



Northern Ireland  
Assembly

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COMMITTEE FOR JUSTICE

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**OFFICIAL REPORT**  
(Hansard)

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**Briefing on the Findings of the Criminal  
Justice Inspection Report ‘Sexual  
Violence and Abuse’**

21 October 2010

**NORTHERN IRELAND ASSEMBLY**

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Briefing on the Findings of the Criminal Justice Inspection Report  
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**Members present for all or part of the proceedings:**

Lord Morrow (Chairperson)  
Mr Raymond McCartney (Deputy Chairperson)  
Lord Browne  
Mr Tom Elliott  
Mr Paul Givan  
Mr Conall McDevitt  
Mr Alban Maginness  
Mr John O'Dowd

**Witnesses:**

Ms Rachel Lindsay	)	
Mr Brendan McGuigan	)	Criminal Justice Inspection Northern Ireland
Dr Michael Maguire	)	

**The Chairperson (Lord Morrow):**

We will now receive a briefing on the Criminal Justice Inspection (CJI) report on the handling of sexual violence and abuse cases by the criminal justice system. Officials from Criminal Justice Inspection are in attendance to provide the Committee with an overview of the findings and recommendations of the CJI report. A briefing paper has also been provided by Criminal Justice Inspection, and members have a copy of the report. I welcome Chief Inspector Dr Michael Maguire; Brendan McGuigan, deputy chief inspector; and Rachel Lindsay, inspector. I invite Dr

Maguire to outline the key findings and recommendations of the report.

**Dr Michael Maguire (Criminal Justice Inspection Northern Ireland):**

Thank you for the opportunity to talk to the Committee about the findings of that piece of work. The background to it is that we were asked by the NIO to undertake a review of current practice and make recommendations for improving inter-agency case handling and tackling the rate of attrition, particularly in cases of rape and attempted rape. We included that in the inspection topic in 2008-09.

The purpose of the inspection was to examine the effectiveness of the justice system in responding to and handling cases of sexual violence. The report considered the different stages of the justice process from the initial reporting of a crime, its investigation, prosecution to its eventual court disposal. The inspection was led by CJI with specialist help from the Inspectorate of Constabulary and the Crown Prosecution Service Inspectorate. We conducted a range of interviews and data analysis and reviewed case files in the police and the Public Prosecution Service (PPS). We also spoke to representatives from the voluntary and community sector and others in the justice system, including judges, barristers, and so on.

The starting point for looking at the issue of rape attrition rates is that crimes of sexual violence, including rape and sexual abuse, are notoriously difficult to investigate and prosecute successfully, particularly when there is a lack of corroborating evidence. The majority of cases of sexual violence and abuse occur in the home or close to the home of the victim, with a perpetrator who is known to the victim. The complexity of some cases becomes compounded when allegations are of an historical nature.

Research into those types of crimes suggests that there is a high rate of under-reporting. One estimate is that between 75% and 95% of such crimes are never reported to the police, which is an incredible statistic. The reasons for non-reporting are extensive, and they relate to many issues outside of the justice system. We argue in the report that it is incumbent on society in general to encourage victims, witnesses and survivors to seek help and to tackle barriers that influence their reporting.

In 2008-09, around 1,900 sexual offences were reported to the police, of which 381 were rapes. Of the cases that are reported to the police, a large number drop out as they progress

through the justice system. In Northern Ireland as elsewhere, there are key stages of attrition. After a crime is reported, just over half are sent by the police to the Public Prosecution Service for a decision. Of that number, only a relatively small number of around 25% proceed to trial, and the conviction rate for the cases that go to court is around 57%. Therefore, the conviction rate for crimes of sexual violence relative to the number that are reported to the police is very low at around 7%. That is similar to the statistic for England, Scotland and Wales, and the conviction rate in court is also on a par with elsewhere. Although those statistics show that the situation here is not very good, it is not significantly worse than other jurisdictions. However, that does not give us any cause for complacency.

As we say in the briefing paper, there are many reasons why cases do not proceed, including when the offence is not rape, when the perpetrator is not identified or cases in which the individual has made an informed decision not to proceed. It is also the inevitable conclusion that a substantial number of victims do not access the criminal justice system and that their perpetrators are not and will not be subject to any criminal sanction.

Our view, as articulated in the report, is that, with high rates of under-reporting and attrition, the justice system must take all lawful steps that are open to it to ensure that victims of sexual abuse and violence experience the best possible service as their cases progress through the system.

The remainder of the report is divided into different stages. In looking at at the initial response and investigation, we talk about access to the police and the handling of calls, the nature of training for student officers and the role of forensic science officers. We also looked at the training, development and support of trainee investigators, the links between the child abuse inquiry units and the rest of the public protection units in the police and how that communication must work better in certain areas. We found that the partnership between social services and the police was generally good, and certainly there was a consideration of the possibility of collocation for police and social services where there is a possibility of developing relationships. Interviews with victims were usually well managed and the facilities for interviews and medical examinations that we saw were of a high standard.

You will appreciate that there is a lot of material in the report, and I cannot go into all the specific details. We are happy to take questions at the end of the presentation.

We looked at decision-making and the trial processes. The public prosecutors who we looked at had received sexual offences training, and specific prosecutors in each region had been identified as sexual offences experts. The training included police investigators working in the area, and that approach is to be recommended. The Committee will remember from our previous discussion on delay that we talked about the links between the PPS and the police, and this is a good example of how prosecutors can provide training to the police to improve the overall service.

A total of 74% of cases reviewed in 2007 were directed for no prosecution.

Continuity of prosecutors and counsel was good, and victim credibility was identified as a key issue in decision-making. Consultation with victims was common, although no record of videotaped victim interviews was being used to provide that information. That is important in the context of the lead-up to the trial, the way in which prosecutors engage with victims and the way in which they, in some cases, engage in further consultation which had an impact on the victim. Some of that could be short-circuited through video evidence.

In looking at the facilities in court buildings, particularly those to support special measures, we felt that much of what we saw of the facilities run by Victim Support and the National Society for the Prevention of Cruelty to Children (NSPCC) were well organised. However, in looking at the overall nature of the cases, we saw that delay throughout the investigation and prosecution process was a major concern to victims and other stakeholders.

As part of the review, we spoke to some victims and voluntary and community bodies to get their perception of what their experience of the system had been. We found that the voluntary and community sector organisations provided an invaluable service in supporting victims and assisting them in coping with the trauma that they had experienced. Such organisations are often a source of support for victims long after the criminal justice system has ceased to intervene.

Victims and their advocates outlined an improving approach to the response, investigation and prosecution of sexual offences, but felt that there was more to be done. The main concerns of victims centred on a lack of updating from the agencies as to the status of their case. Although the victim and witness may view the process as “the justice system”, the situation is much more

fragmented and one of the recommendations that we make is about strengthening communications between the police and the PPS. That recommendation sets out responsibilities about victims and who should address them. We commend the police in the report for its significant commitment to the setting up and running costs of the first Northern Ireland sexual assault referral centre, which, we hope, will encourage victims to report sexual violence and abuse and provide a supportive environment.

Feedback from victims and their representatives on the initial response of police to the reporting of abuse was varied and we saw that there were some problems in accessing the right kind of officer within the PSNI when calls were first made. There were instances of people being misdirected within the organisation. However, victims and their representatives generally reported high levels of satisfaction with specialist officers investigating sexual offences.

The inspection identified some excellent examples of good practice in the justice system and we were heartened with the feedback we received from victims, witnesses and groups about that good practice. Our inspection clearly highlights the improvements that were made in recent years. We found many examples of dedicated staff throughout the system, who deal with quite sensitive issues in a professional manner.

In coming to an overall conclusion about victims and witnesses, three important issues must be considered when moving forward. First, there is a need to provide better information and support to victims throughout the process as cases progress and move from one justice organisation to another. Secondly, the speed at which cases are progressed needs to be accelerated so that the trauma and anxiety for victims and the accused is not exacerbated. Finally, there is a need for justice organisations to continually review the reasons why cases do not progress through the justice system and to take appropriate action. Much remains to be done to retain the support of the victim through the justice system. I will stop there to allow questions.

**The Chairperson:**

Thank you Dr Maguire. Some of the figures that you presented are quite startling. In particular, only a relatively small number, around 25%, proceed to trial, and, of that 25%, there is only a 57% conviction rate. What are the barriers? Why should it be like that?

**Dr Maguire:**

That is a good question, Chairman. The first thing that I was concerned about when I saw the figures was whether they were any better or worse than elsewhere. Rachel may say a little more about the comparative information. Although those figures, as you said, are startlingly, they were about the same as in other jurisdictions.

The second thing for me was what the different stages are in which cases are lost. The first is reporting, and even when you take the conservative estimate that only 25% of victims come forward, that means that 75% do not. There is an obvious reluctance for victims to bring their cases to the police and there are a variety of reasons for that, many of which are outside of the justice system. We then have a situation whereby only half of the cases that are brought to police go to the PPS for a decision. Again, in unpicking that, there are many reasons. Some of it has to do with the victim withdrawing, some with a lack of evidence and some with the nature of the support provided in cases in which a victim decides not to proceed. There are then the cases that are received by the PPS, of which only 25% proceed to trial. We looked at case files and tried to understand some of the reasons for only 25% going to trial, and some issues emerged, which Rachel may say something about. However, that needs to be the subject of a more systematic review in the PPS; it needs to understand why that is the case. I am not necessarily saying that there is anything wrong with that, but there is a need to understand why 75% of cases do not go to trial. Of the cases that do go to trial, the overall conviction rate is about 57%, which is in and around what the experiences are elsewhere.

I have answered your question long-windedly, but there are different stages in the process and different reasons at each stage as to why a case drops out. That is why, in comparing reporting through to convictions for rape, we get a figure of 7%, which is, as you said, is startling.

**The Chairperson:**

Is there any evidence that leads you to believe that the 57% conviction rate has any impact on the number of cases that are dropped?

**Dr Maguire:**

In what sense?

**The Chairperson:**

A total of 57% did not get conviction, is that correct?

**Dr Maguire:**

No, 57% achieved a conviction.

**The Chairperson:**

That is still quite low, with 43% of cases not achieving a conviction. Is there any evidence that that had any influence on cases not going to court? You also said that many of the reasons for cases being dropped were outside of the justice system. Is there any evidence that people dropped their cases because they felt let down by the justice system and that it did not do the job for them?

**Dr Maguire:**

I will make some general comments and then ask Rachel to say a bit more. When I first began to understand the nature of the issues through talking to Rachel, and as the report began to emerge, I immediately saw dissidence between the report and the statistics. What I expected to see in the report was, to use the vernacular, righteous indignation about what was wrong with the system and why it was leading to such low conviction rates. However, in looking at the report and the stages of the process of the investigation, I saw that the feedback from the police was very good. We looked at the nature of the decision-making by prosecution, and we saw that the conviction rates are comparable to elsewhere. It is difficult question to answer. What I can say is that the victims had concerns about delay and about accessing the right people, at times, through the justice system. They were concerned about the information they were given as their case progressed. Whether those factors contributed to a drop-out rate is an issue that we did not look at, and that is why, particularly in the context of the PPS, this requires further information.

**Ms Rachel Lindsay (Criminal Justice Inspection Northern Ireland):**

One of the things that we looked at in the decision-making process was whether the decision could be made by reasonable prosecutor. What we were looking at, therefore, was not necessarily about making a prosecution but whether the test for prosecution would be met.

In those types of cases, one of the general issues is that of evidence. A lot of sexual offences occur in situations in which there is only the victim and the defendant. There may be no other



evidence, such as medical or forensic. Some of the cases happened years previously; therefore, any evidence that was potentially there at the time is lost. Therefore, in some cases, it is really one person's word against another. Again, when that gets to the court stage, juries are being asked to potentially make a decision based to one person's word against another. Therefore, there are a number of factors, not just about how well the investigation was carried out or how well the evidence was gathered, but because of the nature of the case and the lack of corroborative evidence.

**The Chairperson:**

To follow on: is there anything that you can do or are proposing to do whereby victims are regularly updated on the position of their particular case?

**Dr Maguire:**

The nature of the engagement with victims and the justice system will be a continual theme of the work that we do. We see it here quite clearly in the context of the nature of information provided, when and how that is provided and how victims move with their case. If someone is on the receiving end of a crime and they engage with the justice system, they perceive it as a justice system, and Keir Starmer recently referred to a prosecution team, so they perceive that the system is operating as a whole.

What we often actually get is a series of disconnected bits when the police carry out an investigation, though the feedback that we got on the nature of the relationship between the investigator and the victim in this exercise was very good. There is then the Public Prosecution Service decision-making followed by the court process. I think we are less than satisfied at times with how the victim progresses through that and how the different agencies engage with a victim through that process, so that is an issue, and it is likely to be a continuing issue for us as we get into this kind of work.

**Mr McDevitt:**

Thank you for this piece of work. It is important and sets you up well for the work that you are undertaking about the lessons learned from Donagh. I am curious about two things. The first is that the relationship between the victim and the perpetrator in this type of crime is generally different to the relationship between a victim and a perpetrator in most other crimes. If you tot it up, you see that about 75% of the victims here are related to the perpetrator of the crime. How

much of a factor do you think that is in the system's inability to be able to deal with this crime as efficiently as with traditional crime? In other words, is the system still coming to terms with dealing with a crime in which there is such a close relationship and in which the standard of evidence, for those reasons and many more, may be of a lesser quality?

Do you think that that is a factor in all of this?

**Dr Maguire:**

I will ask Brendan to comment on that from his experience.

As we say in the report and briefing paper, crimes of this type are notoriously difficult to prosecute for many of the reasons that you have outlined. There are two issues. One is the way in which the justice system proceeds with a case: how it is investigated, evidence requirements, decision-making, and so on. Those are the technical aspects, for want of a better term. The second issue is that, because of the nature of the crime, specialist support is required for victims.

We stayed away from discussing the issue of rape advocates in the context of this report, although we have discussed it elsewhere in a different context. We debated that aspect. We do not deny that it is a good thing, but our view is that it is important for justice organisations to deal more effectively with victims of this type of crime independently of how the case is managed in the process. That is part of the thinking on the issue, and that is why there is a specific recommendation that the police and the PPS should design a protocol to address some of the communication issues. Those are the cross-agency links, which are separate from the issue of how the agency engages with the victim. We made recommendations to the PPS on different exercises with regard to that. It is a complex question, Conall, but I would divide it into those two areas: one is to do with the nature of the crime itself and its implications and the other is to do with the difficulties of the crime, what it means for the evidentiary process and how the case progresses through the system.

**Mr Brendan McGuigan (Criminal Justice Inspection Northern Ireland):**

These are horrendous crimes; there is no doubt about that. If we look at the confidence of victims and survivors to come forward and report their cases, we find that the justice system has moved a long way when it comes to listening. Its ears are open to what survivors and victims say.

It is a terrible thing to say, but the stranger-rape is probably the easiest case to investigate in

that there is forensic evidence, evidence of assault, and so on. However, the vast majority of sexual crimes happen in the home, at school or at church and are committed by people with whom children and adults feel comfortable and safe. The victim has been betrayed. We have an adversarial system of justice, and the credibility of the witness is important. Anyone who has sat through such a trial will know that the credibility and personal life of the victim or survivor is gone into in tremendous detail — in the process of trying to get to the truth, of course, but it is an experience in itself. You can see that the mechanism is there to support them, and the effort has to be put into ensuring that the victim is as confident as possible in coming forward.

However, I honestly feel that we have come a long way from where we were. Victims now feel confident that they can come forward, but there is still a hurdle to clear. We have an adversarial court system, which is there for a purpose: it is there to ensure that the credibility of the survivor and victim can be examined, often by juries of citizens who make up their minds. That is fine if there is independent corroboration or forensic evidence, but, on many occasions, there is not. So, it comes down to the credibility of the witness, and that is assessed by a jury.

**Mr McDevitt:**

I am struck by how often the word “communication” appears in the report’s recommendations. Page 22 refers to communication between the police and others; page 25 refers to communication between police and social services; and page 46 refers to communication between the PPS and victims. Then, on page 65, there is a really depressing case study about victim C, where justice is delivered, but after three years and after someone had been left feeling out on a limb. If, for argument’s sake, that was your father, ex-partner, a member of your family or someone whom you trusted, that would make that process all the worse.

Is it unfair of me to assume that, in coming to terms with this type of crime and being better at addressing it internally and relating to the victims, the significant barriers that are now in the justice system are cultural rather than policy-related?

**Dr Maguire:**

That is a very interesting comment. In looking at the material, particularly the chapter on victim support, one of the things that strikes me is the question of what the voice of the victim is. When you come at the justice system from the victim’s perspective, you see it from a very different perspective, and you see the nature of communication very differently. At the same time, from

the perspective of the justice system, we have found good examples of where police investigators were very sensitive and professional in how they dealt with people who had experienced that type of traumatic crime. We need to be measured in what we are saying.

Are there particular difficulties associated with this type of crime? Yes, there are. Do they become compounded because of the nature of the adversarial system that Brendan talked about? Yes, they do. There is a complex set of factors, but that does not mean, and nor should it, that we do not continue to seek improvements in how the justice system can engage. The case studies in our report are practical examples of how we can do it better. At the same time, let us not assume that what is currently there is not working, even when we look at the figures. There are strong elements of the system where victims perceived a real sense of their voices being heard. However, is the system good enough? No. Will it ever be good enough? Probably not, but that does not mean that we should not strive to make it so.

**Mr McCartney:**

I welcome the report, and I support its recommendations. However, it surprised me to some degree to read that there is no specialist prosecution model for sexual cases. Paragraph 4.20 shows that the exact reasons why almost three quarters of cases are not taken forward for prosecution are not clear. The Public Prosecution Service does not appear to know why cases are not being prosecuted. There does not seem to be any analysis, and, as it takes forward the matter, it does not state the reasons for not prosecuting nor does it ask how it can strengthen the process. That is compounded by the fact that there are no specialists, because it means that different people at different times are pursuing different types of cases. I do not want to pull bits out of the report, but that surprised me. Paragraph 4.9 states:

“In the case file review of non-prosecuted cases Inspectors found that there was sufficient evidence and background information in 10 out of 15 cases (67%) for the decision to be made.”

The report then states that, in four of those cases, inspectors determined that the decision not to prosecute was taken prematurely. How does the fact that there is no post-review analysis impact on that?

**Dr Maguire:**

There are several elements to what you said. One is the nature of the decision-making process, and, as we said in the baseline work on the PPS, the majority of the decision-making was sound. However, in the context of that piece of work and indeed this work, we saw some caution about

some of the decisions. That impacts on the number of cases that are brought forward. Rachel will say something about how the PPS has approached the nature of the model in the context of the work that it has done. In the report, we also talk about the degree of reflection on cases and what that means in the context of the service, and that is a possible area for further improvement.

**Ms Lindsay:**

We looked at whether the evidential task was met and whether it was a reasonable decision. We found that the decision-making was sound in that respect, but, similar to what we found in the baseline inspection of the PPS, we also found that more could have been done to look at other avenues that could be explored. That is not to say that, if those avenues had been explored, it would have meant that there was further evidence and that a prosecution could have been taken. However, there was, perhaps, a more cautious approach and some evidence of looking at the negative aspects of the case rather than highlighting what more could be looked for in order to take forward a case. We would certainly expect the PPS to look at that when considering the recommendation about investigating the reasons why cases do not go forward for prosecution.

**Mr McCartney:**

I want to go back to the point about the 57% of cases.

**Dr Maguire:**

The report states that 57% of the cases that went to trial resulted in a conviction.

**Mr McCartney:**

In how many of those cases did the defendant plead guilty?

**Ms Lindsay:**

I do not have the details here.

**Mr McCartney:**

Is the number of people who pleaded guilty higher than 50%?

**Dr Maguire:**

I do not know.

**Mr McCartney:**

It would give you an indication that, if the case is well presented, someone will plead guilty. The more cases you pursue, the higher the conviction rate will be.

I want to touch on something that Rachel said. One of the issues can sometimes be the reliability of a witness. Perhaps someone is under pressure, and we have all know of examples of someone in the witness box being made to look unreliable. Paragraph 4.18 mentions assessing the credibility of witnesses and deals with how the Public Prosecution Service approaches victims who then become witnesses. Is there anything that we can do to tighten that process up? It is understandable that a victim will find being questioned by a prosecutor in court more intimidating than giving evidence via video link to someone more sympathetic. I am not saying that prosecutors are not sympathetic, but the court setting can lead a witness to feel uncertain.

**Ms Lindsay:**

That is why we made the recommendation that, in assessing a victim's evidence, the first port of call should be the video interviews that the police have already carried out in preparation for special measures applications. Therefore, that should be the default position, with the interviews with the victims being used as a backup rather than as the default process, which tends to be the case at the moment.

**Mr McCartney:**

Would you consider that to be a big gap?

**Ms Lindsay:**

That would be something that could make victims feel less like they were on trial.

**Dr Maguire:**

Overall, in preparing the report, I was struck by the thought that there is no one big thing that we can do to improve the situation. We are recommending that a series of incremental steps be taken at different stages within different organisations to try to improve the overall nature of the service. That is why some of the recommendations appear to be somewhat operational. However, the cumulative impact is to improve the overall situation.

**Mr McCartney:**

Would a specialist model or set of prosecutors be of assistance?

**Dr Maguire:**

The PPS has not adopted a specialist model but it does involve experts. It is a case of volume: do we have sufficient volume to justify such an approach? Ultimately, that is a question for the prosecution service.

**The Chairperson:**

As regards delays and the defence requesting adjournments and so on, do you intend to do any further work to investigate why they are happening? Is there any potential to speed the process up? A victim can be made to feel like a victim twice over in that process. That is something that members are concerned about, and I suspect that you are, too.

**Dr Maguire:**

At our first meeting, Chairperson, you asked me to list me the three things that I felt were most important in the justice system, and delay was one of the issues that we talked about. As I think I said the last time, a decision on the reason for an adjournment is a judicial decision, and that is outside the remit of CJI. We are interested in the factors that cause adjournments, and that is where the justice system can make an impact in reducing the time it takes to move from arrest to disposal, along the lines of what we talked about at the last meeting. Yes, it is important to address delay, and yes, when we were preparing the report on sexual violence and abuse cases, victims said that the process took a long time and that that had an impact on them. Are there things that the justice system can do to improve that? The answer is yes, and we talked about many of those measures when we discussed the report on delay in the justice system. That is very much related to the way in which cases progress through the system.

**Mr O'Dowd:**

I welcome the report. It makes for depressing reading in parts, because it shows the circumstances of some people's lives. Clearly good and professional police work is going on, but, as regards the involvement of the police and the PPS, the report reflects the findings of some of the other reports that we have seen. If you look at the process from the start, even when the victim calls the police station, there is a breakdown in communication; there is an issue around who in the station should be contacted. Those are things that should be corrected quite easily in

the ordinary management of any organisation.

I turn now to the collection of evidence, and page 16 of the report shows that there was an initiative to bring in rape evidence kits. However, just before those were due to be rolled out, some difficulties were identified. Have those difficulties been overcome? When will those kits be distributed?

**Ms Lindsay:**

At the time the fieldwork was undertaken, the kits had been retracted. That is something that the police can comment on.

**Mr O'Dowd:**

Do you feel that that area is important and that a focus should be placed on it? If we are to improve prosecution rates, evidence is key.

**Ms Lindsay:**

That will definitely be a valuable step. Generally, officers who respond to 999 calls or emergency situations are not specialists. The early evidence kits will give them very clear guidance on what they need to do at the scene, which will help in the gathering of evidence.

**Mr O'Dowd:**

The report then goes on to consider file preparation. Again, there are flaws that range from minor to major. Even in the supervision of work, there is an issue around who is responsible for checking the files. When will that hurdle be overcome? In 2010, you would think that an organisation like the police would have a system in place and a standard practice for preparing and clearing files. Is my approach too simplistic or is it such a complicated process that it can never be got right?

**Dr Maguire:**

There are a couple of issues, and I will ask Rachel and Brendan to go into some of the detail. The Chairman asked me why people drop cases, and we cannot make a connection between the reasons for that and some of the things that we found in the report. John, you raised some issues around how people engage with the police. We do not know whether those who make calls that are misdirected decide not to report a crime, whether evidence not being collected properly means



that the case does not proceed to the next stage of prosecution or whether the supervision of file preparation has an impact. I am not making any judgements, but one would hope that, if we improve those things and a number of other areas, the cumulative impact would be an improvement in the progress of cases through the justice system. Perhaps Brendan can answer your specific question.

**Mr McGuigan:**

We had concerns in advance of the inspection about the PSNI's capacity because it had been restructured. We were concerned about whether the new public protection units, which incorporate the inquiry units, would be able to cope. However, we were assured that the PSNI was developing a level of professionalism and expertise. The more you do that type of work, the more you learn. Unfortunately, it is generally by making mistakes that you learn and get better. I have no doubt that, in time, the public protection units, and the rape inquiry units within them, will develop an expertise that will bring them to a new level. Therefore, we were reassured that those units had been established and that the structural changes had not had an impact. Those units will grow; there is no doubt about that.

However, as Michael said, the important thing is that the officers who are first on the scene of a crime have the knowledge and equipment needed to help to ensure that possible forensic evidence is not lost. The key to many of those terrible incidents is being able to collect corroborating evidence, whether it is forensic or from witnesses. It is important that the first officers on the scene are alert to the possibilities and that the specialists who come in afterwards carry out a professional investigation. The prosecution files must be assembled in such a way that prosecutors feel confident that there is something for them to take through the court process and the various screening processes therein.

We did see an improving situation. There is no doubt about that. However, to be honest, I do not know whether it will ultimately have an impact on the overall figures. Sadly, the terrible reality, which is an awful indictment on society generally, is that the system is the way that it is. Victims and survivors go through an awful ordeal in having to relive the trauma through a court process. However, that is the system of justice that we have, and that can work to ensure that people are not wrongly convicted. Quite a number of those cases fail for very good reasons that are correct and just. We cannot lose sight of the fact that an allegation is easily made, and, sometimes, it is very difficult to disprove.

**Mr O’Dowd:**

Your point is well made.

One of the areas that I, as a public representative, receive the greatest number of complaints about is that initial contact with the police. Once the police have come out to people and are dealing with them, nine times out of 10, those people are dealt with in a professional manner. Getting to that point is the problem. A victim, especially a victim of historical abuse, has to build up courage and resolution to phone the police about abuse, and, if that call is then handled badly, it is a serious indictment on the service.

As regards relationships between the various statutory agencies, the McElhill case has been thoroughly examined through an inquiry. That is highlighted on page 24 of the report. Is there a deeper concern that the lessons from that case have not been learned?

**Dr Maguire:**

We have not found that. We saw the relationships with social services — I am looking at Rachel for support that what I am saying is right — as being good and improving. While we did not go into the detail surrounding that particular case, we did not get a clear sense that that continued to be an ongoing problem area.

I turn to your question about call handling. In our 2009 inspection report, ‘Policing with the Community’, we made the recommendation that:

“as a matter of urgency PSNI develop and implement a service-wide call management strategy that reflects advances in technology to enable effective call handling in support of the delivery of PwC.”

We have reiterated that recommendation in this report. We will also be carrying out an inspection on call handling specifically, because we think that it is an important issue in the context of the work that we do.

**Mr O’Dowd:**

On page 64, you refer to an example in which a boy, who was six years old at the time, was processed for a sexual offences case, and it took five years before the young lad was given a youth conference. I do not want to hear the details of the case, but there was obviously a victim who had to wait for five years. The boy was six years old. What is the age of criminal

responsibility? Surely, since a six-year-old boy was appearing on such a charge, somebody dealing with that case should have said that it needed to be dealt with effectively and efficiently for the sake of both parties.

**Ms Lindsay:**

That is part of the difficulty when dealing with young people, and it was something that the Youth Conference Service raised with us generally. Delay is an issue for everyone in the system, but it is particularly an issue with regard to young offenders who, if the matter is dealt with fairly speedily, may have a greater opportunity for rehabilitation and for being able to address those behaviours. If the matter drags on, it may have a greater impact on a young offender than on an adult.

**Mr O'Dowd:**

This may not be the place in which to discuss my next point. I am not ignoring in any way the fact that there was obviously a victim in the case, but I am wondering what the benefit to society was in bringing a six-year-old boy through the criminal justice system.

**Dr Maguire:**

We cannot talk about the specifics of the case.

**Mr O'Dowd:**

I understand that.

**Mr McGuigan:**

You asked about the age of criminal responsibility. The answer is 10 years of age. As you know, it is higher in other jurisdictions. There have been moves in Europe to raise it to 12 or 14.

**Mr O'Dowd:**

How did a six-year-old end up in the system?

**Mr McGuigan:**

I am not sure; I did not read about that particular case.

**Dr Maguire:**

I do not think that it would be appropriate to talk about that.

**Mr A Maginness:**

The report has some encouraging aspects. There seems to be a general improvement in the way that the police and the PPS deal with these matters and in how victims are looked after by the justice system in general. That is encouraging. What is not encouraging is the large number of people who do not report this type of crime. It may well be a cultural thing or people may feel ashamed and that they cannot go through with it. I do not want to go over the points that other colleagues have made about delay, but can you confirm that delay does not necessarily cause a victim to walk away from a case? Once someone has brought a case and that case is in the system awaiting trial, do they walk away because of delay? Are you telling me that they do?

**Dr Maguire:**

The report does not make any suggestion that there is a link between the two. We are saying that this is an area that we all need to be conscious of. All the organisations involved need to understand why cases are withdrawn and why people drop out so that, if there are cases that could progress further and do not, corrective action can be taken. I think that that is the most that we can say.

**Mr A Maginness:**

I am just trying to make the point that, once a victim is in the system, delay is not necessarily the key factor that might cause them to drop the case.

**Mr McGuigan:**

There can be a variety of reasons. Of course, we would make a difference between retraction and withdrawal.

**Mr A Maginness:**

One other aspect that I found interesting was the low number of applications for compensation from victims of sexual crime. In 2007-08, the Compensation Agency received 236 applications for compensation in sexual abuse cases. That rose slightly to 268 in 2008-09, yet reported cases were roughly around 1,900. Is there any explanation for that? I know that you were not inquiring into that, but it seems to be a strangely low number of applications from people who have

reported cases. There is an impediment in that you will not get compensation unless you have reported a case.

**Mr McGuigan:**

I looked at the Compensation Agency a few years ago, so I have some knowledge of this. A number of the cases to which you refer are historical sexual abuse cases. It may well be that the vast majority of the cases to which you refer are historical as opposed to current.

**Mr A Maginness:**

My point is that there are roughly 1,900 reported cases of sexual offences, yet the application rates in each of the years that I talked about are very low; 230 applicants or thereabouts. It seems to me that those cases are not predominantly historical but current or contemporary.

**Dr Maguire:**

It is a good point. I will ask Rachel to answer that.

**Ms Lindsay:**

To be honest, it was not something that we looked at closely. We met the Compensation Agency and discussed the processes. We talked to Victim Support, for example, about compensation, because it is one of the main assistants to victims when they apply for compensation.

It was not something that was raised with us; for example, lack of awareness was not raised. There was nothing we could pinpoint as to why the rates were so low.

**Mr A Maginness:**

The law, in its wisdom, will not provide support for legal representation for victims appearing before the Compensation Agency.

One further point is that 57% of applicants were offered compensation, and that figure fell to 51%. Not a very high proportion of victims receive compensation. That area requires further examination.

**The Chairperson:**

Mr Maginness prompts me to ask about something I read in the report. On page 65, it states:

“Some interviewees commented that the defence sometimes attempted to delay proceedings as much as possible as this may lead to the victim withdrawing support for the prosecution”.

Does that not provide some evidence that the justice system is being used as a tool for wearing down victims, restraining them from proceeding with a case or making them weary of the whole thing until they think that there is no point?

**Dr Maguire:**

There are two separate issues. In that chapter, we wanted the voice of the victim to be heard and further issues that are in people’s minds to be raised. That particular issue is important. As I said on previous occasions, delay in the justice system is a problem and it impacts on the capacity of cases and the availability of victims. The longer it takes, the more difficult it is to remember events and so on. An accumulation of things can impact on a successful prosecution if a case is elongated over a considerable period.

My starting point is simple: we need to reduce the time taken from arrest to disposal because of the negative consequences that delay has, particularly on young people and victims of that type of crime.

**Lord Browne:**

I very much welcome the report. There have already been many good outcomes. The subheading on page 55 is “Victim input to prosecution decisions”. It addresses the standard of letters sent to victims in cases in which there is no prosecution and it cites a very deserving case: the victim B child abuse case. In that case, the mother received a standard letter addressed “Dear Sir/Madam”. That is very disturbing, but a simple thing to put right. Has anything been done to rectify such letters going out to victims when there is no prosecution?

**Dr Maguire:**

I do not have specific details. You would have to ask the Public Prosecution Service. In the follow-up review on our baseline study of the PPS, we said that one of the areas where progress needs to be developed further is the nature and the way in which the organisation engages with victims and witnesses. That is particularly the case with regard to decisions and the reasons for making decisions. That example illustrates some of the problems. It does not mean everything is bad, but it shows that there is an issue to be addressed. That will be picked up. Other recommendations that we made around the PPS address that issue specifically and we hope to see improvement in that area.

**Lord Browne:**

On page 43 of the report, it states:

“in every rape or serious sexual offences case where counsel has been instructed, a conference should always be held between the prosecutor, counsel and the police officer in the case to analyse the evidence and to explore ways of overcoming any difficulties.”

I cannot understand why that was not standard practice in the past. Do you believe that it is likely to be carried out, give the heavy workload that counsel, prosecutors and police officers have these days?

**Dr Maguire:**

Rachel will provide some background information to that recommendation, then I will answer your question directly.

**Ms Lindsay:**

For us, one of the issues was that, although there were meetings between counsel and the prosecutor, the investigating officer was not necessarily involved. There was also an issue, to some extent, about it not always being recorded in the file, so sometimes it may have happened but we were not aware of it. For us, the issue is that those types of cases are complex and difficult to take forward to conviction. It is about ensuring that every possible opportunity is explored to ensure that the evidence is as good as it possibly can be and that any difficulties can be pre-empted.

**Dr Maguire:**

To answer your question specifically: that recommendation has been accepted. We will come back to see whether improvements have been made when we do the follow-up on this piece of work.

**Mr Elliott:**

Thank you. I apologise for not being here for your presentation. Again, apologies if some of my questions have been answered. Michael, did you say that that recommendation has not been accepted?

**Dr Maguire:**

It has been accepted.

**Mr Elliott:**

I am sorry; I thought that you said it had not. Why is the victim not included in that? Paragraph 5.1 of the report states:

“All prosecuting counsel confirmed that they would make efforts to meet the victim prior to the trial and that they were cognisant of the specific needs”.

However, clearly, the victim is not always met by the prosecuting counsel. Why is that?

**Ms Lindsay:**

In deciding whether the victim should be included in that meeting, there is a balance between discussing their evidence to check what evidence they will give and any action that could be seen to be coaching the victim. The Public Prosecution Service has to find that balance because, in the judicial system in which we work, it is not allowed to be seen to coach the victim. It could not discuss difficulties with the victim's evidence with them. However, we want somebody to meet the victim beforehand to explain the process and to tell the victim that they can re-read their statement and explain how things will work at the court.

**Mr Elliott:**

In many cases the prosecuting counsel does meet with the victims.

**Ms Lindsay:**

Yes.

**Mr Elliott:**

I cannot establish why in some cases they could not or would not.

**Ms Lindsay:**

No, sorry, I was not sure whether you were suggesting that the victim would be involved in that meeting of the prosecutor, the counsel and the investigating officer.

**Mr Elliott:**

I accept that point, but going on to the broader point, why does the prosecuting counsel not meet all victims?



**Ms Lindsay:**

There is no reason why. They should always meet the victim.

**Mr Elliott:**

I thought that would have been good practice. Have you considered whether that would be good practice, or are you happy with the ad-lib process that there is at the moment?

**Ms Lindsay:**

It would be good practice for the counsel to meet the victim prior to the trial.

**Mr Elliott:**

I have one other point. Earlier, when Brendan was answering a question, he said that the system is the way it is. There was almost an inference that the system is not right, if you do not mind me saying.

**Mr McGuigan:**

It certainly was not meant that way. The point I was making was that we have an adversarial justice system; that is the way it is, and everyone operates within that system.

**Mr Elliott:**

So, in your humble opinion, are you saying that the system is right or not?

**Mr McGuigan:**

I would not care to comment on that. *[Laughter.]* Obviously, the power to change lies with the legislature.

**Mr Elliott:**

That is my other point. That is what we are here for: to try to get it right. I apologise for putting you on the spot, Brendan, but if it is not right, and I accept the broad basis of the report, we need to know what is not right to try and make it better, particularly for victims. Although I welcome the report, I think that some areas may have been missed.

**Dr Maguire:**

It is a point well made. The context in which all this takes place is the adversarial system that

Brendan mentioned. At the same time, the report says that each organisation, if it did a number of things differently, could improve the overall service that is provided to victims. We can talk about it in a different context. If we improve the way in which call-handling is managed, the training and supervision of officers and the application of rape-evidence kits, there are incremental things that the police can do. The case is then passed to the Public Prosecution Service, which could engage with victims in a way that is better than before and use video evidence. The cumulative impact, one would hope, would be the improvement of the overall service, but it is set within the context of the justice system that we have. I think getting that balance right is the difficult area.

**The Chairperson:**

We are going to stop there. All members who intimated that they wanted to speak or to ask a question have been called. Dr Maguire, Mr McGuigan and Ms Lindsay, thank you very much for your report and for appearing before the Committee today.