



Northern Ireland
Assembly

Public Accounts Committee

Report on Speeding up the Justice System

Together with the Minutes of Proceedings of the Committee relating
to the Report and the Minutes of Evidence

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PUBLIC ACCOUNTS COMMITTEE

Membership and Powers

The Public Accounts Committee is a Standing Committee established in accordance with Standing Orders under Section 60(3) of the Northern Ireland Act 1998. It is the statutory function of the Public Accounts Committee to consider the accounts, and reports on accounts laid before the Assembly.

The Public Accounts Committee is appointed under Assembly Standing Order No. 56 of the Standing Orders for the Northern Ireland Assembly. It has the power to send for persons, papers and records and to report from time to time. Neither the Chairperson nor Deputy Chairperson of the Committee shall be a member of the same political party as the Minister of Finance or of any junior minister appointed to the Department of Finance.

The Committee has 9 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee since 20 January 2020 has been as follows:

Mr William Humphrey (Chairperson)

Mr Roy Beggs (Deputy Chairperson)

Mr Cathal Boylan

Ms Órlaithí Flynn

Mr William Irwin⁴

Mr David Hilditch

Mr Maolíosa McHugh

Mr Andrew Muir²

Mr Matthew O'Toole³

¹ With effect from 17 February 2020 Mr Harry Harvey replaced Mr Gary Middleton

² With effect from 31 March 2020 Mr Andrew Muir replaced Mr Trevor Lunn

³ With effect from 19 May 2020 Mr Matthew O'Toole replaced Mr John Dallat

⁴ With effect from 21 June 2021 Mr William Irwin replaced Mr Harry Harvey

List of Abbreviations used in the Report

the Committee	Public Accounts Committee (PAC)
C&AG	Comptroller and Auditor General
CJINI	Criminal Justice Inspectorate Northern Ireland
the Department	Department of Justice
PPS	Public Prosecution Service
PSNI	Police Service of Northern Ireland

Executive Summary

1. The Public Accounts Committee (the Committee) met on 20 May 2021 to consider the Comptroller and Auditor General's (C&AG's) report "Speeding up Justice: avoidable delay in the Criminal Justice System". The main witnesses were:
 - **Mr Peter May**, Department of Justice
 - **Mr Glyn Capper**, Department of Justice
 - **Chief Constable Simon Byrne**, Police Service of Northern Ireland
 - **Chief Superintendent Melanie Jones**, Police Service of Northern Ireland
 - **Mr Stephen Herron**, Public Prosecution Service
 - **Ms Francesca Keaney**, Public Prosecution Service
 - **Mr Peter Luney**, Northern Ireland Courts and Tribunals Service
 - **Mr Kieran Donnelly**, Northern Ireland Audit Office
 - **Mr Stuart Stevenson**, Department of Finance

2. The C&AG's report highlighted a number of structural issues within the justice system that contribute to a poor service to the public in respect of Crown Court cases, and results in significant financial waste. Cases take too long to complete, bedevilled by a culture of adjournment in courts that leads to inefficiency and waste. In the Committee's view, 'justice delayed is justice denied' is not an empty slogan and it is deeply concerning that these longstanding issues persist, with little effective action to address them for at least a decade.

3. The Committee took some encouragement from the clear signs that justice organisations have begun to work together to address the underlying issues. The Committee is nevertheless disappointed that these efforts have not yet had a substantial impact on performance. Crown Court cases in 2019-20 took 565 days to complete - longer than they did at the time of the C&AG's report. Despite marginal improvement in respect of the number of adjournments, these remain too high and there is a compelling need to reduce them.

4. To ensure that the reforms have a tangible impact upon service quality, there is a need to establish a clear strategy to coordinate the various initiatives. This strategy should be supported by the establishment of key high-level

performance metrics or standards for Crown Court cases. Doing so will help to communicate clearly to the public what they can expect from the justice system.

5. The Committee recognises the impact that Covid-19 has had on the performance of the justice system. Over the last 18 months it has disrupted both normal operations and the implementation of a number of the reform initiatives that justice organisations have been pursuing. The Department advised that it is likely to take at least two years before the Crown Court system will return to the position it was at prior to the pandemic.
6. Improved management information has been at the heart of the actions to reform the system, targeting the areas where they could have most impact. However, gaps in important information persist, which suggests that information systems are not as advanced as they should be.
7. The Committee was disappointed by the absence of any reliable measure of the financial cost of inefficiency and poor performance, and by the general lack of appetite demonstrated by the witnesses to gather such information. The Committee considers it an essential part of good governance and change management to understand the extent of the financial waste driven by poor processes, and in order to measure and report the financial benefits of new, more efficient ways of working are needed.
8. The Committee is also concerned about the culture of adjournment that characterises many cases highlighted by the C&AG. This is an important issue both in terms of operational performance and efficiency, but also in terms of its impact on victims and witnesses. The lack of a robust process to record when adjournments occur, the cause of the adjournment and whether it was avoidable, is simply unacceptable. Understanding these trends is an important part of managing this issue.
9. The Committee welcomes the witnesses' commitment to work towards a goal of fewer more effective hearings at Court. Achieving this vision should deliver both efficiencies for justice organisations and a better quality service for the public. The fundamental challenge is to establish processes that facilitate

effective communication between the prosecution and defence representatives to ensure cases are managed efficiently.

10. The Committee was encouraged by the adoption of new technologies by the justice system. This should serve to help the system become more effective and efficient. It is essential that the Department and other justice organisations build upon this to introduce new technologies to support service delivery and to nurture a culture that is committed to fully harnessing the potential of technology to make processes more efficient and effective.

Recommendations

Recommendation 1

11. The development of a strategic vision, including defining what success looks like, is an important part of effective change management. It also serves in communicating to stakeholders and to the public a clear idea of what they should expect from the justice system and in providing a means to assess its performance against the standards set. The absence of a proper strategy to date is indicative of the lack of appetite and ambition to confront the endemic delays which have plagued the system for decades.

The Committee recommends that justice organisations work together to develop and publish a strategy, including long-term high-level performance standards, for improving Crown Court case timeliness and quality.

Recommendation 2

12. Covid-19 has had a substantial impact on how the justice system has been able to operate over the last 18 months. Compliance with government regulations has impacted how justice organisations have worked and has affected the normal flow of cases from the Magistrates' Court to the Crown Court. As a result, a backlog of cases has grown, and witnesses reported that they expect it will take two years to return to where the system was prior to Covid-19.

The Committee recommends that the justice system establishes a clear plan for clearing the backlog of cases in the Crown Court. The system will also need to move at pace to deliver the strategy outlined in the previous recommendation once this is achieved.

Recommendation 3

13. The C&AG's report highlighted the significantly higher costs of delivering justice in Northern Ireland compared to England and Wales. Part of the reason for this is undoubtedly the unique justice and security issues that exist

in Northern Ireland. However, it is also highly likely that the endemic inefficiency within the system in Northern Ireland contributes to higher costs.

The Committee recommends that the Department and other justice organisations develop a proportionate methodology to quantify the financial impact of avoidable delay and track over time the financial savings that are achieved as a result of the improvements they are striving to deliver.

Recommendation 4

14. Adjourments are a complex, but vital issue affecting the justice system. It is important that the justice system is able to reliably measure the extent to which the adjourments, which do occur, are avoidable or unavoidable, and to record, over time, the causes of avoidable adjourments.

The Committee recommends that the Department and justice organisations establish a robust system to record and report adjourments and their causes and to identify the extent to which adjourments are avoidable.

Recommendation 5

15. Addressing the underlying issues that contribute to avoidable adjourments at court should deliver efficiency savings for justice organisations and result in a better service being delivered to the public. Whilst there are a range of initiatives ongoing that should contribute towards this goal, the most important cultural issue that must be overcome is how current case management processes can act as a barrier to swift and efficient justice.

The Committee recommends that the Department should, as a priority, introduce a legislative requirement for a general duty of engagement and pre-hearing communication between the prosecution and defence in all Crown Court cases.

Recommendation 6

16. There is a perception that the justice system has been slow to exploit the potential benefits offered by technological advances in recent decades. The Committee is encouraged that it appears the system has been increasingly utilising technology in recent years, and that a strategy is in place to set high-level priorities for the justice system's advancement of its digital approach.

The Committee recommends that the digital strategy is a live document that contains specific and measurable objectives for the improved utilisation of technology across the justice system. The justice system should regularly benchmark its utilisation of technology with other jurisdictions to ensure that it continuously tests its practices against best practice elsewhere.

Introduction

17. The Public Accounts Committee (the Committee) met on 20 May 2021 to consider the Comptroller and Auditor General's (C&AG's) report "Speeding up justice: avoidable delay in the criminal justice system". The main witnesses were:

- **Mr Peter May**, Department of Justice
- **Mr Glyn Capper**, Department of Justice
- **Chief Constable Simon Byrne**, Police Service of Northern Ireland
- **Chief Superintendent Melanie Jones**, Police Service of Northern Ireland
- **Mr Stephen Herron**, Public Prosecution Service
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- **Mr Peter Luney**, Northern Ireland Courts and Tribunals Service
- **Mr Kieran Donnelly**, Northern Ireland Audit Office
- **Mr Stuart Stevenson**, Department of Finance

Background

18. The Northern Ireland criminal justice system is responsible for providing justice to victims of crime by investigating crimes, and identifying and bringing to justice those who have committed them. This requires a number of different organisations, each with different responsibilities for different parts of the system, to work together effectively:

- the Police Service of Northern Ireland (PSNI) is responsible for the investigation of crimes and the identification of suspects;
- the Public Prosecution Service (PPS) is responsible for considering the evidence gathered by the PSNI, and deciding whether a suspect should be prosecuted;
- prosecutions are heard in courts operated by the Northern Ireland Courts and Tribunals Service (NICTS) and managed by judges who are independent from all the other justice organisations;

- the Department of Justice (the Department) is responsible for maintaining the legislative framework that governs the day-to-day delivery of justice.

19. It is important that all cases that enter the justice system are completed as quickly and efficiently as possible. Timeliness is all the more pressing in respect of those criminal cases that are resolved through the Crown Court. These are the cases where typically victims have suffered the most significant harm, and the potential sentences for those accused are the most severe. It is therefore important to resolve these matters as quickly as possible in order to allow the various parties involved to move on in their lives.

20. However, the unreasonably slow pace of Crown Court cases has been a long standing issue in Northern Ireland. Crown Court cases take excessively long and their progress through the court is punctuated by administrative delays and adjournments. Delays are often the consequence of failings within individual justice organisations in fulfilling their particular role in the system. They can also be symptoms of more systemic issues relating to how the various justice organisations work together to progress cases.

21. In 2006, the Criminal Justice Inspectorate Northern Ireland (CJINI) published the first or a series of reports on this topic, concluding that the key criminal justice organisations needed to work together more effectively to address delay. Over the following ten years the CJINI published a further six reports noting the lack of progress made to address this key issue, and consistently reiterating the urgent need for better collaboration between justice agencies.

22. In 2018 the C&AG published his report, highlighting that Crown Court cases in Northern Ireland took twice as long to complete as they did in England and Wales, at a much higher cost. The report identified the poor quality and inefficient process that many of those involved experienced, with cases' progression at court often punctuated by frequent adjournments and delays.

23. These are long-standing issues, and the single greatest barrier to improving performance remains the continued lack of effective partnerships between the key justice organisations involved: the police, the PPS, the courts and the

Department. Until these organisations establish a plan of a shared vision of what they are trying to achieve, and monitor and share appropriate information they will continue to struggle to make meaningful progress.

Justice organisations have begun to work together to address these long-standing issues

24. In establishing this, the Committee observed clear signs that the various organisations involved have begun to overcome their longstanding inertia in dealing with this issue. The witnesses spoke convincingly of a range of different initiatives dealing with issues affecting various parts of the justice process:

- A total of £23 million has been invested a wide range of initiatives within the PSNI to improve file quality, with a significant focus on training for officers, improving supervision and enhanced quality assurance processes.
- The PSNI and PPS also reported a number of collaborative activities as part of the Working Together project - in particular, the development of agreed evidential file standards and better processes for monitoring the quality of files and ensuring timely communications between PPS staff and PSNI officers where this was required.
- The Indictable Cases Pilot has been expanded across NI to cover a range of offences and is helping support better early engagement between the PPS, the PSNI and the defence in those cases to facilitate speed in completion.
- The removal of committal is anticipated to play a significant part in speeding up the justice process. Not only will it free up time, it will also greatly alleviate the stress imposed upon victims and witnesses by the present need to deliver oral evidence at committal hearings and, in combination with the ICP, it will help secure better and earlier engagement between the prosecution and the ¹defence.

¹ Committal is the mechanism used to admit cases to the Crown Court. When a defendant is charged with an indictable offence, a committal hearing in a Magistrates' Court determines whether there is sufficient evidence to justify a trial at the Crown Court. At its worst, committal can effectively amount to a preliminary trial, with victims and witnesses required to provide testimony which they will have to deliver again at trial in the Crown Court

- The response to Covid-19 has accelerated the adoption of new digital working practices that will modernise and transform how the justice system operates.
- An upgraded CAUSEWAY system provides a new performance monitoring framework, in which all organisations have the ability to interrogate performance metrics.

25. The Committee was encouraged by a number of these initiatives, demonstrating that the justice system has recognised the need for collaborative working. Initiatives such as the Working Together Project, the Indictable Cases Pilot and Crown Court performance groups all suggest that organisations are embracing the principles of partnership working to address inefficient and ineffective operational practices.

Despite all these initiatives, the overall timeliness of Crown Court cases has not improved

26. The Committee is concerned that, despite their efforts, justice organisations have not yet delivered the performance improvements necessary to make the service effective for the public. Recent performance data shows that Crown Court cases continue to take too long to complete and are punctuated by frequent avoidable delays and adjourned hearings.

27. The witnesses referred to statistics that cover all criminal cases as evidence of progress. They reported that the average time taken for all criminal cases fell across five successive quarters: from 169 days in December 2018 to 149 in March 2020. This was the fastest quarterly time recorded in four years.

28. However, this same trend of improvement has not been evident in respect of Crown Court cases, which make up only a small proportion of all cases. The average processing time for Crown Court cases in 2018-219 was 565 days, considerably longer than the 515 days in 2015-16 reported by the C&AG.

The Criminal Justice Board takes the strategic lead for speeding up justice, but there is little evidence of a clear strategic focus

29. The Criminal Justice Board brings together the leaders of all the most important organisations within the system, including the Permanent Secretary, the Chief Constable, the Director of Public Prosecutions and the Lord Chief Justice. It meets regularly to monitor the progress of the various reform initiatives and their impact. Nevertheless, the Committee is unconvinced that there is a cohesive strategic vision or framework to coordinate the various activities being undertaken. It is the Committee's view that establishing a clear strategy, with key high-level standards or performance metrics in respect of the administration of Crown Court cases, would ensure such coordination.

30. The development of a strategy, including performance targets, is an important part of effective change management. It also serves in communicating to stakeholders and to the public a clear idea of what they can expect from the justice system and in providing a means to assess its performance against the standards set. The absence of a proper strategy to date is indicative of the lack of appetite and ambition to confront the endemic delays which have plagued the system for decades.

The Committee recommends that justice organisations work together to develop and publish a strategy, including long-term high-level performance standards, for improving Crown Court case timeliness and quality.

31. The Committee recognise that current and short-term future performance will be affected by Covid-19. The Government guidelines to manage the spread of disease has resulted in restrictions on working practices across all justice organisations since then. In a number of instances this has resulted in the delay or suspension of particular reform initiatives. It has also distorted the flow of cases from the Magistrates' Court to the Crown Court, resulting in a significant increase in the number of active cases at May 2021 compared to March 2020. The Department expects to take at least two years to clear the backlog of cases built up in the Crown Court during the pandemic.

The Committee recommends that the justice system establishes a clear plan for clearing the backlog of cases in the Crown Court. The system will also

need to move at pace to deliver the strategy outlined in the previous recommendation once this is achieved.

There remain significant gaps in understanding the system

32. A recurring theme throughout the session was the witnesses' contention that management information was being shared by organisations in order to help manage reform and improvement. The witnesses referred to the recent upgrade to the Causeway management information system which was driving greater understanding about where improvement was needed, and helping ensure their collective efforts were focused on those areas where the greatest impact could be achieved. There were a number of references made to specific quality assurance tests and analytical exercises that had been conducted or were planned. Despite this, the Committee remains concerned that gaps in information persist, suggesting strongly that information systems are not as advanced as they should be.

33. There has been little apparent effort to establish reliable information about the costs of processes within the justice system nor the financial impact of avoidable delay and inefficiency. The C&AG highlighted the significantly higher costs of delivering justice in Northern Ireland compared to England and Wales. Part of the reason for this is undoubtedly the unique justice and security issues that exist in Northern Ireland. However, it is also highly likely that the endemic inefficiency within the system contributes to higher costs.

34. The Committee considers it an essential part of good governance and change management to understand the extent of the financial waste driven by poor processes, and to measure and report the financial benefits of new, more efficient ways of working. While witnesses referred to research being commissioned, it was not clear to what extent this would enhance understanding in this area. The evidence did not suggest a sufficient appetite amongst the witnesses to confront the absence of high quality financial information in the system.

The Committee recommends that the Department and other justice organisations develop a proportionate methodology to quantify the financial impact of avoidable delay and track over time the financial savings that are achieved as a result of the improvements they are striving to deliver.

35. The quality of information available in respect of the causes of adjournments at Court is unacceptable. Understanding the causes of adjournments is an important part of managing this important issue. Both the CJINI and the C&AG reported on the lack of such information and highlighted its importance.

36. Witnesses told the Committee that management information on the causes of adjournments in Court was collected. However, the information had proved to be unreliable. The cause of an adjournment is not always clear at the time that it is recorded by Court staff, and unlike in England and Wales, there is no process by which the judge, prosecution and defence agree the cause to facilitate its accurate recording. The witnesses asserted that the information is utilised internally, but given the issues affecting how the data is initially recorded, it is not clear to the Committee how this information could reliably be used to support effective analysis and management decision-making.

The Committee recommends that the Department and justice organisations establish a robust system to record and report adjournments and their causes and to identify the extent to which adjournments are avoidable.

Achieving fewer, more effective hearings in the Crown Court depends on judges, the prosecution and defence working together to manage cases

37. Whilst recognising that not every adjournment at court is avoidable or inefficient, the Committee is deeply concerned about the culture of adjournment that characterises many court cases in Northern Ireland. The Committee note that the witnesses reported a reduction in the average number of adjournments in Crown Court cases from 11 in 2017-18 to nine in 2019-20. Yet it is clear that there are still too many avoidable adjournments, and too many occasions where victims and witnesses do attend for hearings where no meaningful progress is made.

38. There remains considerable scope for further progress. In recent years, the justice system in England and Wales has worked towards achieving a vision of “fewer, more effective hearings” once cases reach court. The witnesses confirmed that this was the shared vision for the justice system in Northern Ireland.
39. The abolition of committal should greatly lessen the burden placed on those victims and witnesses who are required currently to present their evidence twice: at a committal hearing and at the resulting trial, as well as making a significant contribution to timeliness and reducing avoidable delay. Witnesses were, however, cautious about the timescale for this to be accomplished, noting that abolition is a process rather than an event, which took around ten years to achieve in England and Wales.
40. Nevertheless, the evidence is that the potential of all the initiatives that are being pursued and developed to deliver substantive improvement hinges upon tackling the long-standing cultural and behavioural issues that contribute to inefficiency. In particular, the adversarial nature of the judicial process is one that has historically worked against swifter justice. This has been recognised for some time. The Access to Justice review in 2015 stressed the need for more structured communication before hearings between the parties and the court, and for courts to be more flexible in terms of how they do business and deal with purely administrative matters².
41. The lack of these two key components is at the heart of many of the issues that contribute to inefficiency and delay in the Crown Court. They have incentivised and embedded a culture of inefficiency, whereby investigation and prosecution files are prepared to cover every potential line of rebuttal by the defence that the prosecution can anticipate, rather than focusing on the key contested matters. Witnesses acknowledged readily this problem of file “overbuild”. The increasing complexity of crimes and the additional investigative demands imposed in particular by the involvement of technology in crime, have only exacerbated this problem.

² Report of the Access to Justice Review Part Two, Department of Justice, September 2015

42. Excessive time taken to investigate and build ‘gold-plated’ prosecution files can only contribute to ineffective and unproductive hearings and adjournments at court. The witnesses recognised this and reported that in England and Wales it is no longer a requirement for files to be completely case-ready when they first arrive at court - instead, there is a process of proportionate file building and evidence can be served in phases. This way of working supports better engagement between defence and prosecution, managed by the judge, and helps reduce the number of hearings and adjournments as the case progresses through the Court.

43. The witnesses cited the Working Together project and the Indictable Cases project as part of the solution to this problem. However, all agreed that success would ultimately depend on introducing mandatory engagement as a feature of the Crown Court process.

The Committee recommends that the Department should, as a priority, introduce a legislative requirement for a general duty of engagement and pre-hearing communication between the prosecution and defence in all Crown Court cases.

The justice system has begun to utilise new technology to enhance efficiency

44. The Committee was encouraged by the adoption of new technology to improve how the system operates. In addition to the upgrade of the Causeway system, the witnesses also referred to the use of live links in courts - ensuring that, where possible, cases can continue using remote access for defendants, victims and witnesses - and new processes for the sharing of digital evidence between the PSNI, the PPS and the court.

45. It is perhaps frustrating that it required the impetus of Covid-19 to introduce new ways of working. It is essential that the Department and other justice organisations build upon this to introduce new technologies to support service delivery and to nurture a culture that is committed to fully harnessing the potential of technology to make processes more efficient and effective. A new

digital strategy that sets out the high-level objectives for the deployment of technology within the justice system is currently in development.

The Committee recommends that the digital strategy is a live document that contains specific and measureable objectives for the improved utilisation of technology across the justice system. The justice system should regularly benchmark its utilisation of technology with other jurisdictions to ensure that it continuously tests its practices against best practice elsewhere.

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