to be a degree of focus, but the recommendations relate to good practice on a wider front.

Mr Elliott: If a number of questions, queries or concerns arise around investigations or reviews that were carried out outside that remit, and those had a focus, would you be prepared to have a further investigation?

Mr Ford: It would be a question of the extent to which those concerns were covered by the breadth of the recommendations, going beyond the immediate focus. If there appeared to be significant issues of concern that went well outside the contents of the report, we would have to look at that again. However, without having specific examples, I find it quite difficult to think of things that could arise that are not covered by what is actually a very broad base set of recommendations, even though the focus of the inquiry was on that relatively narrow range of cases.

Mr Elliott: I clearly do not want to get into specifics, Chair. However, there may be other issues that have a specific focus and involve a number of individual cases.

Mr Ford: Tom, if there are specific issues that you or any other member of the Committee want to come and discuss with me outside the Committee, I will happily talk to you about those.

Mr McCartney: Some of this might follow on from the points that Tom Elliott made. The Chair described how the organisation did not get a good review. People are now trying to both make it fit for purpose and restore public confidence. It would be interesting to know what role the Department has in that. I know that some of these matters are operational, but what role will the Department be allowed? I will be guided in my further remarks by your answer to that question.

Mr Ford: There is a promise. *[Laughter.]* The narrow answer is that the Department has a very limited role. We do not have recommendations directed at us for significant work to be done by the Department. However, the wider issues of governance and accountability are clearly matters for us. That is why we have set up the regular meeting with the board. The board, and specifically its working party, are the key people in looking at the implementation of the recommendations. We, as a Department, can then engage with the board. However, we would be on dangerous ground if we adopted a role beyond that of cooperating with the work of the board.

Mr McCartney: Tom talked about the investigations from 1970 to 1973. One of the key issues is that those were all handled by the Royal Military Police. In a subsequent case, the Lord Chief Justice questioned the legal basis on which that was done. In other words, the RUC, which was the investigating authority, had no role in the investigations of these killings. The HET did the same type of review of the investigations and made practically the same mistakes, as those cases were treated differently from the rest. That is the core of the problem, and it is about how you fix that. Last week, a number of families, through the Pat Finucane Centre, said that they will find it difficult to work with whatever new structure comes in the future. Dealing with that will be part of trying to build up public confidence.

My main concern in relation to the Department's role — for want of a better word — generally is that a lot of problems that are flagged up are either ignored or relegated. Then, a second report substantiates the first report, and we all find that we have to do a piece of work. We see that not just in the Justice Department but in a whole lot of other areas of government. Professor Lundy's report flagged these things up, but it was not acted on. In fairness, the Policing Board has done good work because there was a degree of resistance to her report; indeed, there was more than resistance. The Policing Board insisted that the inspectorate should do a report, but it came up with practically the same findings. How do we avoid that type of situation in the future, as we restore public confidence, and ensure that we do not ignore red flags, so to speak, and then find, two or three years later, that the red flags should have been spotted earlier?

Mr Ford: You raise a fundamental issue about the system of government in general. Where are we now with the HET? There has been a high level of public scrutiny, and I commissioned a report from HMIC on the back of the concerns that were expressed. We have now resolved to implement the recommendations of the HMIC report, and the board is setting up a special working group with an arrangement for me to have a monthly meeting with the chair and any other representative of the working group. I do not normally do that on Policing Board business, although I do everything else. That is all an indication that the matter is being taken seriously and will be looked at in detail to ensure that we have enough scrutiny to get public confidence back. There is maybe an analogy with the ombudsman's office. I am aware of the comments from the families associated through the Pat Finucane Centre. I hope that we will be able to persuade people that the systems have changed and that work is being robustly done and properly validated in a way that will mean that confidence will be restored. However, it will clearly be difficult for some people. Frankly, we are yet again depending on the HET to deal with problems that go significantly beyond pure policing matters, and that is part of the general problem that we have to address.

Mr McCartney: In hindsight, or if we were faced with a similar situation in the future — this goes for any Department — should Professor Lundy's report have been acted on earlier?

Mr Ford: I will not go back with the benefit of hindsight and start cross-questioning that, but we have a reasonable record in recent years that, when issues have been raised, they have been properly carried through by this Department. However, it is always a challenge to ensure that you have the resources and the focus to take note of significant reports and ensure that they are followed through.

Mr McCartney: I accept that hindsight is a wonderful thing, but —

Mr Ford: Some barristers have 20/20 hindsight.

Mr McCartney: I would say so. Other issues are unfolding around us, and at times it might be frustrating for people who put effort into compiling a report to point out issues to the public and to us all to find that they are ignored and then discover 18 months or two years later that what they said was right. We asked for it to be done; it is not as if someone decided to look at the HET and do a report as an academic exercise. They were asked to do and did it, and then their findings are not blessed — for want of a better word — and are ignored. However, two or three years later, we find that another body does exactly the same report and comes up with practically the same findings, and we are then left to try to build up public confidence. That is compounded by the fact that there were two reports. That is the obvious conclusion. Public confidence has been damaged, not so much because of how the HET was structured in the first instance, but because we were already warned and, in the main, ignored the warnings. Other people did not ignore them, but they were ignored statutorily.

Mr Ford: One of the senior representatives of the justice system talked at a meeting yesterday about work being done to initiate a review of current practice and said, "I hope we will be made uncomfortable". There is a mood across the system. I cannot entirely say what it was like a few years

ago, but we have a justice system now in which we are prepared to look at problems and face up to them at an early stage.

Mr McCartney: I want to ask about article 2 compliance. You said that it was one measure in a package, which it obviously was, but it was presented to the court as almost an equal partner or an equal measure. Now that it is no longer as robust as was intended or suggested to the court, can work be done to ensure that article 2 is being complied with?

Mr Ford: Looking back at the establishment of the HET, Hugh Orde recently referred to its limited abilities; I am not sure whether we have the quote with us. It is a fundamental issue. Article 2 requires investigations to be timely, but it is difficult to conduct timely investigations when you start only 25, 30 or 40 years after an event. No matter how perfect the system is now, it could not be compliant with article 2. We have to seek to deal with issues as best we can and get a proper set of measures. We are now trying to fix the errors of 30 and 40 years ago, so we simply cannot do things in a timely way.

Mr McCartney: Timeliness is one aspect, but the big issue is independence. It is accepted by most people that, with this set of cases in particular, it was improper, wrong, illegal — whatever word people want to use.

Mr Ford: Steve Otter used adequate words.

Mr McCartney: The cases were handed over by the investigating authority to the Royal Military Police (RMP), and a Lord Chief Justice said that there was no legal basis to do that. So if the HET was part of the process addressing that and is no longer as rigorous and robust, you can see why one leg of the stool, so to speak, around article 2 compliance is severely undermined.

Mr Ford: I can accept that. We would then be making matters worse if the HET was not showing proper independence in the way that it investigated those RMP cases.

Ms McCorley: Go raibh maith agat, a Chathaoirleach. Thanks for the presentation. I want to comment in a similar vein to others. It is about the confidence of families who have been affected by their involvement with the HET in that their expectations were raised, only for the reports to come out and all that has been revealed. The recommendations are very clear, and it is good that they are being supported and that the Policing Board's working group is working on them and consulting with the families. It is important that the people who were involved are consulted. Very often, people do not see their views reflected in the outcomes of a consultation process. I come from west Belfast and represent that community, where people have been affected by state killings, and I want to know whether you support the view that the consultation should be comprehensive so that families will see their views reflected in any published report. I know that you are not involved in that work, but do you support that view?

Mr Ford: The recommendations make it clear that we need to ensure that the HET is fixed in a way that works and that we restore public confidence on the back of that, so we have to do that. The difficulty is that we cannot guarantee that any one family or even some members of families will be satisfied. All that we can do, through the work that is being led by the board and supported by the Department, is our best to ensure that we provide a basis under which people should be satisfied. I recognise that, in these difficult circumstances, we cannot guarantee that that will be the case for everyone. We have only to look, for example, to the outcome of the Saville inquiry, and there is no doubt that there were differing views among the families of the victims on the outcome. That is a reality of life in such painful circumstances.

Ms McCorley: Do you agree that public confidence is paramount in this case, given the current level of public confidence. It probably could not be lower.

Mr Ford: I am not sure that it is quite right to say that it could not be lower, but it is very low. People were given heart by the report and still accept that it was a useful investigation. It is important to restore public confidence, but it is difficult to say that that means that the entire community will have confidence because different people have different circumstances. I believe that we have shown that we can undertake work that can restore confidence in general in some of the institutions dealing with some of the most difficult issues of the past 40 years.

The Chairperson: No other members wish to speak on this issue. Thank you, Minister.

Can you clarify a few points on extradition? The Home Secretary is going to bring through legislative proposals. Does that adequately address the fact that the Government are opting out of the EU position? Will what she is doing address some of our concerns about the process?

Mr Ford: We are talking about two slightly different areas. I am not here as an apologist for the Home Secretary. It is on the record that I share the Committee's concerns. I think that the changes that are being made to this aspect of the extradition legislation will not have any effect on the negotiations with the EU and the other member states about opting back into the European arrest warrant (EAW). Although modifications are being made at a UK level to the detail on the way in which the warrant would apply, they mirror the position in some other states. I think that Germany and Ireland have similar restrictions to that which is being proposed at Westminster. I do not think that that should make matters any more difficult. However, I remain concerned about ensuring that, on European arrest warrants, we do not have a gap and that we have a joined-up system.

The Chairperson: You believe that, as things stand, that gap is being closed and that, with the progress being made, there should not be a gap?

Mr Ford: I am not sure what will happen in the other 27 member states. I hope to be at the meeting of the Justice and Home Affairs Council meeting in December. Certainly, with any opportunity that I get to speak to representatives of the other states, I will stress the importance of getting the issue of European arrest warrants stitched up. Home Office Ministers believe that there is general agreement that the UK should be able to opt back into that fairly speedily. That is my biggest concern because of the real importance of the EAW in North/South matters.

I have just been given statistics. This year, the European arrest warrant has been used 20 times on a South-to-North basis. That shows how significant it is.

The Chairperson: Did you indicate earlier that Scotland is not on board with the Home Secretary's proposals?

Mr Ford: Extradition powers — this is a point on which I may have to look rapidly to one side or the other — have been devolved to Scotland. Some of you may recall the case of a gentleman who went from Scotland to Libya a few years ago. The Scottish Government are not in the same position as us, and at this stage they are not introducing a forum bar. I am not sure why that is, because it seems logical to me that in the small number of cases in which other countries seek to use extradition for what are relatively petty offences, there are strong reasons for assessing the proportionality. I am not sure why the Scots are not doing that. However, the position is that they have extradition powers devolved to them, and we do not.

Ms McCorley: Go raibh maith agat, a Chathaoirleach. My questions are along the same lines. If there is a time lapse before the new EAW, with the 30 new measures that are being talked about, is introduced, what implications do you think that will have? I am talking about that in the context of our particular circumstances. We have been talking this week about human trafficking and child exploitation. A time lapse could have very serious implications.

Mr Ford: Indeed. The reality is that, for a variety of historical reasons, extradition between the Republic and the UK was difficult until the European arrest warrant came into place. It is not an issue at all now. I will read out the figures. This year, 20 arrest warrants have been executed to bring suspects back to Northern Ireland from the Republic. Two of those were for sexual offences; two were for burglary; three were for theft; three were for fraud; one was for rape; one was for handling; one was for murder; two were for grievous bodily harm; one was for drugs; one was for robbery; and three were for fuel laundering. Those are serious crimes that we need to ensure we are able to address. For obvious geographical reasons, North/South extradition is much more significant to us than extradition elsewhere in Europe. The legislation no longer exists in Dublin, so if the European arrest warrant was not there, none of those extraditions could happen. We are not talking about the proverbial theft of a Mars bar; these are very serious offences. I should say that, in the same time period, there have been eight extraditions from Northern Ireland to the Republic under the same arrest warrant procedure. So I am very concerned about any prospect of any gap at all.

The Chairperson: Does the Home Secretary fully understand the gravity of the position here?

Mr Ford: I expressed my concerns to the Home Secretary and junior Ministers in the Home Office on every available occasion. I should be cautious but I fear that, at times, officials in the Home Office seem to think that their only concerns are within England and Wales. They do not recognise some of the issues affecting Northern Ireland and Scotland. In particular, they do not recognise the issue of the land border and our specific issues with that.

One measure that they are not prepared to opt back into is mutual recognition of probation. Maybe we could set up a specific arrangement with the Irish authorities for mutual recognition of probation, North/South. We want that because someone can quite legitimately move back and forth between Strabane and Lifford. However, when I raised that as a specific issue, which I would have thought was a relatively straightforward matter and had benefits throughout, I was told by James Brokenshire, the junior Minister, at our last meeting that the list to opt back in was fixed. I find that very disappointing. Maybe we can fix that ourselves, but it is really disappointing when a perfectly good operating measure is being lost because decisions in Westminster take no account of the unique nature of this region.

The Chairperson: Is there anything that we can do to assist beyond, obviously, writing to the Home Secretary conveying our full support for what you are trying to achieve?

Mr Ford: I am always delighted when the Committee backs me up, Chair. *[Laughter.]* I would welcome it if the Committee felt so inclined to write to the Home Secretary, but I believe that its practical effect would be very limited. However, I appreciate the offer because it is important that when we share that common view — I know that Alan Shatter and his officials expressed similar views directly to the Home Secretary that these are problems — I will certainly use my lobbying opportunities through the European institutions. Specifically what the list is, however, is an issue purely for the Home Secretary.

The Chairperson: Minister and your team, thank you very much for coming to the Committee. It is much appreciated.

Mr Ford: Thank you. We shall leave before your marathon session begins.

The Chairperson: Hopefully not today.