



Northern Ireland  
Assembly

**Committee for Justice**

# **OFFICIAL REPORT (Hansard)**

**Avoidable Delay: Response**

**9 February 2012**

# NORTHERN IRELAND ASSEMBLY

## Committee for Justice

### Avoidable Delay: Response

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**Members present for all or part of the proceedings:**

Mr Paul Givan (Chairperson)  
Mr Raymond McCartney (Deputy Chairperson)  
Mr Sydney Anderson  
Mr Stewart Dickson  
Mr Seán Lynch  
Mr Alban Maginness  
Ms Jennifer McCann  
Mr Basil McCrea  
Mr Peter Weir  
Mr Jim Wells

**Witnesses:**

|                   |                       |
|-------------------|-----------------------|
| Ms Maura Campbell | Department of Justice |
| Mr Chris Matthews | Department of Justice |
| Ms Jean Moore     | Department of Justice |

**The Chairperson:** I welcome Maura Campbell, deputy director of the criminal justice reform division; Chris Matthews, head of the speeding up of justice branch; and Jean Moore from the speeding up of justice branch. This session will be recorded by Hansard. I invite you to give an overview to the Committee before we open up to members' questions.

**Ms Maura Campbell (Department of Justice):** Thank you very much, Mr Chairman. We are grateful to have this opportunity to respond to Dr Maguire's report. Overall, we think his report is a fair reflection of the current position. Despite a major effort across the justice system in response to the 2010 report, we have yet to make the step change in performance that everyone agrees is necessary.

Committee members are aware that the Minister has already responded positively to the sole recommendation in the report, and that is why the announcement was made in the Chamber on Monday that we intend to introduce statutory time limits in the youth courts within this Assembly mandate. In his statement, the Minister explained why he had reached that decision, and he gave an assurance that I would like to repeat today: that adequate safeguards would have to be put in place for victims of crime. We are now in the process of developing detailed proposals, and we will take those back to the Criminal Justice Board shortly, before providing further advice to the Minister. On the point that was raised earlier about democratic scrutiny, I am very happy to give an undertaking to fully brief the Committee on any proposals and that —

**Mr Wells:** That was not the question, Maura.

**Ms M Campbell:** And —

**Mr Wells:** And?

**Ms M Campbell:** — that you will be given the proper opportunity to scrutinise our proposals.

**Mr Wells:** And?

**The Chairperson:** Can we just nail down that issue now? What vehicle will be used for the introduction of statutory time limits? Will it be existing legislation or new legislation?

**Ms M Campbell:** It could be either. If we were to use existing legislation, we would have to produce draft regulations that would be subject to scrutiny. You would see, in detail, how we propose to implement the 2003 legislation and have the opportunity to comment on that.

**The Chairperson:** Would the regulations be subject to the approval or otherwise of the Assembly?

**Ms M Campbell:** Yes.

**Mr Wells:** Will that be done through negative or positive resolution?

**Mr Chris Matthews (Department of Justice):** I am guessing that positive resolution will probably be used. I do not think that the legislation specifies which should be used, so will we probably take them through positive resolution. Given the fact that the proposals are controversial, I think that we will use that mechanism.

**Ms M Campbell:** Even if negative resolution were used, this is such an important issue that we would want to give you a full opportunity to scrutinise the regulations. If we were to take forward fresh legislation, we would have to come back to you on the policy and consult publicly, and you would have the opportunity to scrutinise that fresh legislation.

We will also want to talk to you about the detail of what provision should be made for exemptions or exclusions, at the same time ensuring that the time limits have sufficient bite to bring processing times down. In light of the earlier discussion, there are, as Dr Maguire said, a range of options for applying statutory time limits. We have choices to make about where time limits will start and end. It could be as early as the point of arrest right through to the point of disposal, or it could be much more limited. The 2003 legislation focuses on the pretrial stages, so, if we wanted to go beyond that, we would require fresh legislation. The risk of time limits not being met and the control that we would have over the ability to meet them might vary depending on where they start and end. There are also choices to be made about how widely we draw the exemptions or exclusions that could be applied. We could exempt a number of offences from being subject to statutory time limits, or create opportunities for applications to be made for extensions. However, you would not want to do that in such a way that you risk creating a mini-industry in which people are constantly seeking extensions to time limits, because that would displace the delay in the system. As Dr Maguire and Mr Corrigan said earlier, we have a choice in the legislation between dropping cases or having them stayed and capable of reinstatement later.

Those are the sorts of detailed issues that we need to work through. At a later stage, we will discuss with you the board's and Minister's views on how that should be framed. We are talking about starting with the youth court. That court deals with a smaller cohort of around 3,000 cases, compared with the full number of over 50,000 cases that are processed through the criminal justice system.

I turn to some of the other issues that were flagged up in Dr Maguire's report. We identified a number of the same issues in the updated report that we submitted to you in December. Since our last report to you in June, we have seen a continuing improvement in performance in charge cases and a deterioration in performance in summons cases. Our December paper set out the progress that we made in the first phase of work through the speeding up of justice programme, which was taken forward following Dr Maguire's report.

We have also highlighted the areas that we have scoped for a second phase of work. You will be aware that we have two consultations under way. The first of those is on encouraging earlier guilty pleas and the second is on reforming the committals process. Given the disappointing performance in summons cases, another area that we see as a priority is a review of how cases are initiated in the system. We have been working very closely with Dr Maguire and his inspectors since the production of the 2010 report, and we will continue to do so because we have found it very helpful to be able to discuss the issues with Criminal Justice Inspection on an ongoing basis. As its latest report notes, at this point, the main issue of concern is summons performance but, in a few months, it could be something else. It is important that we keep our programme of work under continuous review in consultation with the inspectorate.

As we have said to the Committee previously, tackling delay will require a serious and sustained effort, and no single person or organisation is responsible for the delay in the system, which complicates the issues around accountability and governance. However, we think that the introduction of statutory time limits sends a strong signal across the system that we are determined, collectively, to make real improvements. We are happy to take questions.

**The Chairperson:** Your last comment was that no single organisation is responsible. However, your Department is responsible for all of them. You may not be able to attribute blame to the PPS or the PSNI but we can blame the Department in its entirety because you are responsible for all of them. How does the Department exercise its function of accountability over all those bodies? Your permanent secretary is the accounting officer for every penny that is spent by the Department of Justice, so what efforts are being made to exercise that authority against all the other branches and organisations that make up the criminal justice system?

**Ms M Campbell:** Dr Maguire's report talks about the governance that we have put in place for the speeding up of justice programme and the fact that the governance around that work has been strengthened. So, at the most senior level, you have the criminal justice delivery group, which is chaired by the Minister and comprises senior leaders. Delay is on the agenda for every meeting. In fact, it is pretty much top of the agenda. At the level below that, organisations come together through the Criminal Justice Board, which is the group that provides the advice to the Minister and the delivery group on how we take the work forward. I do not think that Dr Maguire's report has challenged the idea that there is no senior-level commitment, and I think that I heard him reinforce that today. The challenge is translating that senior-level commitment into behaviours at the front line, and we are trying to address that.

**The Chairperson:** If we are to look at introducing some kind of performance management system, as the Department, you can say, "We give you x million pounds for your organisation to function." How are you doing that in the administration of all those organisations? How are you carrying out that job and holding those individuals to account? Has an exchange ever taken place whereby your permanent secretary has called the Director of the Public Prosecution Service and said, "You are failing. You are not delivering a speedy enough system. My Department has given you x million pounds and you are letting down the taxpayer, and we will now have to look at a performance management system for your job"?

**Ms M Campbell:** I think that it is very difficult to point the finger at any one organisation.

**The Chairperson:** I use that as an example because it is one of the worst.

**Ms M Campbell:** We have been developing better performance measurement across the system using the new Causeway system. So, as well as better governance, we have better information across the system. Causeway gives us a single source of truth so you know exactly what is happening across the system, and it is starting to show us where the bottlenecks are and where the issues are in relation to, for instance, summons performance. Now that we have a series of performance improvement partnerships in place at regional level, we are starting to break that down into geographical information. So we have a lot more detail about what is happening on the ground. A lot of it is about continuing to use that information source as best we can so that we can highlight where the problems lie and tackle them.

**The Chairperson:** But it seems that we are being asked to consider statutory time limits because the Department is failing to make sure that people do their job. I said in the Chamber that the fact that we have to contemplate that is an indictment on all the organisations that constitute the criminal justice system. Why is the Department not able to say to all the organisations, "You have a job to do, and the 400-plus-day delay means that you are not doing your job. These actions need to be taken on how you are performing your job."

The private sector has been mentioned, and, in that sector, the chief executive would call in the director and say, "You are failing to do your job; these are the consequences, and this is what I expect to happen." Has that conversation ever taken place? Has a permanent secretary in the Department of Justice called in the head of one of those organisations and said "You are failing to do your job"? Clearly, they are. Have you ever wielded the authority that Department of Justice has as the Department that holds the purse strings? Usually, whoever pays the piper calls the tune. That is the way things work in normal life but, when it comes to the Department of Justice, it hands over a block of money to an organisation and then washes its hands of it. How it does its job is up to that organisation; the Department of Justice will not hold it to account. Why do we have to look at statutory time limits?

**Ms M Campbell:** Dr Maguire explained very well the complexities in the operation of accountability across the criminal justice system. There is a series of autonomous organisations with high degrees of independence, not all of which sit within the purview of the Department of Justice. Certainly, at the departmental level, we have been highlighting the problem of delay and the need to tackle it, and work has been done on looking for ways to address it. At the risk of repeating myself, there is no one person or organisation at whom you can point the finger and say, "You are the cause of the delay." We need a joined-up approach to this and people must work in partnership. We are promoting such collaborative working through the programme.

**The Chairperson:** When people work for the PPS, they must be accountable to it. Obviously, if you are a direct employee of the PPS, there will be mechanisms for that. Is there an issue in that the PPS uses legal representatives who are not direct employees of the organisation? When you want someone to do a job, it is easier to hold them to account if they are a direct employee of the organisation. Barristers are not direct employees; they just get a fee from the PPS. Do we need to look at the accountability of that personnel element in the PPS may be causing a problem?

**Ms M Campbell:** I am not sure that I can answer that directly on behalf of the PPS, but I am aware that it has been developing a set of advocacy standards, part of the purpose of which is to ensure that those who are engaged to deliver services on behalf of that organisation are aware of the quality of performance that is expected. I know that there are plans to develop a training programme in support of those standards.

**The Chairperson:** It strikes me that, unless you are paying them directly and they are a part of your personnel structure, you cannot hold them to account for not doing a job sufficiently quickly or efficiently. That issue needs to be looked at.

**Mr Wells:** Some 40% of all the aircraft seats in the world are made in Kilkeel, in a very complicated process. Some seats sell at £38,000 a time. There are hundreds of suppliers and five distinct stages in the manufacture of those seats. If quality declines or delivery times are not met, management has two choices. It could go to Boeing, Lufthansa or Aer Lingus and say, "We will charge you more"; or it could bring in the staff and heads of department, and put them in a darkened room on a Friday afternoon and say, "Right, boys. Either productivity and performance improve, or you will be going up Newry Street to the Social Security Agency." Amazingly, productivity has risen dramatically over this past five or six years, and the company is booming. Well done to the management. That is how things work in the real world.

Meanwhile, in the Department of Justice, we have performance indicators and cozy memos passing back and forth between the various branches that are responsible for this huge overrun. No one has been disciplined and there has been no conversation between the various sections. No one has said, "Get your act together and get that sorted out." No one ever gets sacked, and no one has any

reduction in performance pay or any other pay. We see that lax attitude in every Department in government. No one seems to be disciplined about anything.

What are you doing here? You are penalising the victim, because you are saying, "We cannot control the system; it is getting totally out of control; delays are occurring; so Mrs Smith, who has had her window put in by a youth offender, will suffer because he could get away with it." That simply is not good enough.

I welcome the fact that — may I quote you on this? — this measure is going to be implemented by affirmative resolution of the Assembly, so that we can control this decision. Am I right in saying that?

**Mr Matthews:** We will have to confirm that. The legislation was under a Westminster situation, so I am not totally sure of how Westminster procedures convert to Assembly procedures. We will confirm it, but I think we would prefer it to be by affirmative resolution if we had the choice.

**Mr Wells:** I can feel an urgent oral question coming on because I want that confirmed by the Minister. That would allay a lot of concerns because, at the end of the day, it will be our decision rather than something that can be put through at an administrative level by the Department.

Secondly, there should be a system whereby if someone slips through the net, a victim can, within 28 days, if he or she feels that a sentence is unfairly lenient, ask for the case to be reinstated. I know that that is an odd suggestion because it does not sit well with what you are trying to do. Or give a commitment that, at the end of day, there will be a mechanism whereby, when it is patently obvious to the public and the victim that justice was not done or seen to be done, the case can be reinstated in exceptional circumstances. You are then starting to bring back a proposal that we can live with if we can have some form of reassurance for the public that there is no suggestion that large numbers of cases will simply drift over the line, and victims will feel cheated and communities will feel that no punishment was meted out to those characters, who will, of course, know about the statutory time limits, as will their solicitors and barristers.

Still, at the end of the day, I would be much happier if you had told me that you had brought all the heads of departments in, put them up against a darkened wall and said, "Get your act together", and they have tried and tried, and not succeeded. There is absolutely no indication that anyone is taking this seriously. It is just drifting along and all you are getting are performance indicators that are failing. That is not how the real world works, and it is not how this Department should work. End of sermon.

**Ms M Campbell:** I am not sure to what extent that was a statement or a question.

**Mr McCartney:** He said it was a sermon.

**Ms M Campbell:** With regard to the point about reassurance to the public, there are some basic principles that we will want to ensure we are taking account of. One is that we do not want dangerous people to be allowed to escape justice simply because of administrative delays.

Secondly, we do not want to prejudice the right to a fair trial, so there could be circumstances when more time is required for that to happen. Certainly, we would not want to countenance any scheme, and I cannot see the Minister signing off on any scheme, in which there would be a risk of large numbers of people walking out of court free because we cannot meet time limits.

We are starting with the youth courts, and it is helpful that Dr Maguire's recommendation was to start there because that is a small number of cases. If we have the right tracking systems in place — I go back to the point made by Mr Dickson — and we have, hopefully, the facility through Causeway to do that, we should get an early warning if there is a risk that a case is starting to fall behind, and an extra effort can be made on that case to ensure that it is taken through on time.

So, yes: safeguards will have to be in place and provision for exemptions and exclusions. However, it is getting the balance of that right so that you do not make it too easy for the system to keep coming back and getting more time because you are not then addressing the underlying problem, which is that things are simply taking too long.

**Mr Wells:** You did not answer the question, namely since 2006, have you brought into a single room all the agencies and told them their performance is not satisfactory on this issue? Has that conversation ever occurred with the heads of the various strands that are responsible for this unseemly delay?

**Ms M Campbell:** As I said earlier, the delays are top of the agenda for the criminal justice delivery group and the Criminal Justice Board.

**Mr Wells:** Not the question I asked.

**Ms M Campbell:** The Minister has made it very clear that he wants to see a step change in performance and he has discussed with senior-level colleagues what we need to do collectively to address that. On the Criminal Justice Board, we have been looking very hard at this issue and taking seriously the suggestion of the introduction of statutory time limits because we want to tackle the problem and get case processing times down.

**Mr Wells:** I now ask the question again: have you, at any stage since 2006, brought the heads of the various departments in and told them that their performance in this particular respect is not satisfactory?

**Ms M Campbell:** I have already said that the Minister has made it very clear that he regards this as a serious issue and wants to see an improvement.

**Mr Wells:** That meeting has not taken place — that is what you are telling me. It has not happened. The obvious route to improve performance is to bring those who are responsible into a single room and tell them, "Look, folks, get your act together and get this sorted out." That has not happened. That is what you are telling me.

**Ms M Campbell:** I can refer only to conversations that I have been privy to and —

**Mr Wells:** The answer is no.

**Ms M Campbell:** I have nothing to add to the fact that I —

**Mr Wells:** The answer is no. That is all I need to know.

**Ms M Campbell:** The discussions about tackling delay are taking place at a senior level.

**Mr Wells:** I rest my case.

**Mr Dickson:** Thank you, Maura. I have a number of points to make. First, we should not lose sight of the positive benefits of time limits. I thought about what Mr Wells said about ensuring appropriate performance. Another positive element of a time limit is that victims and witnesses will know the time frame within which a case will progress to court. That is a major advantage, and we should not lose sight of it in the argument about the clear underperformance in a range of agencies. There is a key advantage to people's being aware of how long the process will take, and we should not lose sight of that.

What do you intend to do between now and any introduction of a time limit or scheme to produce time limits, which in itself will take a lot of time? That space is not an excuse. I think that most of the Committee, particularly Mr Wells, would be very angry if the time between now and the introduction of any time limits were not used to ensure that the issue were addressed by lots of other means, including those suggested here. I will perhaps frame Mr Wells's question in a different way: would you like to suggest to the permanent secretary that he convene a meeting of all the appropriate stakeholders within the next few weeks to address the issue directly?

**Ms M Campbell:** I will certainly relay to the permanent secretary the points that the Committee made today.

**Mr Wells:** Too revolutionary.

**Mr McCartney:** I want to make a number of points. As we take this forward, I do not think that we should be put in the position of making presumptions. So, we need to have some clear evidence about the matter. If this is already happening in our jurisdiction, the Department should be bringing to the Committee details of the number of people who have been released from custody or who have had their charges dropped as a result of a time limit. I say this without any supporting evidence, but it strikes me that, if cases are not being prepared properly from the PSNI to the PPS, you could be saying that many people have escaped due process. What is sometimes missing from some of the observations is that people are entitled to a fair trial and a presumption of innocence. If people have not been convicted, we should not be saying that guilty people are walking free. So, we should not be framing it in those terms.

The Minister has included some other measures for speeding up justice, one of which is committal hearings. Again, I would like to see the figures for how many witnesses were called and cross-examined at that stage of the process. In trying to speed up justice, we take shortcuts and we might use something that has a populist appeal, and we have to be careful about that. However, the evidence does not suggest that that is a big issue. So, we need to make sure that everything here is properly balanced.

I agree with Stewart Dickson's point. This might play out for two or three years before we get statutory time limits. However, that should not be seen as a breathing space for doing nothing. You can already see that people have possibly made up their minds about statutory time limits. If you make the assumption that, "It might not get through", we might be sitting here in three years' time with a deteriorating situation. I think that it is incumbent on the Department to pinpoint precisely the blockages in the system. Dr Maguire gave an excellent insight into it. There is still this sense of competing interests and different agendas. We do not know who, where and why, but that is what we need to find out if we want to speed up the process properly.

I have no questions to ask; those are just my observations.

**Mr A Maginness:** The Dame Anne Owers report and the youth justice report recommended time limits, and, of course, the Criminal Justice Inspection report recommended time limits for youth courts. How much of this is driven by the sheer weight of those reports as opposed to some sort of internal awakening in the Department that says that introducing statutory time limits is the right way of going ahead and doing things?

**Ms M Campbell:** This is not a new idea; it is something that we have been looking at for some time. In fact, I recall that, within a couple of weeks of taking up his offices, the Minister of Justice asked us about statutory time limits and whether they were being considered. In his 2010 report, Dr Maguire signalled that we should be actively thinking about statutory time limits, with the potential of introducing them in the medium term once we had started to implement some of his recommendations. So, they have been under consideration for quite some time. What we now have with those further reports is a development of the evidence base for the way that it should be happening. In the meantime, we have been looking at how such time limits operate in other jurisdictions. We have also been looking at how those jurisdictions have succeeded in mainstreaming the whole idea of time limits so that people expect to have to do things within a certain period of time, with the result that they get done. So, it is an issue that has been building for some time; it has not been a knee-jerk reaction to the most recent reports.

**Mr A Maginness:** Fair enough. I know, of course, that you cannot give any serious indicative timetabling on how time limits could be introduced, but I think the Minister said in the Assembly that he hoped to have time limits introduced by the end of this mandate. I take it that that will be either 2015 or 2016.

**Ms M Campbell:** I think that the Minister was hoping that we would be in a position to introduce them in around two to three years.

**Mr A Maginness:** So, that would bring you towards the end of the mandate.



**Ms M Campbell:** The timetable will depend on whether we want to do it by regulation under the 2003 order or whether we want to take fresh legislation.

**Mr A Maginness:** If that is the time period that you are talking about for implementation, there would be plenty of time to do it with fresh legislation. However, I suppose my point is that the process is very elongated. You are talking about taking maybe three years to introduce time limits for the youth courts, and there would then be, I presume, some sort of reflection on their effectiveness in the first year or two, and after that, there would be a possibility to extend it to other courts. It seems to me to be a very elongated process, and, during that time, we will not necessarily make discernible progress with the current delays that are building up in and seem to be endemic to the system. In a sense, although there is the threat or the possibility of having time limits in adult courts, if I may put it that way — in the Crown Court and so forth — it is not really an immediate prospect for people involved in the agencies. That means that they might not respond in the way that Dr Maguire, for example, suggested. Talking about and even introducing time limits to the youth courts is not necessarily going to have the desirable effect of creating a culture change in the system.

**Ms M Campbell:** Dr Maguire's thinking in giving us two years to introduce time limits in the youth court was to give us a period to ready ourselves for that.

**Mr A Maginness:** Yes, I understand that.

**Ms M Campbell:** We would not just stay as is until we hit the button on statutory time limits. We want to implement the reforms that we have set out in the paper —

**Mr A Maginness:** The point I am making is that there is no guarantee that, in fact, it would have that beneficial effect of creating a new way of either thinking or performance in the agencies during those three or four years. That is the downside in all this: it is probably too elongated a process.

**Ms M Campbell:** One possibility that we could look at is to introduce them in shadow form slightly earlier than we would commence them on a statutory basis, if that would help to promote the change in thinking and the cultural shift that we have been talking about.

**Mr A Maginness:** By way of conclusion, there is a need for reform of committal proceedings, but I would not like to see those done away with entirely. I am sure that it is unintentional, but the way that it has been presented to date is that it is an empty process that does not add any real value to the criminal trial or to the process of preparing for a criminal trial. There is some value in it, not in many cases, but in some. Committal proceedings should be retained in exceptional cases at least. I do not know whether anyone wants to comment on that.

**Mr Matthews:** The consultation proposals fall well short of outright abolition of committal. Since we issued the papers, some people have come back to suggest that we should be more radical than the consultation paper. Mainly, that has been along the lines of direct transfer to the Crown Court for indictable cases, but, of course, you would still have the no-bill procedures. Outright abolition has not been suggested to us at this stage.

**Mr A Maginness:** Mr Wells used the analogy that, if you were in business and performed in that way, you would be out of business. That is a bit unfair in that the process can be quite complex. One is not manufacturing cans of beans, and it is not the same as telling an operator on the floor of a factory that they have to speed up the number of beans that they are canning.

**Mr Wells:** You might, at least, have had a chat about speeding up the number of beans you produce. There has not even been that discussion, Alban.

**Mr A Maginness:** I suppose that that is a fair point, but I think that it is the wrong analogy. The process is much more complex in managing people, in particular in fairly autonomous organisations such as the PPS and the PSNI. There is a real difficulty in managing organisations that you do not have effective direct control over. I do not say that by way of excuse, but I am trying to colour in the complexities of the situation. I am sure that you might agree with that. *[Laughter.]*

**Ms M Campbell:** I welcome that acknowledgement, and I also sound a note of caution about getting into a blame game in which it is difficult to pinpoint exactly who has been the cause of a delay in a particular case. For instance, the PPS could claim that a police file was substandard, or the police could claim that too high a standard was being demanded by the prosecutor, or the police could say that it was something to do with forensics. We do not want to create an environment in which organisations try to displace blame towards each other.

**Mr McCartney:** Neither should we create a climate where they are not critical of one another.

**Mr Weir:** Yes. I will move back from the previous leading question to a bit more cross-examination. How long has the speeding up beans — sorry, speeding up justice branch — been in place? When was it created?

**Mr Matthews:** We have been in place for roughly a year.

**Mr Weir:** It is not a bit embarrassing for the Department that, in the year that the speeding up justice branch has been in place, the statistics have got worse? There has been a considerable argument for and against statutory time limits. I will pick up on parts of what Mr McCartney and Mr Maginness said: the danger of the debate around this is that it becomes seen as a silver bullet, whatever your view. To some extent, the argument may provide a useful distraction from the point of view of the Department, because if it had not been able to leap on the issue of statutory time limits, which has dominated the debate, there may be a bit more focus on the woeful performance in speeding up justice over the past few years, and it might be a bit more focused on some of those activities. We have to be careful not to become distracted.

Your team has been in place for a year, and things seem to have got worse. When can we expect to see an improvement? As Mr McCartney indicated, there is no point in the Department sitting on its hands for the next two or three years waiting for the Seventh Cavalry of speeding up justice to come over the horizon. When can we expect to see an improvement in the figures?

**Ms M Campbell:** We want to see an improvement now. We will be held to account for anything that is within our control to influence, but officials sitting in the Department of Justice cannot directly control the performance of front line staff.

**Mr Weir:** Do you have key performance indicator (KPI) targets? If you are in a Government Department, you will often be in a situation where you have to make, say, 3% efficiency savings. If you travel on a train, there are various statistics on how frequently a train should arrive on time, and targets of that nature. Does the Department have or does it intend to propose targets for what it would hope to see in reductions on a year-on-year basis? Do you hope to see, say, a 5% or 10% decrease in the length of time, or are you just pushing the issue? It strikes me that if we are looking at statutory time limits, the Department should at least produce some figures indicating what it would like to see happen over the next couple of years.

**Ms M Campbell:** Performance standards are in place that are being measured against the speeding up of justice. We will not set those aside when we introduce statutory time limits; we will continue to apply those standards.

**Mr Weir:** At the moment, the figures are 439 days for Crown Court cases and 270 for adult summons cases. You have seen those figures in the excellent report by Dr Maguire. Can you produce the performance figure indicators for the next few years? Are we aiming in 2012-13 to have that Crown Court figure down to, say, 400, and the year after that, to 380, or whatever the figures happen to be? Can you produce target figures for the Department for the number of days?

**Mr Matthews:** We have performance standards already. I think they are in the pack that we sent to the Committee. Those are performance figures that have been in place for around five years now. That is what the system agreed should be the performance for the agreed areas. The Department's role is in supporting the agencies in their meeting of those targets.

**Mr Weir:** Are those specific figures?

**Mr Matthews:** Yes. You can see basically where we are and where we would like to be, and we have also indicated where we were in the previous year.

**Mr Weir:** It is important that it is not just a question of target figures. It would appear that a number of areas have had target figures for some time, and the figures have gone up rather than down. We need targets that are delivered on.

Mention was made of committal proceedings. I appreciate that there may need to be some provision for exceptional cases — maybe something triggered by the defence. I think, in respect of some of the committal proposals, that it is at least a step in the right direction, but given that, for example, recent figures sought in an Assembly question on preliminary investigations (PIs) and preliminary enquiries (PEs) showed that an average of one case in every 1,000 was knocked out at PI or PE stage. Should we not be moving a bit more radically on committal proceedings and make them by exception, perhaps by way of leave of the defence seeking them, rather than what we have at present?

**Mr Matthews:** The way is open for consultation on that. Essentially, we have said that the main thrust of the proposals is to remove oral evidence at committal. We have also left the way open for more radical reforms, so, for example, the one we have highlighted is direct transfer for indictable cases. However, if proposals were to come forward to suggest that we look at abolition or a much smaller range of cases that would qualify for committal, we would consider that as part of the consultation.

**Mr B McCrea:** I cannot understand why you cannot get a resolution to this problem. Earlier, Mr Weir asked how long you have been looking at this issue. When did the Department, or, previously, the Northern Ireland Office, first become aware that justice was taking too long? When was it first identified as a problem?

**Ms M Campbell:** The first inspection report that highlighted the problem was published in 2006, but it is fair to say that the system has been aware of the problem for a considerable time before that. The processing times take too long.

**Mr B McCrea:** I seem to recall direct rule Ministers trying to convene meetings of the heads of the criminal justice system to try to resolve the issue. Is that correct? Did that happen before devolution? How is it that Keir Starmer is able to reform the English system, but we cannot resolve ours?

**Ms M Campbell:** Well, it is what we are attempting to do.

**Mr B McCrea:** You have been attempting to do it since before devolved administration. It has been going on for a long time, yet the English system has managed to deal with the Crown Courts and, perhaps, the other courts as well. Why are they able to do it but we cannot copy or at least learn from that?

**Ms M Campbell:** As a number of people have said, the complexity of the system and the problems that we are facing make it extremely difficult to identify any single issue or single source of failure. There are a number of factors at play, and we are trying to address them all through the programme of work that we have under way.

**Mr B McCrea:** Do you think that the justice system is more complicated than the health system?

**Ms M Campbell:** It is different in its complexity, and we have to deal with —

**Mr B McCrea:** I recall a huge outcry about waiting lists and all of that, yet resources were applied and waiting lists were brought down. Why can the justice system not fix itself?

**Ms M Campbell:** It is a source of great frustration to us that, despite considerable efforts — which have been recognised — we have not made more progress. It is not true to say that performance has deteriorated in all areas. Gains have been made in some areas; for instance, improvements have been made in charge cases. Our problem is with summons cases, where there has been a real

deterioration. In 80% of cases where a summons is served for the first time, however, we are meeting the standard. It is the cases where we are having difficulty in the service of summonses that are having quite a significant impact on the figures.

**Mr B McCrea:** My biggest concern is your reluctance to apportion blame or your inability to identify the cause. Before you fix anything, you have to understand what the problem is. If this were happening in any other industry, people would be able to identify exactly what was going on. When it comes to statutory limits, I could accept the argument put forward by Mr Maginness earlier that it is unjust if someone has served so long a time that it is not fair, and that you could argue a case around that. I cannot accept that we cannot think of any other way of fixing the system, or that we cannot use the brains, intellect and knowledge of the system, given that it has been done somewhere else, without applying a sledgehammer to it and putting people under pressure to fix it. That seems to me to be panic and to be borne out of complete frustration — that you have tried it all along and cannot do it. I do not accept that there are not more complex systems in the world than the Northern Ireland justice system. It is, apparently, the Gordian knot of the democratic system.

The people who run a multi-billion-pound oil company like Exxon would find a way of making it work. The same goes for those who run a health system or any other system. You do not seem able to shed even the slightest amount of light on what can be done. It is preposterous. While you are thinking about that, Maura, I congratulate you on your performance for the defence, sitting there saying nothing. It has been masterly.

As someone who is not connected with the legal profession in any great way, I tell you that it is not some great act of God or something. It is a matter of process — you cannot work out how to make it go faster, considering that somebody has made that happen across the water. It is an indictment of the Department and the legal profession, and they should be able to resolve it. I am not happy with a spurious argument about trying to come up with statutory time limits as a way of trying to coerce people.

There is a simple way to do it. If people cannot manage their departments or responsibilities, the system should fire them and get proper leaders and proper managers to make it work. That is made to work elsewhere. It does not cut any ice with me to say, "Oh, I do not know who is really to blame or at fault." To avoid doubt, that was a statement and not a question, but if you wish to comment, feel free.

I really want to see the criminal justice system work, and you are not filling us with any confidence. You are not building support among people who you should be able to build support among for the proposals that you are putting forward.

**Mr S Anderson:** I will not labour this, because most of the points that I wished to make have been well and truly rehearsed. Maura, did you make the comment that cases would be stayed rather than dropped? Did I pick that up in the presentation?

**Ms M Campbell:** They can be stayed. Under the terms of the existing legislation, that is possible.

**Mr S Anderson:** Will that happen, going forward? How does that affect the statutory time limits?

**Ms M Campbell:** If a time limit were not met, rather than the case being completely dropped, you would stay the proceedings, and the proceedings would have to be initiated again.

**Mr S Anderson:** Would that be some sort of safeguard?

**Ms M Campbell:** That is one of the potential safeguards.

**Mr S Anderson:** I thought that it was a potential safeguard. Therefore, it is a statutory time limit that may not be a statutory time limit.

**Ms M Campbell:** There are options for how you would use that; you may have it for certain circumstances.

**Mr S Anderson:** That will all come out in the consultation on what we will do in the future.

**Ms M Campbell:** I cannot pre-empt any decisions by the Minister or any advice that the Criminal Justice Board will offer the Minister on the precise workings. All that I am doing today is highlighting the types of issues that we are exploring.

**Mr S Anderson:** That is just something that I picked up on and needed clarified.

**The Chairperson:** No one else has indicated that they wish to speak. Maura, I have to say that it has not been particularly impressive from the Department's point of view. A number of things have been said along the lines of, "We cannot be held directly responsible. It is a complex issue." It is like Pontius Pilate washing his hands. You are not taking account of what is going on under the remit of your Department.

I suggest to members that we get our next update from the permanent secretary, who is the accounting officer in the Department. I will expect him, after meeting the accounting officers of the different agencies that make up the criminal justice system, to have a very clear action plan for how it will be dealt with. We will then see what progress the Department is making. It cannot go on the way that it is. I do not think that anyone round the table will accept that. If statutory time limits ever come into play, it will not happen for a number of years. We cannot have the laissez-faire approach that has been presented to the Committee today.

**Ms M Campbell:** I am not sure if you wish me to respond to that.

**The Chairperson:** You can if you wish.

**Ms M Campbell:** There is a difference between laissez-faire and just being honest about the extent of the responsibility and accountability of arrangements in the criminal justice system.

All that we have sought to do today is to present an honest picture of what it is within our gift to do as a Department.

**The Chairperson:** The Minister is very clear in his view that the delay is unacceptable. He takes the policy decisions and gives direction to the Department. It is for the officials to then implement that, and the permanent secretary is the accounting officer. Therefore, I want him to update us at the next meeting on how delay is being tackled. Autonomy does not mean unaccountability when it comes to all these organisations. We are not getting clear enough action for delay to be dealt with. At the update at the next meeting, I want to see that clear action has been taken by the Department. It would be appreciated if you could relay that to the permanent secretary.

**Ms M Campbell:** I will indeed.