



Northern Ireland
Assembly

Public Accounts Committee

OFFICIAL REPORT (Hansard)

Report of the Comptroller and Auditor General to the
Assembly on the Northern Ireland Courts and
Tribunals Service (NICTS) Trust Statement 2012-13:
NICTS, PSNI, DOJ

22 October 2014

NORTHERN IRELAND ASSEMBLY

Public Accounts Committee

Report of the Comptroller and Auditor General to the Assembly on the Northern
Ireland Courts and Tribunals Service (NICTS) Trust Statement 2012-13:
NICTS, PSNI, DOJ

22 October 2014

Members present for all or part of the proceedings:

Ms Michaela Boyle (Chairperson)
Mr Roy Beggs
Mr Trevor Clarke
Mr Alex Easton
Mr Paul Girvan
Mr Daithí McKay
Mr Adrian McQuillan
Mr Seán Rogers

Witnesses:

Mr David Lavery	Department of Justice
Mr Nick Perry	Department of Justice
Ms Jacqui Durkin	Northern Ireland Courts and Tribunals Service
Assistant Chief Constable Mark Hamilton	Police Service of Northern Ireland

In attendance:

Mr Kieran Donnelly	Comptroller and Auditor General
Mr Jack Layberry	Treasury Officer of Accounts

The Chairperson (Ms Boyle): Thank you all for coming today. There are no declarations of interest. We have with us today Mr Nick Perry, the accounting officer in the Department of Justice; Mr Mark Hamilton, the PSNI's Assistant Chief Constable; Mr David Lavery, the director of access to justice from the Department of Justice; Ms Jacqui Durkin, who is former chief executive of the Courts and Tribunals Service; Kieran Donnelly, who is the Comptroller and Auditor General; and Mr Jack Layberry, who is the Treasury officer of accounts in the Department of Finance and Personnel. Members, you will find the biographies of all our witnesses on pages 23 to 27 of your pack.

Thank you for joining us today. You are all very welcome to our Committee. Mr Perry, I believe that you wish to make an opening statement by way of context for this evidence session. I invite you to do so.

Mr Nick Perry (Department of Justice): Thank you very much. I will be very brief. I should say at the start that the Department welcomes the findings contained in the audit reports of the 2011-12 and 2012-13 trust statements. The statements highlight operational and policy issues that we have been dealing with as we work to improve fine collection and enforcement. There are weaknesses in our

current system, and I acknowledge that, but we are working hard to overcome them. Effective fine collection and enforcement is strategically important to the Minister and the Department. The imposition of fines is a core part of the justice system and will remain so. Our clearance rates here are comparable to those in other jurisdictions. We completely accept the points in the Northern Ireland Audit Office (NIAO) reports and from Criminal Justice Inspection Northern Ireland (CJINI) that police-led fine enforcement, while relatively effective, is not an efficient use of policing resources and that the use of imprisonment, except in extreme cases, is not an appropriate sanction for the fine defaulter or a good use of Prison Service resources.

Against that backdrop, in 2012, David Ford announced his intention to change the system fundamentally. The Department has, therefore, been working in partnership with PSNI, courts and others to establish a system that encourages payment and deals with default in a more flexible and innovative way. A key element will be a new fine collection and enforcement service. We estimate that the new arrangements will increase payments prior to default hearing by at least 30%, reduce the number of enforcement warrants going to the police by over 90% and reduce prison admissions by 80%. Our intention, subject to Executive approval, is to introduce the necessary legislation next year for enactment during the current Assembly mandate. We stand ready to assist the Committee in any way we can.

The Chairperson (Ms Boyle): Thank you, Mr Perry. I will start the session by making some opening remarks and asking the Department of Justice representatives a few general questions. I refer to your letter of 15 October regarding today's evidence session. As outlined in your letter, I appreciate that you cannot go into the specifics of the ongoing suspected fraud case, and I acknowledge that you have given an undertaking to provide further evidence to the Committee in person or in writing upon conclusion of the court proceedings. The Committee welcomes that undertaking. However, in the meantime, can you comment in more general terms on the lack of control over cash collections that the case has thrown up?

Mr Perry: Yes, Chair. Obviously, the identification of the number of issues in the PSNI is a matter of concern to me as the accounting officer. Those issues were identified, as the Committee may be aware, and the audit report brings out, by internal processes, by a reconciliation exercise between the Court Service and the PSNI and by investigation by the PSNI, including by its internal audit service. So, there were weaknesses. The governance arrangements identified some of those arrangements, and the police have taken steps to strengthen the controls in place. I am sure that Mark can provide further detail later, if you wish.

The Chairperson (Ms Boyle): The value of outstanding fines to be recovered is £19 million. That is a significant balance and is one and a half times the total value of fines imposed in 2012-13. It would take a lot of fines to make up that £19 million. Can you explain why the value of fines outstanding is so high? How did we get ourselves in this position?

Mr Perry: I completely recognise the point that you are making. That level of debt is high. As the audit report brings out, of the £19 million that was outstanding at that snapshot on 31 March 2013, around £6.5 million or 34% was not yet overdue. You would expect in any fine enforcement system or any system of this kind that there will always be cases going through the system that have not yet reached their default date, but there is a total there of £11 million that is outstanding. That is a situation that has built up over a number of years. We are still hopeful that a relatively high proportion of that debt will be recovered. The trust statement refers to an impairment figure of £6.5 million, I think, which is the figure that is suspected will not be recovered in full in monetary terms, but we hope that about £2.5 million of that will be discharged in other ways, by imprisonment or by the court remitting the fine. The overall figure is a large one; in fact, some of it has not yet reached its payment date. Some of it is being paid off in instalments, and of the remainder we still hope, if not to recover the full value in cash terms, for a significant proportion of that to be recovered through imposing the sanction that the court intended.

The Chairperson (Ms Boyle): It is difficult to get a handle on how much the fine enforcement system actually costs. That said, there are obviously costs associated with the NICTS's time and the PSNI's time, default hearings and Prison Service's costs also. Can a total annual cost be provided? Is anyone costing this archaic system?

Mr Perry: I will speak generally to that, and then Jacqui will come in. The cost of the system as it ran until March 2013 was around £3.3million a year, and a great proportion of that was taken up in police time. The system that we have at the moment, which is a transitional one following the ruling of the

divisional court in March 2013, costs an estimated £2.8 million a year. An element of that is an increased cost to the Court Service and to legal aid, but a reduced burden on the police as a result of a reduced number of warrants. In the new arrangements, we hope, by around the end of 2016, that the cost will fall to around £1.8 million. There is a cost, undoubtedly, to a fine enforcement system, and I hope that that will reduce over time.

The Chairperson (Ms Boyle): Ms Durkin, did you want to add anything to that?

Ms Jacqui Durkin (Northern Ireland Courts and Tribunals Service): I just wanted to add that, on the costs of the fine collection scheme in trying to chase payment of fines, we have found that, through the implementation of the fine collection scheme, of the people who have not paid their fine by the due date, a further third of those will pay up to the fines collection scheme if they are reminded to pay. That costs approximately £240,000 a year to administer. Obviously, the routine collection and payment and accounting tasks associated with accounting for fines is built within the budget of the Courts and Tribunals Service, but specifically, in relation to pre-enforcement or enforcement activity, the fines collections scheme in the Courts and Tribunal Service would be an indicator of how much the costs are to the service.

The Chairperson (Ms Boyle): I will not dwell on that, because I know that other Members wish to follow that line of questioning.

It is clear, however, that urgent reform is required as the current system is not fit for purpose, so, given consultation on fine collections that date back to 2008, why has reform not been taken forward as a matter of urgency?

Mr Perry: A good deal of urgency has gone into trying to bring around reform. Justice was devolved, as you know, in 2010. In 2011, a public consultation proposing significant reform to the fine system was issued and that reflected some of the recommendations in the CJINI report of 2010. In 2012, the Minister made his announcement that he was minded to bring in fundamental reform.

Two years on, we have turned that concept into a detailed operational model, which we have costed, and we are working urgently on the legislation. We are not quite as far on as we would have wished, and there are a couple of reasons for that. One is the complexity of the DOJ's legislative programme. We had hoped to include these provisions in what we call the faster, fairer justice Bill, which is now being considered by the Justice Committee, but that just got too unwieldy, and these provisions were taken out to follow on later. The Minister informed the Justice Committee of that in 2013.

In addition, we had the divisional court ruling in March 2013, which raised issues for the operation of the current system, and some urgent work was needed around that, but we have, to prepare the way for future arrangements, been trialling some aspects such as supervised activity orders and doing other things. So, I think that quite a lot of effort is going in to getting a reformed system in place as soon as is practicable.

The Chairperson (Ms Boyle): Thank you. I may come back to that. I will invite members now to follow their own line of questioning.

Mr McQuillan: Thanks, Chair. Ms Durkin, Nick told us that there was £11 million outstanding in debt recovery, but the figure that we have is £12.5 million, so there is £1.5 million discrepancy there somewhere. What is £1.5 million among friends? Nick said that he was hopeful that that would be recovered: how confident are you that this will be recovered?

Ms J Durkin: The figure that was published in the audit report was as at a specific point in time, so it will always move as people pay. It is not a static figure, as such. As to whether I am hopeful that it will be paid —

Mr McQuillan: Nick said that he was hopeful. I asked how confident you were that it would be paid.

Ms J Durkin: Historic trends would suggest that at least 50% of the money due would be paid and a further 10% should be paid through enforcement, but what we have found is that more and more people are seeking to pay their fine through instalment orders. There are almost three times as many people asking for and being granted instalment orders in the year 2012-13 than there were in, say, 2007-08. Every effort is being made to make it as easy as possible for people to pay their fines. They

can pay in person at any court office, they can pay by post or online or over the telephone. What we are trying to do is to look for ways that will encourage as many people as possible to pay their fine.

Mr McQuillan: Are you confident, then?

Ms J Durkin: I am confident that the same level of payers who pay without enforcement activity will hopefully continue to pay.

Mr McQuillan: Thanks for that.

Are the missing warrants going to be reissued or how are we going to get those?

Ms J Durkin: The missing warrants are missing paper warrants. There is no missing record of the warrants. There is an electronic record of the warrants, but there is no supporting, physical hard copy of the warrant to support it. Of those 6,682 warrants: 5,276 have been reviewed by district judges in the Magistrate's Court; 1,182 have been sent for a default hearing; 3,862 have been remitted by a judge; 230 are still to be reviewed; and a further two have been queried. Significant progress has been made in identifying the status of those warrants and, where they should be reviewed by a judge, they are being put in front of a judge to review.

Mr McQuillan: How long have you known about these missing warrants?

Ms J Durkin: In 2011-12, we were made aware by PSNI that they could not trace a physical paper warrant to match the electronic record that we had of them.

Mr McQuillan: Why did you not do something about chasing these up sooner rather than leaving it until now?

Ms J Durkin: Since the computer system was implemented in 2006, the Courts and Tribunals Service implemented a computer record for all warrants and knew at that stage how many outstanding warrants we had. With further IT developments in 2009, we were able to share information electronically for the first time in Northern Ireland to get an overview of the number of outstanding warrants for every area in Northern Ireland, so it has been ongoing for some time. We were aware of the level of outstanding warrants and have discussed that with the police at various points and through various fora, such as the Criminal Justice Board.

Mr McQuillan: Mark, we will move on to the police, then: £6.5 million of debt as compared to £1.1 million relating to the missing paper warrants. How have you got to this stage?

Assistant Chief Constable Mark Hamilton (Police Service of Northern Ireland): We are talking about a period from 1981 to 2009, when it was a solely paper-based system. I cannot give you a definitive, single answer as to why this has happened. We feel that there are a number of issues, and Jacqui has outlined how some of those have been broken down. Certainly, over the period that we are talking about, we have to accept that we have physically lost some warrants. For that, I have to accept responsibility. In a paper-based system, where there is a physical transfer of the warrant from the Court Service to the Police Service and they are then distributed out to dozens of different police stations around the Province and then into the hands of different police officers at different times, I have to accept that warrants have gone missing.

I also have to accept that, in the downsizing of the Police Service, as police stations were closed and papers were moved and so forth, there have been administrative errors and failings. Of those missing warrants, the Police Service has no physical record of their existence. The crucial aspect of this is that the Court Service has the record of them, but the Police Service does not for this period of time. I suppose that I am trying to give you a number of suppositions and hypotheses as to where they could be, but I have to accept that, in a paper-based system, there will have been administrative errors. There may have been warrants pinned to the back of other warrants. There may have been warrants that were multiple warrants executed on one person but only one warrant returned. There are any number of reasons that we can point to for the proportion.

To give it some context, we think that the missing warrants that we are estimating are probably less than 0.9% of all the warrants that we dealt with over that 30-year period. That is by no means an excuse, and I am not offering it as an excuse. I am not offering any excuses for any administrative

failings by us, but we accept that there have been failings, but it was in the management of the physical pieces of paper.

Mr McQuillan: What assurance can you give that the cash has not been fraudulently recovered?

Assistant Chief Constable M Hamilton: This is an area where I will struggle to give you a definitive answer. Any cash handling system and any system involving the execution of warrants, particularly going back over the period when controls were different, relies on the trust of those who were operating the system that they did not lose warrants or that they did not execute them and then report them as being lost. I have no specific evidence or intelligence to say that that happened in any systemic way. We have had issues over the years of individual police officers and members of staff who we have investigated for maladministering the warranting process or, on occasions, as we have at the minute, somebody who has been committed for trial on suspicion of a theft.

As someone said to me recently, trust is very good but supervision is better. There are, in any of these systems, unfortunately, the potential for single points of failure. Those single points of failure tend generally to be the human factor. I cannot give you a categorical assurance that, over the period of 1981 to 2009, there had not been a fraud. I have no strong basis to say that there has, but, equally, I completely accept that, from an auditing assurance position, that cannot be guaranteed.

Mr McQuillan: What assurance can you give us now that, from then onwards, it did not take place?

Assistant Chief Constable M Hamilton: First of all, the critical difference post-2009 is that there are no paper warrants. Warrants are transferred electronically to the Police Service. When I was a constable, I took warrants out to people and knocked on their door. That is no longer the case. You just press out a warrant notification form and it prints out. So, we cannot physically lose a warrant any more. Again, I cannot categorically assure you that somebody could not necessarily corrupt the computer system, but there are auditing records in the computer system.

I am the head of anti-corruption for the Police Service, and I can account for every single key stroke on every computer in the Police Service at any time. So, I will know who has done what and where in respect of the warrants. I would like to hope that there is no way that a warrant could go missing. Therefore, that area of potential concern for fraud, I hope, in respect of missing warrants is not going to be a pressing issue going forward. I accept, and the auditors have pointed out to us, that there are other areas around cash handling that continue to present risks, but for missing warrants, and I do not know if Jacqui will think differently about this, I do not feel that that risk is the same as it was pre-2009.

Ms J Durkin: There are certainly tighter controls, as Mark said, around electronic tracing of where the information is, who has access to it and who has been involved in any particular warrant at any point in time. That has strengthened controls in the audit trail around that, but, as Mark said, any cash collection system is inherently risky. It is about the controls that we all have to put in place to minimise the risk of any fraudulent activity occurring.

Mr McQuillan: I have one more question. Nick, figure 1 of the report shows that there is £8.2 million in debt relating to outstanding warrants and that you are only expected to cover £3.1 million, which is 37%. That is not a very good return rate. There is £5.1 million in outstanding warrants: that sends out the wrong message about the potential undermining of the justice system.

Mr Perry: Well, of that £5.1 million, we hope that the equivalent of £2.5 million will be discharged in other ways, mainly through imprisonment or some other sanction or by the court withdrawing the fine. It is still not satisfactory that £2.5 million will not be properly dealt with, but providing some assurance about the effectiveness of the justice system and some disincentive to those who think that they might get away with not paying their fines is an important thing.

Mr McQuillan: Yes, but does that not send that message out?

Mr Perry: I hope not. Our intention is that future arrangements will be better at recovering the actual money, but imposing a sanction on people who have broken the law, as handed down by the court, is the equivalent of something like a 70% imposition rate. I want it to be better, but it is not as bad as it seems.

The Chairperson (Ms Boyle): Just before I let Mr Girvan in, I want to apologise for the noise. There is some disruption going on in the background; some necessary work is being carried out to the roof, so that is what the noise is.

Mr Girvan: On the back of Adrian's query, paragraph 19 of the report states that there is a cost of £3 million to the PSNI for the recovery and the issuing of warrants and collection. Am I to understand that lifting £3.1 million worth of fines costs us £3 million in administering that process through the PSNI? Is that correct?

Mr Perry: No. I am trying to get my head around what the overall figure for police recovery of fines is, but Jacqui may be able to provide that. In any given year, around £12 million in fines are imposed in Northern Ireland. Around half of that is paid without any enforcement action and another 10% of that will be secured through police enforcement.

Mr Girvan: If there is £12 million in fines and roughly £6 million of that is paid directly through the Court Service, that leaves you with £6 million, which is passed over for collection, on many occasions, to the PSNI: is that correct?

Mr Perry: That is correct.

Mr Girvan: And how much do they lift: £3.1 million?

Mr Perry: Perhaps I could ask Jacqui to answer that.

Ms J Durkin: Certainly. I am just checking the figures here —

Assistant Chief Constable M Hamilton: We execute around 22,000 warrants, which would apply to around 10,000 people because most of them are multiple offenders, so to speak. In the last year of full operation, we executed 25,000, so there were 25,000 activities. I do not have the quantum for the value of each of those. Within that, there is a number that go to prison, and it has to be understood that a fair percentage of these are executed outside of prison hours, so 43% of those who are arrested require to be held overnight in a custody suite. The costs increase —

Mr Girvan: A lot of people present themselves at the weekend knowing exactly what will happen: it is discharged because they have presented themselves to the police and the prisons are not taking them. They will be held and maybe get out and that is their charge cleared. It is not an acceptable use.

I am keen to break down this £6 million — I am just using that as a round figure — because what is recovered costs £3 million in police time for administration and delivery. I hate to say it, but there is a strong case being made for changing how this process works for a far more efficient service. I come from the private sector, and let me tell you that, if someone owed me £6 million and I thought that it would cost me £3 million to recover £3 million and I would have nothing at the end, I would not be in business, and nor should a lot of the people who are involved in this. It makes a very strong case for the privatisation of the whole process. It would put civil servants out of work. It is not efficient in the way that it is delivered, and the report does absolutely nothing to help that.

Mr Perry: I completely agree with you. This does not make the best use of police resources, which is why we are changing the system. The future loading on the police will be significantly reduced once the changes have come in, but we will try to get you the actual figure.

Ms J Durkin: I have the figure available now. In 2011-12, £8.4 million was collected on foot of a warrant, and warrants that were —

Mr Girvan: Can I ask what you mean by "on foot of a warrant"? Is that the person coming back down and saying, "Thanks for calling at my door. I will go to the court on Monday morning and pay that"?

Ms J Durkin: No, that is actual money collected by the police on foot of a warrant. Some of it could be paid at the prison. A further £6.1 million was cleared by way of the defendant spending time in prison.

Mr McQuillan: Do you know how much it costs to collect that £6 million? That is what we are trying to get at.

Ms J Durkin: I think that that is what the police are saying.

Assistant Chief Constable M Hamilton: We would describe our opportunity costs as around £3 million a year in police officer time employed in the whole warrant process. That is based on an average of around 22,000 warrants a year. Those are the average figures between 2009 and 2012.

Mr Perry: If I can come in on the back of that, the underlying point here — it is a very fair point — is about cost-effectiveness. The fine system is not primarily about collecting revenue; it is about enforcing the judgement of the court. So, to that extent, in some circumstances it is legitimate to spend more to enforce the sanction than the value that you might get back. There are two parallel requirements here. One is, of course, the proper, cost-effective use of public money. I absolutely accept that it is not a good use of police time to be doing this kind of work; otherwise, why we are changing the system? The other requirement is to make sure that court sanctions are properly imposed, and that goes to the credibility of the justice system, if you like.

Mr Girvan: Decriminalising the payment of TV licences and such like and the way that would be dealt with through —

Mr Perry: Again, I agree with you. That is not a devolved issue, as you aware.

Mr McQuillan: Just to make it clear, does it cost £3 million to collect £6 million? Is that the figure that we are talking about?

Ms J Durkin: No. The police are estimating £3 million a year, and on foot of a warrant collected in 2011-12, the figure was £8.4 million, and £6.1 million was cleared by payments. That means that it was either remitted or a person served time in prison instead of paying the fine that was due.

Mr Perry: The imprisonment part —

Assistant Chief Constable M Hamilton: It is part of the £3 million that we invest, because we arrest them and either take them straight to prison if the prison is open or bring them to a custody suite and hold them and take them to prison the next morning.

Mr David Lavery (Department of Justice): If I can just supplement what Mark said, the important thing is that, when a fine goes into default, the order of the court is that the person should go to prison at that point. They are allowed to pay their fine to avoid going to prison. That is why it is a police job to arrest them and commit them to prison. They can pay the money to the police officer to avoid that happening. They can also pay the money to the prison governor, or their families can pay it, but the order at that point is imprisonment, because that is what the law says. The Minister feels that that is not an appropriate sanction going forward and thinks that more people should pay the fine. So, that is why we will introduce the new system.

To comment on Mr Girvan's point, we tested with the Justice Committee the idea of privatising, but we did not get much encouragement, I have to say. We will try to prepare legislation that will leave that option open, but, at the moment, the intention is that the Court Service would run the new fine collection and enforcement service that we will introduce in 2016. The running costs of the whole system will go down to about £1.8 million.

Mr Girvan: Ultimately, we do not want civil servants to lose their jobs over this issue. That is the important thing. I appreciate that we are trying to ensure that we get value for money as well.

Mr Lavery: I suppose, Mr Girvan, the point is that the Enforcement of Judgments Office, which will run this, is a debt-collecting branch of the Court Service. The police are not really debt collectors; they are about enforcing the law.

Mr Girvan: I think that that is an inappropriate use of police time. I will maybe bring that in on my other point, Chair.

Mr Beggs: The Assistant Chief Constable indicated that it is only in recent years that reliance on a paper warrant has moved on and that electronic information is deemed sufficient. My question is to Nick Perry. For decades now, emails have been equivalent to a written document in law. Why has the justice system been so slow to innovate, modernise and be more efficient to avoid this type of thing, whereby someone who is convicted of an offence gets away scot-free because a bit of paper goes missing? Why are you so slow to innovate and modernise?

Mr Perry: I agree that digitalisation is definitely the way to go for the entire justice system. The development that Mark was referring to was the expansion of the Causeway system in 2009, which encompasses this. The Causeway system is the electronic basis of the justice system now, and it is an effective system. The other major system in play here is the ICOS system used by the Court Service, which is a very effective electronic-based system. So, we are trying to make full use of technology, Mr Beggs. You are quite right; it is an area that we need to develop. In this particular case, the introduction of those technological changes has greatly eased the management of warrants.

Mr Beggs: Why has it been so slow?

Mr Perry: The Causeway system was introduced in the 2000s over a period of four or five years. It was a major investment and is quite a significant success.

Mr Beggs: It was not a success, because it was not interactive with the rest of the justice system.

Mr Perry: It was a success in that it has identified and is helping to cure this particular issue of missing warrants. It has made the transfer of electronic information about warrants round the system a great deal easier. So, there is a platform there to be built on, and it has been relatively successful so far.

Mr Beggs: Are you open to change in the future when it is obvious that change is needed?

Mr Perry: Definitely; we need to enhance digitalisation in the future.

Mr Clarke: One of the things that actually worries me about Nick Perry's response to Roy Beggs is that you have actually got something that is broken at the moment, and one of your changes would be to try to transfer it to privatisation. That concerns me. David's response a few moments ago was that you looked at this with the Justice Committee. In my mind, this report actually says that the PSNI failed. The Assistant Chief Constable talked about the £3 million to provide a service, which you have failed to do, given the amount of money that was collected respectively over a service that cost £3 million. You are talking about transferring the service or looking at another model to transfer the service. Obviously, the service that you have provided or that the police have been providing has not been fit for purpose. You will transfer that function in that state to another organisation when you actually could not deal with it yourselves. Is it because you have continually failed and cannot live up to the challenge of delivering the service yourselves that you are actually going to try to pass it off to someone else to collect these fines?

Mr Lavery: I will happily take Mr Clarke's question. The Minister decided quite early in devolution that sending people to prison when the court said that they should pay a fine was not a satisfactory system going forward and that greater emphasis should be placed on encouraging the payment of the fine or alternative sanctions before imprisonment. Imprisonment will remain a sanction under the new arrangements. Anybody who refuses to pay will still face imprisonment. We will introduce a collection service that will have performance targets to try to recoup a much greater proportion of the outstanding fines.

Mr Clarke: Sorry. I apologise that I missed the start of this, but if I am reading it right, there is £5.1 million of outstanding warrants.

Mr Lavery: Yes.

Mr Clarke: The Assistant Chief Constable said that outstanding warrants cost the service £3 million. There is £5.1 million of outstanding warrants. I presume that those are ones that they have actually not even got round to dealing with yet.

Mr Lavery: I think that all outstanding warrants were recalled in 2013.

Mr Clarke: They were recalled because?

Mr Lavery: You were not here for that part, Mr Clarke. A legal challenge stopped the system dead in March 2013. There was a legal challenge to the way that the courts issued the warrants. We recalled all 36,000 outstanding committal warrants, and we had the judiciary review them. That brought to light that there were a number of warrants, particularly old warrants, that could not be accounted for. That is where this particular number that we are looking at now has come from. We recalled all 36,000 warrants to have them reviewed, because there was a doubt about the legality of the way that they had been issued. It took us about a year to introduce a new procedure, which has been operating since June, and we will be working through the backlog, if you like. That brought to light that there were a number, perhaps a disturbing number, of warrants that were in the system for execution that were not accounted for. At least it has been brought to light, and we will now be able to go through that process. As Nick said, the judiciary has now reviewed the greater proportion of them. Some have gone forward for enforcement, and some have been remitted.

Mr Clarke: On a slight side issue, you talked again in your paper about privatisation. Were you proposing at that time to transfer £3 million for someone to run the service as well?

Mr Lavery: No. We estimate that the new system will cost £1.8 million. We have modelled the cost of the new service. We have included some cost for police enforcement activity, because there will always be a proportion of people who simply will not cooperate, and it is important that the sanction of the court is imposed. However, the greater part of the cost will be the administrative cost borne by the Court Service through its Enforcement of Judgments Office. That enforces civil money judgements, and we are going to build the enforcement of court fines, as well as other penalties and amounts, on that business. We think that that is a much better way of doing it, because we are likely to recoup a much greater proportion of the total amount imposed by the courts each year.

Other sanctions will be available before imprisonment, such as community service-type orders. However, the emphasis will be on getting the money paid that the court has ordered the offender to pay. We will have opportunities to attach their earnings, if they are in employment. We will also have a power to deduct small amounts from benefits over a time, if they are on benefits. We will have powers to effectively freeze a bank account for a period, and we will also have powers available to the court to, for example, seize vehicles if they own a motor vehicle. So, there will be a lot more powers available to get the fine paid. In the final analysis, though, we reckon that there will be a stubborn number of maybe 500 a year who will have to go to prison, and we have costed on that as well.

Mr Rogers: I wanted to pick up a point that Jacqui made. In your opening statement, Jacqui, you said that 60% of people pay their fines on time and that you hoped that that would continue. So, could you break down the other 40% and tell me how many people pay up when a summons is used or make a cash payment when the warrant is issued? What sort of percentage pays at that stage?

Ms J Durkin: For 2012-13, which is the year that we are concentrating on for now, I can tell you that 49,610 fines were imposed and, of those, 24,737 were paid at a value of £5.9 million with no warrant and 2,812 were paid to a value of £426,000 on foot of a warrant. That was the total amount of money that was paid up.

Of warrants and moneys that were paid, either with clear otherwise, which means that a judge has reconsidered the case and remitted the fine imposed, there were 3,244 to a value of £434,000. Those that were cleared otherwise, which means that, after a warrant has issued, it might be unenforceable, because the person was not traceable or they may have died or something of that nature had happened, numbered 2,075 to a value of half a million pounds, and the remainder outstanding at the end of that financial year —

Mr Rogers: So, in answer to the first part of that question, of those 50,000, we are talking about only 50% who paid up.

Ms J Durkin: There is another 10% that will pay once a warrant is issued, in general.

Mr Rogers: What percentage served the prison term?

Assistant Chief Constable M Hamilton: In the year that we are talking about, the Police Service took at least 1,700 people to prison. I do not know what that is as a percentage.

Mr Girvan: There were 49,000.

Mr Lavery: Of the number of prison admissions in 2012, 2,473 people were admitted to prison for not paying a fine.

Mr Perry: Those are receptions. Some people might have been there more than once.

Mr Lavery: Yes, that is right. As Nick said, somebody could turn up on a number of occasions. However, there were 2,473 fine defaulter prison admissions.

Mr Girvan: Could some of those relate to other years?

Mr Lavery: Yes, they could. That is the problem with this.

Mr Rogers: What sort of success criteria is set year on year to try to improve those figures? They are not good.

Ms J Durkin: As I said, there are targets for the fine collection scheme. As you mentioned, 50% of people will pay up without any intervention or pre-enforcement activity. So, once the Courts and Tribunals Service has identified those people who have not paid by the due date, those cases are passed to the fine collection scheme. The fine collection scheme has been successful in getting payments in from another third of the 50% that have been referred to it.

We have had targets in place for some time for the fine collection scheme. It has two specific performance targets. The first is that, after intervention by the fine collection scheme, 16% more debtors should be making payment. The other target is that there will be a 26.5% reduction in the number of warrants issued by the PSNI. Both targets have been consistently achieved or overachieved.

Mr Rogers: So, that is 16%. OK. Thanks.

Ms J Durkin: I should mention that there is also a target on the timeliness of money paid over. Once the Police Service has collected money on foot of a warrant, there is another target in place to say that it should be paid over to the Courts and Tribunals Service within 15 working days.

Mr Rogers: Is 16% a challenging enough target, if only 50% have paid up front?

Ms J Durkin: Historically, we found that there are people who cannot pay and people who will not pay, and there will be a number of people who will persistently avoid paying, no matter what the intervention, even if it is after a police officer has arrived at their door to execute a warrant. So, we certainly have been monitoring the targets, and, as I say, they have resulted in more money being collected, because otherwise, a fine warrant would have been sent to the police for execution.

Mr Rogers: As you review those targets, what strategies are being put in place to reduce the number who will not pay?

Ms J Durkin: If they will not pay, and if they refuse to pay after contact from a fine collection scheme, pre-the recent judicial reviews the next stage would have been to issue a warrant. They would have been told by the fine collection scheme that they must pay up or come to an arrangement to make an instalment order. We have found that, increasingly, fine defaulters will make arrangements to pay by instalment. I think that I mentioned that we have seen a significant rise in the number of instalment orders. So, every effort is made to intervene with that person and to offer them different ways of paying their fine, whether that is straight off or by instalment, so interventions are in place to encourage them to pay. Ultimately, the only current sanction available is that, if they do not pay or engage with the fine collection service, a warrant is issued. Under the new interim system, until the legislation is changed further, they will be recalled for a default hearing so that a judge can consider how many days in prison they should serve for not paying their fine.

Mr McKay: I have a quick supplementary on Seán's question. You said that 2,473 went to prison —

Mr Lavery: That is right — in 2012.

Mr McKay: How many days is that altogether?

Mr Lavery: It depends on the order in the individual case. There is a table in the legislation that specifies the length of imprisonment that you serve according to the amount of fine outstanding. There is sliding scale. I do not have that information with me, but they tend to be short admissions. Those people are in prison for just a very short period. One of the arguments that the Prison Service has is that you cannot do anything constructive with a prisoner who is in for only such a short period; you are really just giving them accommodation.

Mr McKay: It is a short period in each individual case, but if you add all that together, it is a considerable cost. What is the average cost per day in the prison sector?

Mr Lavery: The figures that the Prison Service has given us show that it is surprisingly low. That is probably because those people are not subject to any sort of regime apart from custody and care. Over this period, fine default prison receptions have been around 30% of all prison receptions. If you cannot do anything with the people while they are there, the Minister feels that it would be much better that they pay their fine or do community service or something else worthwhile. Putting somebody in prison for a period of days or over a weekend, as occasionally happens, is, I suppose, symbolically important, because the person has been seen to bear the sanction imposed by the court. However, it does not achieve very much.

Mr Perry: That cost to the Prison Service in 2013 was £65,000. There was reference to that in the Audit Office report.

Mr McKay: Was that £65,000 in total?

Mr Perry: Yes. It is a remarkably low figure, but it is simply the incremental cost of admission and of holding someone for a couple of nights and then releasing them.

Mr McKay: Can you give us a bit more background on the JRs? When were you made aware of the first of them?

Mr Lavery: They were brought at the beginning of 2013. The police appropriately stopped their execution of warrants at that point, because we knew that five challenges were being brought. Those were like test cases.

Mr McKay: Did they all come at once?

Mr Lavery: Yes, it was a bit odd. They got clustered together. I presume that a firm or firms of solicitors have identified a grounds for a legal challenge and brought together a number of cases that gave examples of the different things that they said were wrong with the procedure.

The basic challenge was to the fact that, as Jacqui explained, until 2013, when the court was imposing a fine, the judge made an order at the same time in anticipation of the fine going into default. In other words, if I was in court this morning and the judge had imposed a £100 fine and allowed me so many days to pay it, he would have said that, if I did not pay it, I would have so many days imprisonment in default. That was part of the court order at the outset. Although there were other aspects to the legal challenge, the fundamental problem that the divisional court identified when it looked at these cases was that the court should not be making the default order in anticipation; it should wait until the default actually happened. At that stage, the person should then be recalled to the court to explain their circumstances and given an opportunity to make representation and then the court should apply its mind to what would be the appropriate sanction at that point. We have had to build in this additional stage, which Jacqui called "a default hearing".

If the court imposes a fine today, what happens now is that it will allow so many days to pay the fine. That is usually not less than 28 days, or it may be longer. Once that period passes, the fine is then passed to the Courts Service fines collection office in Derry. It then pursues the payment of the fine by sending out notices explaining that a period of imprisonment will follow if the person does not pay

the fine and by offering means of payment. It will do that on at least two occasions. That actually works, as Jacqui said, and we got significant improvements in payment rates at that point. It is interesting that, when nudged to pay the fine, people quite often pay. We got significant payments at that stage.

Mr McKay: You outlined the benefits of what the divisional court recommended. Why did you not pick up on that before? Is it the case that this is best practice elsewhere but was not implemented here?

Mr Lavery: It has been the conventional system. I practised as a barrister in the early 1980s. That was the way that the system has worked, certainly since the introduction, I think, of the Magistrates' Courts Order, which, in my time, dated from the 1960s. No one ever doubted the ability of the court to make the order of imprisonment in default, but we now have new considerations such as the European Convention on Human Rights and the Human Rights Act, and the court has said that, procedurally, it is no longer appropriate. So, when the person has been through the fine collection office and still not paid, until the legal challenge, the Court Service computer system would automatically, at that point, have issued a warrant to the police to arrest and commit that person to prison for the period of default.

Now, what we do instead is issue a fine default hearing notice to the person. It has to be served on them personally by a summons server. Then, a hearing takes place. If they attend, they can be legally represented. If they do not attend, provided the court is satisfied that they were served with the notice, the court can proceed in their absence. At that point, the court can impose an order for their committal to prison in default of paying their fine, or, if the person turns up, they might be allowed more time to pay or given an instalment order. We are finding that relatively few people turn up, so the court proceeds in their absence and, generally, orders their imprisonment. At that point, the warrant issues to the police.

I hope that that was not too tedious, but that is roughly it. The legal challenge arose from the fact that the default period could not be automatically imposed at the same time as the fine; you had to have another look at the case once the default happened. It has built in quite a loop, quite a delay and more cost, but it is what the court has said that we have to do, and we will operate that system for a transitional period of about two years until the new service comes into operation.

Mr McKay: Is the way that you had been doing business still the case in the South, Scotland, England and Wales? I am trying to get a comparator.

Mr Lavery: That is an interesting question. England, Wales and Scotland have introduced the system that we are introducing now, which is based on civilian fine collection officers. The South still uses our system, and it does not perform as well as ours. You may not be hugely impressed with ours, but the one in the South seems to recover fewer fines again. Recent legislation has gone through the Dáil to provide for a civilian fine collection service, but that is not operating as yet.

Mr McKay: What are the resource implications of the new default hearing? Do you have any estimates?

Mr Lavery: We have built in a cost of about £1.8 million, I think.

Mr Perry: I think that the additional cost to courts is about £200,000 a year, and there is £600,000 a year on legal aid.

Mr Lavery: That is right. Sorry, I beg your pardon. We have modelled on legal aid as well, but we are finding that relatively few people attend with legal representation. It is more a cost of delay than anything, although it is an administrative burden on the courts to arrange these hearings. We also bear the cost of having a summons server serve the default notice, and we then recoup that from the offender.

Mr McKay: Jackie, may I ask you a question on the new fine collection and enforcement service that is to be introduced by the end of 2016? Interim measures have been introduced to comply with the judicial review. However, these substantially change the enforcement and collection process and cast doubt over the accuracy of the impairment figure in the trust's 2012-13 statement. The C&AG has qualified his opinion because you have been unable to provide assurance on the impairment figure. What is being done to address that?

Ms J Durkin: For 2013-14, the finance team has been engaging with the Audit Office on impairment calculation. Obviously, the landscape has changed after the judicial review and the recall of the 30,000-odd warrants. So, until we know the outcome of that review and how many of those cases will be sent for enforcement and how many will be remitted, it is difficult to make an accurate estimate of the impairment figure. We are working with the Audit Office to make sure that the methodology that we are using is satisfactory, or will, hopefully, be satisfactory next year, but it is very much a moving issue because it will be dependent on the outcome of default hearings and on the review of the outstanding warrants.

Mr Beggs: My question is for Nick Perry and Assistant Chief Constable Mark Hamilton. In the police estimates of the costs, £3 million of police officers' time is used enforcing and collecting the warrants. You say that the figure of £3 million is based on the 24,500 warrants executed in 2012-13 at a cost of approximately £122 per warrant. How did you come to that figure? Where did the £3 million come from?

Mr Perry: I will ask Mark to answer that.

Assistant Chief Constable M Hamilton: Those are average figures. We make three attempts to execute each warrant, and that was part of the calculation. We looked at the average number of warrants and the number of attempts that we make. We have some figures for time spent in custody as well. As I said, for 42% of those whom we arrest, that involves an overnight stay. There are a number of aggregate figures. I do not have the detail of every breakdown in front of me, Mr Beggs, but I am very happy to provide that to the Committee afterwards. That figure was aggregated from the opportunity time that police officers spend carrying out that function: from receiving the warrant; going out three times to collect the money; the processing of the money or the arrest; the time taken to transport the person to Maghaberry prison; and lodging them there and so forth. It is an aggregate of all that. I am very happy to try to get you a more specific breakdown if that is helpful, but I do not have it in front of me as we speak.

Mr Beggs: I am conscious that it is not a huge amount of a police officer's time, given a professional officer's average hourly rate. Is it an accurate estimate or an underestimate?

Assistant Chief Constable M Hamilton: I think that it could be both at different times because certain police activity will take more attempts. Some people may require four, five, six or seven attempts. They may have had, to use an expression, an agreement with the officer that they will pay next week, so the officer has to go back a third or fourth time. This was locally managed by local officers, and, within that, there would have been local attempts to deal with people. Some people would have known the officer and maybe said, "We will pay next month". It is very difficult to be definitive. On other occasions, probably more so in the city, people were arrested a bit more quickly. The time involved in transporting a prisoner from Londonderry/Derry to Maghaberry prison, for example, is entirely different from the time taken to transport someone from Lisburn. It is very difficult to give a definitive figure for every piece of police officer time. It is an aggregate figure based on what we estimate to be the inputs of a police officer and the volume that we were executing.

Mr Beggs: I will turn to the court side. At the front of my mind is someone who has not paid a TV licence at a cost of £145 and ends up in court. What does the very first court hearing cost?

Mr Lavery: I think that I should write to you about it, Mr Beggs. I am not quite sure. It would be a departmental prosecution, but there would be the cost of the court staff and the judge. I am happy to write to you about it.

Mr Beggs: You are bound to be able to guess. How many minutes does it last?

Mr Lavery: If anybody is in a position to guess, it might be Jackie.

Ms J Durkin: That raises a number of issues. Others mentioned trying to look at a criminal prosecution on a value-for-money basis and the amount that it costs to enforce non-payment of a TV licence. There could be 20 or 30 similar cases listed in a court on any given day, but I estimate that the cost of judge time and administrative time should certainly not be any more than £100. In fact, it is probably significantly less. It depends on whether the person appears to defend their case or their case is defended. All those variables will add to the cost.

Mr Beggs: So, the court time costs roughly £100. Many will be entitled to legal aid. How much would that cost?

Mr Lavery: I think that we built in about £70 for default hearings. That is a good benchmark.

Mr Beggs: The warrant then has to be issued, and there is a cost to that. So, there is now a default hearing, another £170, and we move on. Then, as I understand the current system, the police have to go back to court after 12 months in order to get a warrant renewed. I am very much struck that you did not know the cost at the start. If we are bringing about change, it is important that we know the cost of the system. We now bring it back to court for a third time. Is that another £100 and another £70 in legal aid?

Ms J Durkin: We do not anticipate that fine default hearings will take as long as the original prosecution in an individual case, but, again, I emphasise that looking at criminal prosecutions by type on a value-for-money basis may not provide figures that the Committee would be satisfied with. The intention and, through fine enforcement, the priority is to enforce the order of the court. For some people, that might be a very low-value fine because the penalty is based on their means or individual circumstances. It will depend on personal circumstances and any mitigating factors. However, the Courts and Tribunals Service's authority lies in collecting a penalty imposed by a judge who, in any individual case, decided to impose a fine, and to follow that through to enforcement if required.

Mr Beggs: I used the example of an unpaid TV licence, but what is the lowest-value fine that would trigger this?

Ms Durkin: A fine of £50 would not be unusual: the vast majority of fines in the criminal justice system are under £500. There are some very high figures for confiscation orders and individual criminal prosecutions, but the vast majority are under £500.

Mr Beggs: You have changed the system with this new default hearing based on a court judgement. Did you think of looking at a proportionate change depending on the value of the fine and repayments? In certain cases, would it be worth appealing to a higher court, given that this additional hearing costs a huge amount? Did you consider that? If not, why not?

Mr Perry: The divisional court included the Lord Chief Justice on this occasion, so I think that it was an authoritative view. I will try to get you a figure for individual cases, Mr Beggs. The aggregate cost for the Court Service is about £200,000 a year for the additional default hearings. These are temporary in the sense that they are transitional arrangements, so they will last for a couple of years.

Mr Beggs: Yes, but, meanwhile, there is a huge cost and we are under significant financial pressure. I am looking at the speed of change that you have been planning. This has been planned since 2008 — change was afoot then. Even today, you are talking about legislation next year, which will not be enacted until the end of 2016. Why does it take so long to save public money?

Mr Perry: In the case of these new arrangements, the clock has been running since 2012 and the Minister's decision to move to this new model. We hope that the legislation will go through next year, but, once it is through, secondary legislation has to be enacted, and that is what adds the additional period.

Mr Beggs: Can this not be expedited or interim legislation passed in order to save public money?

Mr Perry: In the short term at least, although the transitional arrangements increase the costs on the Courts and Tribunals Service and there are some additional costs for legal aid, they reduce the opportunity costs for the police because fewer warrants are going to them. To that extent, it is netted off. The transitional system is slightly cheaper, although there is no doubt that it is more awkward.

Mr Beggs: Is the legal system living in a little world of its own? Do you not appreciate the huge pressures that are on public services? Can you not expedite this change?

Mr Perry: This is the system that the divisional court has indicated —

Mr Beggs: My question is about bringing in new legislation on which the courts would have to act. Can we not bring about new legislation faster to save public money?

Mr Perry: At the moment, we hope to introduce the legislation in the first part of next year. That is subject to Executive agreement, of course, but we will get it through just as soon as we can.

Mr Beggs: Aside from these costs, there are prison costs. I will hand over to my colleague.

The Chairperson (Ms Boyle): Sorry, there is a supplementary from Mr Clarke.

Mr Clarke: Chair, given the direction that we are going in, you might think that we are nearly at the stage of saying that we should let people off. I would not want anyone listening to get that impression. If someone is guilty of a crime, they should pay, regardless of how much it costs to prosecute them and collect the fine. Judges have to bear some of the blame because, sometimes, they seem to head to the lower end of the scale. We could interrogate this in a lot of detail, but one key issue is outside the control of any of the witnesses today. It is more than likely that in many cases in which the fines are even reasonably high, legal aid will be involved because people do not have the means to pay. We are getting buried in the cost implications and whether the fact that a £50 fine could cost hundreds of pounds to bring to court is justifiable. We should work on the principle that someone who breaks the law should go before the court. I do not think that we should get into apportioning the blame for how those costs were arrived at. Maybe we should apportion more of the blame on judges for being a bit lenient. However, in most cases, unfortunately, legal aid — public money — is paying for criminals anyway.

I am intrigued that the ACC cannot give us the breakdown of the £3 million. You are bound to have known that the question of how that £3 million was calculated would come up. The sceptic in me would say that, sometimes, the PSNI is guilty of throwing out headline figures — the Chief Constable, for example, came up with a figure of £40,000 a night to police Twaddell Avenue — without being able to substantiate them, which is not always useful. The Chief Constable has still not come forward with details of the £40,000 a night for Twaddell —

The Chairperson (Ms Boyle): That is another matter for another day.

Mr Clarke: It is. It demonstrates that the PSNI sometimes uses headline-grabbing figures to try to exaggerate the cost. As Mr Beggs said, the breakdown is £122 for each warrant. That sounds like an extremely high cost for the police time needed to serve a warrant. You offered to get those figures, but you must have them. The Committee would like to see the detailed figures.

Assistant Chief Constable M Hamilton: First, I apologise to the Committee. It was not my intention not to have enough detail for you. I came here with the £3 million figure, and, if that has not been sufficient for the Committee, I apologise. We will provide the detail to you. I take the member's point about the PSNI costs —

Mr Clarke: Are you headline grabbing?

Assistant Chief Constable M Hamilton: I made the point very clearly that these are opportunity costs; they are not additional costs. There have been issues in the past about how we described additional costs in operations. I have not said that this is extra money being spent by the Police Service. We have tried to aggregate the cost from the time spent by a constable. We were asked the question, and this is how we aggregated the cost. The breakdown of the time is this: it is from the point of reception of the warrant; at least three opportunities in most cases to execute a warrant; and the money is recovered, brought back, deposited and receipted, or the person is arrested, taken in a police car and deposited in prison. Those are the activities involved in fine executions by the Police Service, and that is built into an officer's daily duty. It is not an additional cost.

Mr Clarke: It is not; it is just like Twaddell, which is not an additional cost of £40,000 a night. You gave a figure for executing warrants, but officers would have been employed to be on duty anyway.

Assistant Chief Constable M Hamilton: Absolutely, and I —

Mr Clarke: I want to get this point across, ACC Hamilton. Sometimes, you throw out figures for the wrong reasons, and, sometimes, the public get excited on hearing that Twaddell costs £40,000 a night

or on hearing how much you spend annually to retrieve fines, but that money is being paid out anyway.

Assistant Chief Constable M Hamilton: Absolutely. I hope that I did not give you the impression at any point in my answer —

Mr Clarke: You did not, but the Chief Constable does.

Assistant Chief Constable M Hamilton: — that this was an additional cost. Our officers are paid to do their duties, and some sort of costing can be applied to every duty. We are trying to make sure that what we do for the public now has more value for money than in the past, but I am by no means saying that this is additional. This is a function that the Police Service has been carrying out for many, many years — I did it myself — as part of its daily duty. We have been asked to try to estimate the quantum of that. It would, in fact, be easier to give the exact cost if it was additionality because you could simply add it on. I am not trying to obfuscate; it is just the truth as I see it.

Mr Beggs: I want to come back very briefly. Some people might have it in mind that we are about letting people off scot-free. I am not; I am about creating efficient means of dealing with fine defaulters. That is what we have to try to achieve.

Mr Clarke: Well done.

The Chairperson (Ms Boyle): When an individual comes before the courts, the arresting officer prepares the case. The most common-sense approach would be for that officer to find out what an individual's employment or income status is. Then, a judge could decide whether that individual can pay x amount or whether he or she should pay by instalments.

Ms Durkin: There are means forms that defendants can fill in before coming to court to give information about their employment or income. There is also a facility available to judges in court to look at the fine payment history of an offender. So, when imposing a fine, there is an option for them to review the previous —

The Chairperson (Ms Boyle): Is that a robust system?

Ms Durkin: Absolutely. Not every judge accesses it in every case, but it is available.

The Chairperson (Ms Boyle): Judges should access it. It could prevent defaults and extra cost to the taxpayer.

Ms Durkin: Information is available to the judge to inform the penalty imposed, if they choose to use it.

Mr Clarke: Are you saying, Jackie, that where there is history of an individual having no means to pay, the judge will let them off more lightly?

Ms Durkin: I cannot comment on any judicial decision in any case. All I —

Mr Clarke: What you are saying is that the judge has access to the history of an individual. I am saying that it sounds like —

The Chairperson (Ms Boyle): I think that it is an individual's employment or income status. Is that what you are referring to?

Mr Clarke: The implication seems to be that judges will be more lenient just because an individual did not pay on a previous occasion.

Ms Durkin: What I said was that information is available in court should a judge choose to access it after deciding that the person is to be convicted. Not only do they get their criminal record from the Public Prosecution Service to review prior to sentencing but they can review information that we hold electronically and which can be accessed from every courtroom. That allows them to ask, "Was this person before the court previously, and was a fine imposed in that case?" There is an option to

submit a means enquiry form to the court, but not many defendants will do that. Unfortunately, we have found that that information is not always complete.

The Chairperson (Ms Boyle): That is where the system needs to be strengthened, at that point. It is part of the system that is failing. If a robust system was in place, the judge would have the information and the PSNI would be able to collate that and bring it before the court as evidence, and we would not be in this mess.

Mr Clarke: Surely that would not be the PSNI's function. I think that the judge has too much access to information. If someone is guilty of a previous crime, the fine should be scaled up rather than down. Just because they do not have the ability to pay does not mean that judges should be more lenient. If they cannot pay, and I know that this goes against the Justice Minister, put them away. You have to get across the message that crime does not pay, instead of rewarding crime — simple.

Mr Lavery: I would hesitate to—

Mr Clarke: I am sure that you would.

Mr Lavery: I think that Jacqui was disguising the fact, but it was she who introduced the idea of a payment record. One of the initiatives that the Courts and Tribunals Service took under Jacqui was to bring more information to the attention of the judge. I do not know whether all judges use it, but I am not sure that it is necessarily a good outcome to impose a fine on somebody who cannot pay it.

Mr Clarke: So, let them off. Basically, you are saying that we should go easy on them.

Mr Lavery: No. A good outcome might be a community service order or something else that acknowledges their guilt. If the court was not going to imprison people in the first place but fine them, the Minister feels, it is slightly odd that they end up in prison because they cannot afford to pay the fine. That just does not seem to be entirely satisfactory and it is why he wants to introduce a wider range of options for the court. The court would then be expected to have regard to factors like the employment position of the accused, their record and what an appropriate penalty would be. We are introducing something called supervised activity orders to allow people to do reparative work in the community as an alternative sanction. I also mentioned deductions from earnings and benefits. There is a lot more choice now. In the past, it used to be a case of either pay the fine or go to prison. We think that it is better that there is more choice for the person giving the sentence.

The Chairperson (Ms Boyle): Before I let Mr Rogers in, it seems to me that, when an individual comes before the court, the judge gets the case and sees "Joe Bloggs; public order offence; urinated on the main street", and gives a £200 fine. He does not look at the list beyond that. That is my opinion.

Mr Rogers: Can we go back to fine defaulters? Clients are fine defaulters if they have not paid their fine in 45 days. Is that right? Then, it moves to the Courts and Tribunals Service.

Mr Lavery: It is whatever time the court allows. It is a minimum of 28 days.

Mr Rogers: But when you get a fixed penalty notice, you have 45 days to pay it.

Mr Lavery: Yes, for a fixed penalty.

Mr Rogers: It is then passed to the Courts and Tribunals Service, and you have another 28 days. Is any penalty placed on me if I have not paid within the first 45 days?

Ms J Durkin: Yes. Your fine would be increased by 50% once it is passed to the court to be registered as a fine.

Mr Rogers: How well is that working?

Ms J Durkin: It would happen routinely in cases where fixed penalties were not paid on time and for a penalty notice for disorder. It would also happen in cases where people have not paid the fine in the allocated time and it was passed to the Courts and Tribunals Service and registered as a fine; it would

be inflated by 50% at that stage. The incentive is that if you pay up earlier you pay less; if you do not do so, you should pay more. The case would pass through the system and the usual enforcement process.

Mr Rogers: I will move to the prison end of things now. You said earlier that £6.1 million was pared off by spending time in prison, or something like that. In the report, paragraph 21 states that it was estimated that the cost to the Northern Ireland Prison Service of receiving fine defaulters into prison was around £150,000 a year. The Prison Service suggests that that figure has been reduced to £65,000. We heard earlier that there were 2,473 committals. That seems very little; we are talking about £30 a day. Are those figures right? Compare them with the Northern Ireland Prison Service figures. It says that it costs over £60,000 to maintain a prisoner for a year, which works out at £200 a day.

Mr Perry: Both figures come from the Prison Service, Mr Rogers. I will deal with the first figure; the £150,000. The figures are calculated on a different basis. It is not that the cost has reduced dramatically; it is just that the £150,000 figure was produced in 2005 and done on a very broad-brush basis of cost per prisoner place. The £65,000 figure, which is a total cost based on 2,000 prisoners — 2,000 receptions — in 2013, is based on the incremental costs of accommodation, food for a short period and prison officer time in reception inducting them into the prison. It does seem low — I guess it is the minimum figure — but it is a more precise figure.

Mr Rogers: How does that £32 a day square with roughly £200 a day, which the Prison Service says it costs to keep a prisoner? The Prison Service talks about an average figure of £62,000 to maintain a prisoner for a year.

Mr Perry: It comes back to the same point: even if fine defaulters were not admitted to prison, we would still be paying the cost of running the prison system as a whole. These are the incremental costs of bringing people in through a revolving door, which is inefficient and disruptive, but the additional costs that it imposes on the Prison Service are more limited than one would think. The cost to the Prison Service is the disruption that two regimes cause.

Mr Beggs: You are just looking at the additional costs, but we are about to build new prisons. Should you not be looking at the total cost?

Mr Perry: We are looking at the cost of prisons, but one of the aims of the changes that we are bringing in next year is to prevent this constant flow of fine defaulters going to prison. We hope that the numbers will be much reduced. In designing or estimating the prison population going forward, we hope that fine defaulters will be a small element.

Mr Beggs: Do you accept that it would be more accurate to reflect the actual costs as opposed to just the additional cost?

Mr Perry: As I said, the costs produced by this are the incremental costs. There is a cost per prisoner place in that £150,000. The earlier figure reflected this, but it is slightly misleading: if you stop fine defaulters going to prison, you would not save that much money, because the prison officers are there, on duty on the landings, minding all the other prisoners at the same time.

Mr Beggs: But you might reduce the need for the number of Prison Service officials to be on duty at any one time, if a significant change occurred.

Mr Clarke: We cannot reduce them any more, Roy, because there are few enough of them.

Mr Perry: In future projections, the requirement for prison officer staff is based on the future volume of prisoners that we expect to hold; so, to that extent, it is being capped.

Mr Beggs: Those officers on duty would be able to concentrate on re-education and empowering people and hopefully enabling them to better resettle subsequently.

Mr Perry: I completely agree.

Mr Easton: My first question is to Assistant Chief Constable Hamilton. Prior to March 2012, why was there no basic routine reconciliation undertaken between the PSNI Niche system and the integrated courts operating system to match warrants executed with payments received?

Assistant Chief Constable M Hamilton: There were ongoing reconciliation processes, but the process in 2011-12 exposed that it was not frequent enough. The corporate governance of the reconciliation process was just was not vigorous enough on the police side. That is my view, from having reviewed this over the past two years. There were processes of reconciliation that had been going on for many years, since this system started. Various parts of that had fallen into abeyance, but, that having been said, we have been reconciling with the Court Service over the past couple of years and are able to account for all the moneys. We were just not carrying out a regular reconciliation process. That will change. There will be weekly reconciliation internally in the PSNI and then monthly reconciliation with the Courts and Tribunals Service, in the interim arrangements, but we were just not robustly following the process.

Mr Easton: OK. Do you accept that the lack of basic controls has left the PSNI and the NICTS vulnerable to the risk of potential fraud around the collection of fines?

Assistant Chief Constable M Hamilton: Yes. I accept that, and that has been pointed out to me by the auditors. As a person who detected the case that has currently been committed for trial, I accept that. I know it because I was the one who found it. When we brought in our own internal audit process following that, we had a limited assurance, and we accept the findings of the Auditor General around the assurance process as having controlled weaknesses. I cannot avoid the fact that that conclusion is a correct one.

Mr Easton: I do not want to get into that particular case, because it is ongoing.

Assistant Chief Constable M Hamilton: I accept that.

Mr Easton: How do you know that there are not any other ones?

Assistant Chief Constable M Hamilton: Over the years, there had been allegations. We looked at five cases in the past five years where there had been allegations around inappropriate behaviour, moneys, warrants and so forth. That led to one criminal prosecution; the one we are discussing at the minute, and I am aware of two cases in the 1990s.

We are not aware of any where there are physical moneys missing that we cannot account for. The issue that has been most pertinently pointed out to us is of missing warrants and warrants that have been returned to the court because they could not be executed. The question asked of me is this: can you guarantee that somebody did not execute that warrant and then pretend that they did not? In the interests of candidness and openness to the Committee, I cannot, back to 1981, give you a guarantee that, in every case, that did not occur. In police terms, we have no grounds to suspect that the crimes did occur, but we have had instances over the years of officers who have been suspected of or, in a couple of cases, convicted of taking money. So, in auditing terms, the controls in place, as was pointed out to us, were not rigorous enough to drive out the suspicion that that could occur. I have nothing to support it in criminal terms, but that is clearly why we have to, have agreed to, and are, improving our level of assurance in the system. To be honest, from a personal point of view, as the person who found the last case, it is embarrassing for the Chief Constable and it is not acceptable to have this pointed out to us, because there is a huge element of trust from the public and from the rest of the justice system in the Police Service guaranteeing to the public that this function is carried out to 100%. We take the matter enormously seriously, but I cannot give the Committee the absolute assurances in the same way that we could not give the Auditor General the absolute assurances, and that is why they reached the conclusions that they did.

Mr Easton: So, if I am right, you are saying to me that there has definitely been one case and that five have been investigated but that you cannot guarantee 100% that there have not been more.

Assistant Chief Constable M Hamilton: No, I could not with any honesty state that.

Mr Easton: Before I let Tiger in, I have another question. You mentioned missing warrants. How many warrants were there?

Assistant Chief Constable M Hamilton: The figure is 6,682 warrants that cannot be accounted for since 1981. Those are paper warrants; the physical warrant itself.

Mr Easton: That is quite a lot, is it not?

Assistant Chief Constable M Hamilton: It is. That is set against an average figure of 20,000-odd a year. We have had maybe 660,000 since 1987. In the period under which the auditors have looked at the Court Service's accounts, which is from 1981 to the 2011 report, the Police Service does not have a record of 6,682 from 1981 until 2009, up until when we went on to the Causeway system.

Mr Clarke: Who, in the organisation, is responsible for your internal audit?

Assistant Chief Constable M Hamilton: It reports directly to the Deputy Chief Constable, under our audit and risk committee. So, technically, it is the Deputy Chief Constable, but, ultimately, the Chief Constable is the accounting officer for the Police Service's accounts. Those moneys have never formed part of the Police Service's accounts.

Mr Clarke: Someone is responsible for the internal audit function. A risk had to be identified by external auditors in this case. Why was the risk never identified by your internal auditors?

Assistant Chief Constable M Hamilton: This issue was raised with us through a reconciliation process between the Court Service and the Police Service in warrants executed and moneys received. We then asked our internal auditors, who are an external body, to look at that as well. That was coterminous with work that was being commenced, in my understanding, with the Court Service to compile its 2011 trust statement. So, the two things were sort of in parallel, but we were aware of the issues arising and reported the suspected fraud to the auditor.

Mr Clarke: I am not talking about that particular case; I am trying to stay away from that. I am talking generally. Should your internal audit team not have identified that there was a weakness in your systems and controls?

Assistant Chief Constable M Hamilton: Well, if we had asked it to examine —

Mr Clarke: No, sorry, you should not have to ask it, because its function is to look at auditing all the functions in the PSNI. Are you satisfied, given that it did not flag this up, that the right people are doing the right jobs in your internal audit team within your organisation?

Assistant Chief Constable M Hamilton: The internal audit was carried out by an external audit team that is contracted to us, and each year we agree a programme of work with that team. This would not have been on a previous programme of work, so it did not form part of the Chief Constable's accounts. Clearly, that is a weakness in the sense that we were not looking at this actively: I accept that. We were looking at other parts of our own accounts, which the Chief Constable signs off to the permanent secretary. That is a problem for the Courts and Tribunals Service, because it is somewhere at the vagaries of the Police Service in that respect. That is why, since this happened in 2009, additional assurances have been sought from the Chief Constable on a yearly basis in the signing off of the Court Service's accounts.

Again, at the risk of repeating myself — because I keep saying that everything was unsatisfactory — prior to these issues being ventilated by the Auditor General and by our internal audit, then no, I am not satisfied that we were entirely aware of the scale, scope and risk in the system.

Mr Clarke: Nor am I trying to blame you. I would put that function and responsibility down to your internal auditors. It was their responsibility to flag it up. I am not directing that at you.

You mentioned the 6,000-odd warrants that are not accounted for. When Jacqui was talking about it earlier, I was starting to think that there is a Bermuda Triangle in Northern Ireland; these people are just disappearing off the face of the earth. You identified a weakness in the organisation. I am trying to stay away from the current case. Whatever problems are associated with that, what work has been done or considered regarding the 6,000 missing warrants or missing people?

Assistant Chief Constable M Hamilton: We have not carried out a criminal investigation in respect of those 6,000 warrants, because we do not have a criminal suspicion around them. As a police

investigator, you come to a start point where you suspect that a criminal offence has occurred, and that is where we are with the case concerned. As far as we can see at the minute, the auditors cannot rule out that fraud did not occur, and we agree with that. However, equally, we have nothing to point to the fact that fraud has occurred.

We accept that there has clearly been administrative failures or breakdowns somewhere in the system around those specific paper warrants, because we physically cannot find them and have no physical record that they ever arrived. We could make all sorts of suppositions, and we have all sorts of hypotheses, about why that could be, but short of something more substantial to look at, then, no, we have not carried out police investigations in respect of those 6,600 warrants.

Mr Clarke: Do your counterparts on the mainland have a similar way of dealing with warrants or are they different?

Assistant Chief Constable M Hamilton: There is a difference. They have a civilianised collection service.

Mr Clarke: I will direct the question about the civilian role to you, then, David. Have you done any benchmarking of the 6,000 warrants or cases per head of population in Northern Ireland against the number of warrants that go missing on the mainland?

Mr Lavery: I do not have that information here this afternoon, but we did extensive comparative studies of both the English and Scottish systems. I believe that there is an impairment aspect to any enforcement system, but I will undertake to write to the Committee giving —

Mr Clarke: The Assistant Chief Constable has said that it is difficult to draw a parallel. I suppose that if there was an evidence base between England, Scotland — albeit civilianised — and the PSNI of the number of warrants issued and the number that go missing, I suppose that most of us would just want to see whether the Bermuda Triangle extends across the rest of the UK or if it is just Northern Ireland.

Mr Lavery: I undertake to write to the Committee with the information that I can provide about the systems in England, Wales and Scotland, although we are looking particularly at the system in Scotland.

As well as the points that Mark has made and as Jacqui said, we have reviewed the greater number of the missing warrants. They are not missing from the court records. We have reviewed the fines. Your conversation with Mark is obviously about the physical warrant that they cannot find, but —

Mr Clarke: That weakness could also apply in other jurisdictions, whether the role is a civilian or police one. I am trying to establish whether any work was done — obviously, it has not been done — in comparing Northern Ireland with England and Scotland. Regardless of who has the function, the warrants were issued by the courts but have not been delivered.

Assistant Chief Constable M Hamilton: Some of the difficulty around that might be in getting an accurate comparison. We are talking about the period from 1981 to 2009. In 2009, we stopped taking paper warrants. I cannot speak for England and Wales, but the comparison would have to be made at the point they stopped taking paper warrants, and there would have to be a historical reconciliation back across the same period. There is, roughly, a 30-year period around the 6,600 warrants. I am sure that the Department will undertake it. I do not know whether my colleagues in the Police Service or the 43 forces would be able to give that comparison definitively, but we will certainly try to get it.

Mr Clarke: The comparison I am looking for is, over that period of time, the number of warrants issued versus the number that were not served.

Mr Lavery: I am pretty sure that similar issues were encountered in England, but, rather than speculating, I will write to the Committee with whatever information I find.

Mr Easton: Back to the warrants again; there were 6,100-odd between 1981 and 2009. Do you know who they were issued to?

Assistant Chief Constable M Hamilton: Yes.

Mr Easton: Have any of them been paid?

Assistant Chief Constable M Hamilton: Not to my knowledge.

Ms J Durkin: No. They are still outstanding on court records, so, as far as we are concerned, they have not been paid. We are investigating a number of them with the Prison Service. Some were forthwith warrants, so they should have been executed straight away. In a number of those cases, we are investigating whether the person served time in prison and the Prison Service did not issue a committal receipt in a timely way back to courts to say, "This person was lodged in prison and served x days". People may have served their default fine warrant alongside another substantive sentence.

Each case is being investigated to establish the exact position of the warrant, whether it is still outstanding and whether it should be referred back to a judge to decide to remit the amount of money or issue a default notice and get the person, hopefully, before the court again to say, "Your fine is still outstanding. It may be over some period". When the person is issued with a default hearing notice, we have found that, in some cases, they will pay up.

Mr Easton: Do you agree that the risk of potential fraud would be reduced by having a process in place for monitoring warrants?

Ms J Durkin: Absolutely. Any monitoring or control enhancement in any system around cash collection is to be welcomed. We have been reconciling court records. Perhaps they have been taken on through the introduction of a new IT system. Throughout that period, we have been attempting to reconcile court records with police records in terms of outstanding warrants and moneys due.

You asked about the police internal audit. We have had recent and frequent internal audit activity in relation to fine collection. The latest report gave a satisfactory rating, but that is not to say that you can ever be complacent around a cash collection system. It is about making sure that there are adequate and appropriate controls in place.

Mr Easton: I have a quick point before my last two questions. Has anyone gone to someone in the public to collect a fine, only for them to say that they have already paid it?

Assistant Chief Constable M Hamilton: Yes. That has occurred.

Mr Easton: A lot?

Assistant Chief Constable M Hamilton: In the five cases I mentioned to you, that occurred in three. It occurred three times over the last five years. Two persons were arrested and then said, "Well, we have paid". We attempted to arrest another, and they said that they had paid. In the last five years, there have been three investigations around that specific issue.

Mr Easton: And they had paid.

Assistant Chief Constable M Hamilton: Yes.

Mr Easton: I am not saying you specifically, but how did the police miss that they had paid?

Assistant Chief Constable M Hamilton: There are two potential answers. One is that the warrant process was not properly reconciled. Perhaps the officer just did not perfect the records appropriately. The other possibility is that somebody took the cash and then pretended that it had not been paid. That is where there is a control weakness. It is part of the issue that we talked about at the start, because, and the auditors have also said this, it is very difficult to guarantee 100% integrity out on the street — outside a controlled environment — around processes in which cash changes hands. We have to be sure that we have additional controls in place so that, for example, there is no longer a situation allowed in which an officer would execute a warrant on his or her own. There needs to be more contemporaneous records of when a warrant is executed. That needs to be updated on our computer systems immediately so that there is a quicker follow-through of the money behind that. Those are all control issues that have been pointed out to us by our auditors and the Audit Office to try to drive out concerns. There are only two options when those things go wrong. One is that someone just made a mistake. Mistakes occur —

The Chairperson (Ms Boyle): Sorry to interrupt. Is there not an invoice system?

Assistant Chief Constable M Hamilton: Yes. People should be issued with receipts, of course. Again, when the auditors and our internal audit looked across the system, they saw that, in some cases, receipts were not issued at the time and that, in other cases, receipts were issued later. There is always the opportunity as well for an officer to execute a warrant almost on an ad hoc basis. Say that someone is stopped in a car for something or other, and a check is done on the person and there is a warrant outstanding, the person hands the money over, and, at that point, there are no receipt books or anything available. At that point, the very least that an officer should do is record the issues in a notebook.

We are piloting body-worn video cameras for other reasons. The contemporaneous recording of all police activity, when they do anything, will start to flush out some of the concerns when people have question marks about police activity. Those question marks arise not just around warrants at times but around any area of complaints about police in which people are trying to establish what the police have done.

I am trying to be very honest and candid with you about the weaknesses. That is where the situation stands.

Mr Easton: I have the choice between David and Nick. I will go for Nick. How has the suspension of the issuing of warrants impacted on the collection of outstanding fines?

Mr Perry: It led to a complete cessation of enforcement activity for a little over a year, from March 2013 until the courts started reissuing enforcement warrants in June of this year. We spent that time putting in place the arrangements that the divisional court indicated that we should. The system is just cranking up again now. The flow of enforcement warrants is now passing to the police. The police will start enforcement action from, I think, next month. The answer is that it is too early to say.

Mr Easton: Remind me: how many outstanding warrants are there in the whole process?

Mr Perry: The courts review recalled for review 32,000 out of 36,000 outstanding warrants. On the revised list of warrants that were issued by the court, I think that David might have some figures from since the process has restarted.

Mr Lavery: The numbers are still fairly low. We are now going into the default hearing procedure. Courts are still imposing fines. People were still being encouraged by the fine collection office to pay the fine, but, at the point at which it went into default because they had not paid the fine, no warrant could issue for about a year. A backlog built up. We started the new default hearing system —

Mr Easton: For the 32,000?

Mr Lavery: Well, we started default hearings on 26 June. As of 7 October, we had issued just over 9,000 default notices, of which 5,000 had a hearing date up to 7 October. Just over 1,000 of those 5,000, or 22%, had satisfactory proof of service. The live figure up to 7 October for cases that the court could deal with was 1,116. About 42% of those have been paid and another 40% have gone for committal. The system is, as Nick put it, now cranking up. However, the numbers are very slow at the moment.

Mr Easton: The basic number is that, out of the 32,000, we are on about 9,000.

Mr Perry: There were 36,000 warrants outstanding. The court has reviewed 32,000 of those, because it did not think that the other 4,000 needed to be reviewed. Of those, I think that 40% have been remitted. It is 60% in terms of numbers for default hearing, but 70% in terms of value. A significant number of warrants are still to come through the system.

Mr Easton: Of the 36-odd thousand, or 32,000 — whichever you are talking about — for how many has it been decided that the court will not go ahead and pursue them?

Mr Perry: The figure is 40%.

Mr Easton: Therefore, 40% are going to get off.

Mr Lavery: There may be other decisions made. I suspect that the courts are taking a view that, if it is particularly old, a fine is unlikely to be recoverable. Some are being remitted, but writing-off is appropriate.

Mr Easton: Therefore, 40% are being written off, and those individuals will get no punishment at all.

Mr Lavery: They may have received another punishment at the time that they were convicted. They will have also received a criminal record of their conviction. In some of those cases, the fine may not have been the only penalty imposed. Some other penalty may have been imposed at the same time. There will inevitably be —

Mr Easton: The punishment, for 40% of those 36,000, was a wee slap on the wrist and to be put on the computer. That is not paying your fine. They are not fined, and you have no way of telling me whether they were put in prison for a day or two.

Mr Lavery: No.

Mr Easton: They got nothing, really.

Mr Lavery: Of those 32,000 recalled and reviewed by the courts, as Nick said, about 40% have been remitted by the court. Whether that is because of the age of the fine or some other circumstances to do with the individuals — they could be dead, for all that I know — of that number, some will come under exactly the description that you are giving us. They were given a fine that they never had to pay, and it has been —

Mr Easton: They got off scot-free, basically.

Mr Lavery: Other than the conviction and the criminal record associated with conviction, yes.

Mr Easton: That is really poor, is it not?

Mr Lavery: It is not what the criminal justice system would want to achieve. It is a legacy problem here. It can happen only once. That is clearly an indication of failure of the system.

Mr Clarke: Can I ask you that in a different way, David? In your former life, you were a barrister. If you represented someone, would you pursue the person for payment or would you just write it off?

Mr Lavery: Usually the solicitor was meant to pay me.

Mr Clarke: Would you pursue the solicitor for your payment?

Mr Lavery: I think that everybody would expect a liability to be discharged, and it is important that a criminal liability be discharged.

Mr Clarke: That is only one aspect of it. There is a function around the payment as well. It seems to be that the Court Service has neglected to follow that up to make sure that it has been carried out.

Mr Lavery: The way in which we would have looked at it, Mr Clarke, is that we had two jobs to do in those cases up until 2013. If the court imposed a fine, we issued notice of that fine to the offender. We took payment if the offender was one of the 50% who volunteered to pay; in other words, if he or she obeyed the court instruction. At the point at which the fine went into default, we then issued the other order made by the court, which was that the offender should be committed to prison for a period for defaulting on paying the fine. It may not reflect a very joined-up system, but I would have said that our job was done when we issued the warrant of committal to the Police Service for execution. It was no longer a case of collecting a debt or a fine at that point; rather, it was an instruction to the police to arrest and commit to prison.

Mr Clarke: You are blaming the police, then.

Mr Lavery: No, not at all, but it is a different type of order. It is not about collecting the fine at that point.

Mr Clarke: Who is responsible for the failure to bring in about 14,000 fines?

Mr Lavery: I think that it is a collective failure of the system. There is —

Mr Clarke: Just spell it out. Whose failure is it?

Mr Perry: It is a systemic fault —

Mr Clarke: Is it your failure now?

Mr Perry: It is a systemic problem —

Mr Clarke: No, I do not want any flowery language. Whose fault is it?

Mr Perry: It is a design problem with the system, to be honest. In fairness —

Mr Clarke: It is an old system.

Mr Perry: It is certainly disappointing that we have not got that 40%.

Mr Clarke: It is very disappointing.

Mr Perry: However, in terms of scale — say over a five-year period until 2013 — something like 270,000 fines were handed down by the courts. Half of those were paid without any further action. Fines are a very effective part of the justice system —

Mr Clarke: Except for the 14,000 that got off.

Mr Perry: For sure, and we absolutely accept that it is not good enough. However, that bit of context helps to frame that figure.

Mr Clarke: No, as I described earlier, it glosses over it slightly. There are 14,000 people who have not paid. I hear from the police, and I have a lot of sympathy for them, because they have a very difficult job to do. They apprehend people, make suggestions about what they would like to see happen, take them in front of the courts, and the courts are lenient on them. We give people fines, and then we let 14,000 off without paying those fines.

This is really over to you, Nick. There is a failure. You can talk about how many fines there were in total, but 14,000 people did not pay. There are 14,000 people who may have a record, which means nothing to them. There are people with a record that could probably fill these pages and still it means nothing to them. The Court Service did not pursue 14,000 people for fines.

Mr Perry: The warrants were issued by the Court Service. The police have been pursuing with diligence people who will not pay their fines. The issue is that we have a system now, which, at a time of diminishing resources on the police side, has regularly delivered between 23,000 and 25,000 enforcement warrants to the police every year —

Mr Clarke: Whose system is it, Nick?

Mr Perry: It is the criminal justice system as it stands, and the Department —

Mr Clarke: It has failed.

Mr Perry: The Department has a responsibility to make sure that we have a legislative and operational framework in place that is fit for purpose, and that is why we are in the process of changing this one.

Mr Easton: You will be glad to hear that this is my last question, and it is for you, David. Why could the PSNI receive payments only in cash prior to the suspension of warrants?

Mr Lavery: Why could they receive only cash payments?

Mr Easton: Why could they not take a cheque or a credit card?

Mr Lavery: That may be an internal matter for the police. At the point at which the fine is still current, I know that the Court Service offers multiple ways of paying.

Assistant Chief Constable M Hamilton: At the risk of being wrong, a cheque, which would have been acceptable with the proper assurances attached, could no longer be acceptable because you cannot get those same assurances. Certainly, there were no alternatives to a cash or a cheque transaction with the police. At the risk of being wrong, a cheque could have been acceptable.

Ms J Durkin: It is to do with the guarantee. Certainly —

Assistant Chief Constable M Hamilton: It was to do with the guarantee and whether an officer felt that the guarantee could be taken. Again, we are back into —

Mr Girvan: It is another offence to write a cheque without having sufficient funds to cover it.

Assistant Chief Constable M Hamilton: Of course. It would depend on the person having the funds. There is a risk there for the police officer. In some areas of Northern Ireland, officers might have known families better, or whatever, and accepted a cheque or not. Generally, cash was the guaranteed way of clearing your fine.

Mr Clarke: You are making me think there again, ACC, when you say "some areas". It is a bit like the 6,000 warrants that went missing. Perhaps there were some areas for which they did not want to issue warrants.

Assistant Chief Constable M Hamilton: No, it is not even that. When I answer some of these things, I suppose that I think of my time as a constable in various parts of Northern Ireland, and there were officers who engaged with local communities. I am not talking about the Troubles or anything else. I just mean that we had different relationships in rural areas than we did in Belfast, and people knew each other better. That is just me reflecting on my policing experience.

Mr Clarke: Even if cheques had been received but not honoured, payment of the fine would not have disappeared. The fine would still stand.

Assistant Chief Constable M Hamilton: It should not have disappeared.

Mr Clarke: It seems strange that, even without the guarantee card, the police still would not have taken the cheque.

Assistant Chief Constable M Hamilton: In the vast majority of cases, it was always cash. There would have had to be a lot of assurance around it.

Mr Lavery: Forgive me for rashly reopening the conversation with Mr Clarke, but —

Mr Clarke: Go for it.

Mr Lavery: The Court Service saw its job as giving effect to the orders of the court. We did not see our job as collecting debt. We saw our job as issuing a notice that an offender owes an amount of money as a fine and that it has to be paid within so many days. That was our first job, and we introduced the fine collection office —

Mr Clarke: Who suspended the 32,000 fines?

Mr Lavery: What I want to say —

Mr Clarke: No, sorry. You are trying to qualify how wonderful you are.

Mr Lavery: No.

Mr Clarke: Who suspended those 32,000 fines?

Mr Lavery: They were suspended as a result of a court challenge —

Mr Clarke: By the courts.

Mr Lavery: No, but —

Mr Clarke: I would not want you to be trying to pass the blame to the PSNI at this stage.

Mr Lavery: My point is this: at the point at which the fine went into default, the Court Service's job was to issue a warrant for the committal of that person to prison. I understand why that is a failure to collect a fine. However, we were giving effect to the order of the court, which, at that point, was to commit the person to prison. We saw our job as that. Now, maybe that was not the right way to look at it —

Mr Clarke: Probably not.

Mr Lavery: — but, at the point at which the fine went into default, our job was to issue a committal warrant for the committal of that person to prison. If the person paid the fine to avoid going to prison, that was recorded and that was a way of discharging the fine.

Mr Clarke: Who gave the instruction to write off or hold back — whatever you want to call it — the 32,000 fines?

Mr Lavery: The instruction to cease execution of outstanding warrants was jointly made by the Court Service and the Police Service, because we knew that the divisional court had said that to execute those might be unlawful. We jointly decided, as soon as we got the judgement of the court, to stop them. The Court Service recalled the warrants and arranged with the judiciary to review all 32,000 outstanding warrants.

Mr Clarke: What about the 14,000 that you referred to earlier?

Mr Lavery: The judges then remitted roughly 40% of them and said that they should not be pursued further.

Mr Clarke: For what reason?

Mr Lavery: I speculate that —

Mr Clarke: It could hardly be because they had suffered awfully at the hands of the fine that they did not pay.

Mr Lavery: I would say that it was to do with the age of the fine. I would say that they had regard to the fact that the divisional court indicated that there was a limited shelf life, after which it would be perhaps less appropriate to pursue a fine. I suspect that, if you look at it, you will find that most of the remitted fines were the smaller, older fines.

Mr Clarke: The 32,000 figure went down to 14,000, and those never were served. Do those individuals still believe that they owe the money or did they receive letters to say that they do not owe the money? There has been an awful lot of conversation about letters.

Mr Lavery: They would have been notified by at least the Court Service that they owed a fine and had to pay it. They would have no reason to think that they do not still owe it. I do not know that there has been any —

Mr Clarke: They have never been informed. They still do not know. Is that what you are saying?

Mr Lavery: I am just not sure. Jacqui, did they get any communication about remittal?

Ms J Durkin: No, not after the remittal. If they appeared in court at the time, they would know what their conviction was and what the penalty was. Even if they had appeared in court, they would still get a fine notice stating that they have to pay whatever the amount is within x number of days and that, if they did not, they would go to prison in default for a number of days. However, as David said, once the divisional judgement was given to say that any outstanding warrant was potentially unlawful, at that point the police agreed to halt enforcement activity and the Courts and Tribunals Service asked for each warrant to be recalled for consideration. The gap between the 32,000 and the 36,000 that appears in the report is because there were a number of forthwith warrants, which I think I explained earlier, that we are investigating with the Prison Service to see whether those people served time in prison, because they should have had those warrants executed immediately.

However, someone who has a fine remitted does not get a notice to say that the judge considered the case and the fine has been remitted. As David said, the judgement was very clear in stating that any warrant over 12 months should be considered as aged and be subject to review. That does not mean that it will not be reissued, because we know that a number of these cases will have to go through the default hearing process and potentially — hopefully — some people will pay. If not, they will have a default period set so that, when a warrant issues, it will be very clear about the amount of time that they have to pay in default.

Mr Clarke: Correct me if I am wrong, because I hate to jump to their defence on this one, but everybody tries to tie the police into the 32,000. To go back to David's explanation earlier, the courts issue fines. You hand it over to the police to collect the moneys. I find it difficult to comprehend that the police would say that they do not want to do that any more. Surely it would be an instruction: if you have found out that 32,000 warrants may have been unlawful, the Assistant Chief Constable and his team could not decide that they were to go back. I cannot imagine that they were part of the decision-making process to say that they do not want to collect the fines.

Ms J Durkin: I think that all the witnesses here understand and agree that, under the current legislation, the only people who could execute a warrant and follow the direction of the court are the Police Service. I also think that everyone agrees —

Mr Clarke: On the Court Service's direction, of course.

Ms J Durkin: Well, it is really on the direction of the judge who imposed the penalty and the default period at the time. However, the divisional court stated that simply assuming the maximum default period for each of those offenders was not compliant with the Human Rights Act, so each of them would have to have a hearing before the court to ascertain whether, in their current circumstances, the fine was still a valid penalty and what period of imprisonment they should serve for not paying it. Ultimately, once the warrant had issued, it was in the hands of the police. Nobody is trying to blame anyone else here: it is as it was. It was for the police to decide what resources it was able to deploy to that activity, and I think that the 36,000 warrants have built up over a significant period. As Mark said, some of them date back to the 1980s. Each had to be subject to review, and many of them will have been remitted simply because of their age. To try to pursue a warrant that is 30-odd years old is not necessarily an appropriate thing to do.

Mr Clarke: I am just picturing this: there are around 36,000 people sat at home tonight biting their fingernails just waiting for the police to come and collect that fine, even though they did not bother their backside trying to pay it in the first instance, when they knew that they had one to pay. Is that what you are saying?

Ms J Durkin: I do not think that they would be, because they have not engaged up until now following their conviction.

Mr Clarke: I was being facetious.

Mr Lavery: The important thing to bear in mind is that, apart from the fines remitted by the court, we will continue to pursue all the outstanding fines. If we have not cleared it by the time that we set up

the new system, the backlog will eventually be docked in the new system. We are not abandoning these —

Mr Clarke: Except the 14,000?

Mr Lavery: That is a judicial decision, Mr Clarke, and I cannot explain it further than that. The judge has reviewed the fine, taken into account the factors that Jacqui mentioned and has remitted the fine. That is a judicial decision, and it is not for me to question it. It is for me to give effect to the 60% that the judges have said should be pursued, and we will see that that is done.

The Chairperson (Ms Boyle): Thank you. Mr Easton, had you finished?

Mr Easton: No. I was finished, but I will come back in again. To go back to the figures, you were looking at 4,000 of the 36,000 with the Prison Service to see whether those people had been locked up for a day or two, or whatever. Is there the potential that, out of those 4,000, people may have been meant to have gone inside for a few days but did not?

Ms J Durkin: They are forthwith warrants, so they should have been executed straight away, either at the court or in prison. Sometimes what happens is that defendants will get a substantive prison sentence. Then, if they have outstanding fine warrants, they will ask for them to be executed at the same time as they are serving their substantive sentence. We are reviewing with the Prison Service what its records show about whether the person was in prison at the time that the forthwith warrant was issued. We are looking at each warrant as well to see exactly where the records are, either with the police or Prison Service, and the status of those warrants.

Mr Easton: OK, but we are talking about 4,000 individuals, so either —

Mr Perry: I do not think that we are. The gap between 32,000 and 36,000 is not all forthwith warrants that might have involved prisons. I think that it is a rather lesser number than that. It is less than 1,000.

Mr Easton: Less than?

Mr Perry: There is a figure in the context of the missing warrants — the 6,600. A number of those were forthwith warrants. About 1,000 of the warrants that we thought that the police might have had are what they call forthwith warrants, whereby people are committed straight from court to prison. In that context, there are checks going on with prisons. However, there are not 4,000. On the gap between the 32,000 figure and the 36,000, as I understand it — Jacqui will correct me if I am wrong — the court did not review all the recall warrants because there was already a variety of actions taking place in respect of those warrants. It did not need to formally review them. I think that that is right, Jacqui.

Ms J Durkin: The actual number of warrants not recalled is 3,809. Of those, 2,230 were forthwith warrants, 475 had an indication on the record that they had been executed by arrest, and a further 1,005 had been executed by payment to the PSNI or committal to prison. That means that some may have paid, but the payment had not been processed through the system yet. There are a further 99 that we are querying with prisons and the Police Service.

Mr Easton: So there is a bit of a breakdown between the PSNI and the Prison Service in terms of records; is that fair to say?

Mr Perry: There is some reconciliation still to be done on which outstanding warrants sit precisely where.

Mr Easton: One very last question: was any of this raised with the Justice Minister? Was he aware of all this? Did he give his blessing for these warrants to be done away with? Was his opinion sought?

Mr Perry: He was certainly aware of the divisional court ruling and the impact that that would have and of the decision to recall the warrants, which I know that he thought was the right thing to do. Of course, the actual decisions on what to do with those warrants then became a matter for the court.

Mr Easton: But he was aware of the 14,000 that were going to be written off totally.

Mr Perry: Well, he was aware that they were going to be reviewed by the court, and he is aware of the outcome of that, but he had no input into that decision. That is a matter for the court.

Mr Lavery: On 25 September, he chaired a meeting of the criminal justice delivery group, which is the group that brings together the Chief Constable, the Lord Chief Justice, the Director of Public Prosecutions and the Attorney General. The group discussed the implications of the judicial review. He also authorised the preparation of an urgent Bill to allow us to start these default hearings. It turned out that we did not need to use the urgent Bill. We found another way of doing it administratively. The Minister's senior group gripped the issue quite quickly.

Mr Girvan: I appreciate that we have focused quite a bit on the history of where we are now and what has actually happened. I want to look at what has happened and where we are going to go. There have been a number of consultations held in relation to this matter: in 2008, 2011 and 2014. As a consequence of all of those, we are still dealing with an archaic system that does not seem to have moved with the times. I do not know whether any of you have been to America and incurred a speeding fine at the side of the road. They take your credit card and take the payment there and then. That is how it is dealt with on many occasions.

Mr Clarke: Are you declaring an interest, Paul?

Mr Girvan: I am not going to say very much about that. All that I will say is that these are the types of archaic processes that we have. What is the reason for the delay in reform? Can you ensure that the target date of 2016 that has been mentioned will be met? What mechanism have you in place to ensure that it is met? When you mention legislative change, you can always make it sound like it is going to take forever. However, I appreciate that there are ways of putting things on an Order Paper to get them dealt with and to bring forward legislation. What work has been done, through the Justice Committee, to ensure that the Minister of Justice brings this forward as an urgent matter? Going back to what Trevor said earlier, 2016 seems like a long way away.

I always try to relate things to how it would happen if it were your own business that you were running. You would definitely not do it the way that we have done it. How can we be sure that we are going to close the loop between what happens at the jail, with the PSNI and at the courts to ensure that there is a clear process? You can walk into a corner shop and pay an electricity bill, and that will appear. Your corner grocery shop can be linked directly to a private company that is receiving payments from perhaps hundreds of thousands of people. It can be dealt with quite effectively, and it appears on the day and on time. What mechanisms are being put in place to ensure that that all happens here?

Mr Perry: David can speak a little bit about the detail of the full programme. To cover the point that you are making about the slowness of reform, Mr Girvan, I go back to what I was saying earlier. In 2011, the Minister authorised this consultation document, which has been approved by the criminal justice delivery group and, therefore, had the buy-in of all the senior leaders in the justice system. We have been working to implement that decision over the last couple of years, and we are hopeful of getting the legislation introduced into the Assembly next year.

There is a lot of work and a fair amount of urgency going into this. This is a strategic objective for the Department and the Minister. As I say, David can talk about the specifics of the new payment arrangements and all of that. However, bringing more of the enforcement process under the Court Service will simplify the accountability issues that you touched on, because police involvement in the money collection aspect of fines will be much reduced.

Mr Lavery: With respect, it is not entirely reasonable to say that we have moved slowly since devolution. We had the report by the Criminal Justice Inspection in 2010, which coincided with devolution. That was basically a challenge to the system to fix it. The consultation paper that the Minister published in 2011 explained the move to a civilian form of fine collection to relieve the police of that responsibility. There was further consultation in 2014 because we thought that additional powers, such as seizure of vehicles and so forth, might be of assistance to the fine collection service.

We have now completed extensive policy consultation, including in discussion with the Justice Committee. We lost about a year because of that judicial review and legal challenge; 2013 was just a lost year. We put all our effort into establishing a fine default hearing system. As I say, the people who would have been working on the legislation for the new fine collection service had to work on the

preparation of an urgent emergency Bill because we thought that we might need urgent legislation to allow us to have default hearings. We actually brought a judicial review ourselves to get clarification of the law. We found an alternative way of introducing fine default hearings, but 2013 was really spent going around in circles to try to get the system working again.

The Minister's announcement the previous year, 2012, was made to introduce the new arrangements. Since we got the system up and running again after the interruption in 2013, we have been developing the instructions to the legislative draftspeople. We are committed to introducing and completing the enactment of a Fines and Enforcement Bill during this Assembly mandate, so we have to get it done by March 2016. There will then be a bit of secondary legislation that will have to go through. You can only do that when the new Assembly comes back in 2016, and that is why we —

Mr Girvan: Can I ask why you have to wait until the new Assembly comes back in 2016?

Mr Lavery: We would not have the secondary legislation through the Assembly in this mandate, Paul. It just would not work. As you know, you are not allowed to introduce secondary legislation unless the primary legislation gives you the power.

Mr Girvan: I appreciate that.

Mr Lavery: It is a sequence that you have to follow. We calculate that we will have to do this in autumn 2016, but our plan is for the new fine collection service to be operating at the end of the 2016 calendar year.

The other point that you raised was digital delivery channels and forms of payment. All of that is being planned for. Clearly, the idea of paying money, cheques or even postal orders is really archaic. However, we also have to allow for the fact that a proportion of people who come into contact with the courts may not even have a bank account. We will have to take cash if that is all that is on offer.

Mr Girvan: I totally appreciate that. Many of us have seen somebody sitting in an airport needing to order an airplane ticket, and, fortunately, they phone a friend and sort it out with them. It is between them to sort it out. If this process goes through and makes all these wonderful changes, what model do you see working for this new fine collection process?

Mr Lavery: We are modelling this on the Scottish system, which seems to work quite well. The court bit will still look the same. If a person is convicted of an offence and a fine is imposed, the court will also make a collection order, and that will be an authority for a collection officer employed by the Court Service —

Mr Girvan: Does that take away from your previous comment to Trevor, where you said that once we have —

Mr Lavery: Yes, that is exactly the point.

Mr Girvan: I thought that that was somewhat of a washing-your-hands process, which I disagree with, because if you put in place a charge it is up to you to ensure that that charge is collected.

Mr Lavery: Oddly enough, it was not really ever acknowledged as the Court Service's responsibility to enforce orders of the court.

Mr Girvan: I appreciate that, but I think that the law tends to follow very strict controls, but in a common-sense approach that maybe is not so common.

Mr Lavery: That is the key difference. The new system will mean that the Court Service will be responsible for collecting the fine, not the police for arresting and possibly collecting the fine. Therefore, we will have performance targets for the fine collection service, and we will be able to account to the Assembly and the Committee for our delivery against those targets. The whole system will make it our job to collect the fine. If the collection officer cannot secure the payment of the fine, then the collection officer will bring the person back to court and the court will impose an appropriate sanction. That could still be imprisonment, it could be a supervised activity order or it could be the seizure of a vehicle. A lot of additional powers will be available. However, you have hit the nail on the

head; the change will be that it will become our job explicitly to collect the fine and to set targets for that.

Mr Girvan: I am quite happy to hear that. You alluded to another model within your seizure of goods. Are we going to have a similar process to link in? Other jurisdictions have undertaken this type of work; some are doing it very effectively and others are not. They use the process of bailiffs. Is there the possibility that there will be the introduction of the bailiff process, similar to that in other regions of the United Kingdom?

Mr Lavery: As you know, we do not have a bailiff system in Northern Ireland. We have an Enforcement of Judgments Office, run by the Courts and Tribunals Service, and it is in the business of seizing goods and property to discharge judgement debts. That is why we think that the fine collection service that will be introduced should be based on the Enforcement of Judgments Office. It has powers to seize goods at the moment, and it understands how to do that business and is relatively successful at it.

Mr Girvan: You said that it was relatively successful at that. How successful is it in comparison to what happens in other regions?

Mr Lavery: I find it difficult to give you a comparison, because no system that I am aware of recovers 100% of the debt. Some people criticise the enforcement office for being a wee bit too compassionate, because it is dealing with some very difficult situations. For example, it is responsible for the seizure of property, and repossession of a property is a very emotive thing. When putting somebody out of their property, I think that it is appropriate that we do not go ram-stam at it and that we find out whether they have alternative accommodation and things like that. However, it is an effective system for enforcing court civil judgements, and, because it has that expertise, we think that they are the right people to collect fines in the future. I am pretty confident, based on what I have seen in England, Wales and Scotland, that this is a better model. There will be no lack of clarity about whose job it was to collect the fine: it will be the Department's job through the Court Service. We will not have the ambiguity that may have characterised the system in the past.

Mr Girvan: But should someone default, where you have to use the services of the police to arrest them, that —

Mr Lavery: Yes, that remains part of the model, because there will always be people who not so much cannot pay but will not pay. The court will then be able to make a committal order on them for imprisonment. It will remain the responsibility of the police to arrest them and take them to prison.

Mr Girvan: Thank you very much. I have no further questions.

The Chairperson (Ms Boyle): Members, Mr Girvan was the last person to have a question. Does any other member have anything to add?

Mr Beggs: Yes. I want to go back to a question that was answered by Nick earlier. He said that nobody was at fault as it was a design fault. Nick, you have been in post for, I believe, four years, and David as the director for around three years. Why has new legislation not come forward sooner?

Mr Perry: Because, as I said earlier, Mr Beggs, it was decided in 2012 that this was the model that he wanted to pursue, and we have spent the intervening period designing the model and are working on the legislation. That is why we have not got it in place yet.

Mr Beggs: Two years?

Mr Perry: Well, it does take that time. We have also activated the supervised activity orders in the meantime on a pilot basis, but it takes time.

Mr Lavery: Sorry to interrupt, but we lost a year through the judicial review. That is a fact: that happened. We took a whole year to get the system up and running again because of the judicial review, so —

Mr Beggs: Could this not have happened concurrently? Could someone not have been buying the new system while —

Mr Lavery: There is a limited resource in the Department. We have a small team of policy and legislative experts, and they are also working on things such as the Bamford mental capacity legislation; they are working on the Faster, Fairer Justice Bill —

Mr Beggs: Can I go back to the problem having been highlighted in 2008 and the enforcement of fines report in March 2010 by the Criminal Justice Inspection? This did not just suddenly start in 2012. Why has it taken so long?

Mr Perry: Because devolution happened in 2010; the consultation process —

Mr Beggs: But you did not need devolution: this could have started, and devolution could have continued it.

Mr Perry: Those decisions required to be taken by the new Justice Minister, and the consultation document that he approved in 2011, after consulting other leaders in the justice system, drew very valuable on the CJINI report of 2010.

Mr Lavery: It is also important to bear in mind that the consultation paper in 2008 that was published by the Northern Ireland Office stated, very explicitly, that decisions on this in the future would be for the devolved Administration, because by 2008 we were pretty well anticipating the devolution of policing and justice. The NIO set out a range of policy options but said that it would be for the devolved Justice Minister —

Mr Beggs: Looking forward, then, to the direct withdrawal of money options via the courts where money could be withdrawn from salaries, wages and benefits and where vehicles could be seized and access could be made to bank accounts: that will save millions of pounds for the police, it will save millions of pounds to the Court Service and it will save millions of pounds to our prisons. Certainly, at the moment, the Police Service are facing drastic cuts that will impact on the public. How can you justify waiting for another two years before this will impact on the ground?

Mr Lavery: Well, it just would not be possible. It would not matter how many staff I had —

Mr Beggs: Can you explain why it will not be possible?

Mr Lavery: The instructions are with legislative counsel, and they estimate that it will take a number of months to draft the legislation. When it is introduced to the Assembly, it is referred to the Justice Committee. It is just a fact of life that the first thing that a Committee does is to publish the draft Bill for three months' consultation, so we have to wait for that period. After that, the Committee begins the detailed consideration of the Bill. Our estimate is, and we have discussed this with the Chair and Deputy Chair of the Justice Committee, that it will take us probably to the end of this mandate to get the primary legislation through. We will have people preparing the secondary legislation in tandem with that, but we will not have enough Assembly time to get that introduced until probably September 2016.

Mr Beggs: Is there any way of speeding up the process — and avoiding accelerated passage? I do not want that. At least 18 months of the current Assembly is left. I am shocked that you think you cannot get primary legislation and secondary legislation through in that time. In times of emergency, people generally find that there are ways of doing things. We are in a room that was an operation room during the Second World War, when suddenly new thinking emerged and things that were impossible became possible. In such a situation, with the dire consequences that are facing us, can you see this being expedited in a manner that would still follow normal parliamentary procedures?

Mr Lavery: I think that the timescale I have given you, although obviously the Committee is critical of it, is the irreducible minimum time that will be necessary. You are quite right to say that, when something has to be done quicker, it can be done quicker, but we are designing a system for the next 20 years. I think that it will require that amount of time to go through the legislature.

Mr Beggs: I will pick up on some of the earlier comments from Paul Girvan, who said that, if it was a private business, this would not be the way that it was done. If you and many of your staff were due to lose your job because of lack of funding, would you be able to find a way of moving it forward quicker?

Mr Lavery: I am not sure quite how to address that. We have —

Mr Beggs: I am being serious. There are huge cuts in public funding. How do we make good use of public funding and ensure that we have good governance?

Mr Lavery: That is maybe a permanent secretary question. I would say that the Justice Committee and Department have the busiest legislative programme of probably any part of the devolved Administration. In the remaining 18 months of the mandate, we are committed — the Committee and the Department — to enact the Faster, Fairer Justice Bill to speed up the justice system and improve services for victims; to enact the Fines and Enforcement Bill that we are discussing this afternoon; and, through a joint Committee with the Health Committee, enact the Mental Capacity Bill. Those are three huge Bills, and all in 18 months.

Mr Beggs: Have you prepared a business case for an invest-to-save application for funding? There is meant to be invest-to-save funding. It strikes me that this is an area where considerable money could be saved if it were expedited.

Mr Lavery: I would not know how to expedite it, Mr Beggs. If you gave me a lot of money to hire more staff, it would not change the reality of the legislative process. That, frankly, is what is going to dictate the pace of this.

Mr Beggs: So the Assembly dictates the legislative process, much of it.

Mr Lavery: Yes, but it is appropriate that the Justice Committee gives detailed consideration to what will be complex legislation. When we consulted the Justice Committee on the policy, it was quite happy with, for example, deductions from earnings. However, some members of the Committee have concerns about the appropriateness of deductions from benefits. We think that that is appropriate and will argue for it, but it is appropriate that the Justice Committee, on behalf of the Assembly, gives detailed scrutiny to the legislation, because we will live with it for the next generation once it is on the statute book.

Mr Beggs: But the Committee session is maybe six or eight weeks, not two years.

Mr Lavery: The first thing it does, as I said, is publish the Bill for three months' public consultation. You just have to wait for that to take place. The Minister has discussed the scheduling of this with the Chair and Deputy Chair, and I assure you that the chart we have is like that for landing planes at Heathrow.

Mr Beggs: Was that before or after the emergency situation that has emerged regarding our financial situation?

Mr Lavery: I think it unlikely that that will have a bearing on this. It will undoubtedly have a bearing on the size and shape of the Department of Justice in 2015-16 and beyond, which is something that all of us are grappling with, but, if it is the will of the Assembly that we deliver the Bill, we will have it on the statute book. However, I cannot offer you any assurance that it can be expedited beyond the timescale that I am suggesting. That is based on considerable experience. I have been doing legislation for 30 years. I am always doubtful when people say that it will take two years to do something but I want it done in one. I am absolutely convinced that what I have given you this afternoon is a realistic and deliverable timetable.

Mr Beggs: It is a great pity that it was not started sooner.

The Chairperson (Ms Boyle): OK, Mr Beggs.

Members, we have now had the opportunity to question the witnesses. I have one final question for you, Mr Perry. The Committee did note that, despite the fact that there were serious consultations going back to 2008, 2011 and 2014, which provided opportunities at that time for real reform, very little

has happened, as has been said here today, in the way of reform. What assurances can you give the Committee that this will not be another missed opportunity? Where does this sit with the Department of Justice's legislative programme? Is this a priority within that?

Mr Perry: You have our collective assurance, Chair, that this is a key strategic objective. As David has just said, it is our firm intention to get the legislation through in the lifetime of this Assembly. That is what the Minister has directed. We recognise the weaknesses in the current system. We think that we have a better model and we want to get it in place as soon as possible. As David has just explained to Mr Beggs, we are working quite hard to do that.

The Chairperson (Ms Boyle): Thank you.

Mr Girvan: Just finally, I am bringing back my old business hat. Does all of this require legislative change, or could any of it be brought about through the improvement of processes without legislative consent to do that in certain areas? I am not saying not to take the legislative approach. However, are there areas where we could make tweaks around the edges to improve it now, without using the legislative hammer to drive it through?

Mr Perry: I think that the essentials of the new framework will require that legislative basis. I am sure there is more. We are constantly trying to do things with Causeway and ICOS and those sorts of IT systems to streamline and accelerate the process. We will continue to try to do that in the meantime.

Mr Girvan: I would have thought that the links behind the scenes do not require legislative change.

Mr Perry: No, they do not. I accept that.

The Chairperson (Ms Boyle): That just leaves me to thank you for your attendance before the Committee today. It has been extremely useful. We will take on board the information that you provided to us as we develop our report. We may need to write to you seeking further clarification on issues that have been raised and others that may arise during our deliberations. To go back to my opening statement on the ongoing court proceedings, we welcome the assurance you gave that you would come back to us, either in writing or in person, after those proceedings. Thank you.