

# Avoidable Delay: A Progress Report

January 2012

Criminal Justice Inspection  
Northern Ireland  
*a better justice system for all*





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## List of abbreviations

<b>CJI</b>	Criminal Justice Inspection Northern Ireland
<b>DoJ</b>	Department of Justice
<b>FSNI</b>	Forensic Science Northern Ireland
<b>NICTS</b>	Northern Ireland Courts and Tribunals Service
<b>NIPS</b>	Northern Ireland Prison Service
<b>PBNI</b>	Probation Board for Northern Ireland
<b>PPS</b>	Public Prosecution Service for Northern Ireland
<b>PSNI</b>	Police Service of Northern Ireland
<b>YJA</b>	Youth Justice Agency





## Chief Inspector's Foreword

In June 2010 Criminal Justice Inspection (CJI) published a report into avoidable delay in the Northern Ireland Criminal Justice System. The report highlighted the scale of the problem and made a series of recommendations to support change. It was agreed that CJI would provide an annual progress report to the Minister. This is the first of these reports.

Considerable effort has been made since last year to address the problem. The CJI report was welcomed by the Minister of Justice who set in train a variety of initiatives specifically aimed at reducing avoidable delay. There has been much activity with staff across a number of organisations working hard to deliver the step change that was identified.

As this progress report shows, however, progress has been slow in a number of areas and performance has deteriorated for Crown Court cases and also for Magistrates' Court cases which commence through report and summons. This is particularly problematic for youth cases as this group requires an immediate and effective response in order to challenge offending behaviours and ensure that they are dealt with effectively by the criminal justice system. The most recent average of 289 days from informed of a prosecution through to disposal by a court is simply too long and it is disappointing that this is 30 days longer on average compared to 2010-11.

The key message arising from this first progress report is that continued focus and effort is required to make a difference. Much good work has been done and this needs to continue. At the same time new issues will emerge and it is important that the justice organisations respond flexibly to ensure the system overall does not suffer. This is an on-going challenge and one which requires constant monitoring and corrective action at an operational level. This report highlights the detrimental impact that one particular issue (i.e. summonses) can have on overall performance. Next year it may be another issue.

A significant reduction in the end-to-end times for case progression requires a number of successful building blocks to be in place. Put simply, it requires in the first instance a real desire and commitment to make it happen. It necessitates having the right people taking decisions on the basis of common real time information and implementing these changes at an operational level across a range of organisations. It requires on-going monitoring and review to ensure that progress is maintained and embedded into operational practice. It requires changes in behaviours at the front line and a shared desire among all those involved to make a difference. It requires ongoing focus, adaptability and flexibility in approach to deal with new issues as they emerge. Dealing with the problems of reducing avoidable delay is beyond the capability of any single organisation within the justice system. It requires many different people often working to different agendas and against their own self interest to engage collaboratively on the issue.



It is not surprising, therefore, that the problem has been such an intractable one within the Northern Ireland justice system. The challenges of reducing avoidable delay are therefore significant. There are a number of justice bodies involved, each with their own accountability arrangements, management information, organisational cultures and operational priorities. It also requires changes in behaviours for those (e.g. defence solicitors and barristers) who are outside the normal accountability arrangements. This reality can often work against a collaborative approach to achieving the common goal of reducing avoidable delay.

The reality is that an incremental approach has not delivered the anticipated performance improvement and this is likely to be an obstacle to change because of the nature of the justice system in Northern Ireland. A more radical approach is required to deliver the step change in performance which is required. The starting point as recommended in the past two CJI inspection reports on avoidable delay should be a decision to introduce statutory time limits for specific types of defendants and offences. The time limits should be introduced on a phased basis starting with youth cases within the next two years. The time limits should facilitate the implementation of current improvement initiatives and help them to sustain performance improvement. The response to this recommendation in the past has been to review the situation on an on-going basis. It is my view that the time for implementation has now arrived in order to make a difference.

The inspection was led by James Corrigan. My thanks to all those involved in the inspection process.

**Dr Michael Maguire**

Chief Inspector of Criminal Justice in Northern Ireland  
January 2012



## Executive Summary

CJI was pleased with the initial response of the criminal justice system to the avoidable delay report with the establishment of new governance and accountability arrangements and progress on a series of reducing delay initiatives.

Inspectors stated that a step change would be required to address some of the more fundamental issues affecting case progression and that some of these changes would require a medium term perspective. At the same time, a number of more immediate issues could be pursued to stem the deterioration in performance, particularly evident in the higher volume of Magistrates' Court summons cases.

The most recent performance information, for completed cases in 2010-11 and the first six months of 2011-12, is disappointing given the commitment made to secure significant improvement. There has been a recent deterioration for Crown Court cases and a significant deterioration in the average end-to-end times for adult and youth Magistrates' Court summons cases since the last inspection in 2009-10. The exception is charge cases which have continued to improve over the past four years.

Crown Court defendant cases continue to take more than 400 days on average from charge to disposal (439 days from April to September 2011). The volume of Public Prosecution Service (PPS) indictable decisions and Crown Court listed cases has increased and there were some anecdotal views on the added complexity of some of these cases, all of which could partly explain the lack of progress. The long debated proposal to reform committal proceedings has prolonged a process, which many in the justice system regard as inefficient and ineffective. There is however a continued need to focus on other initiatives such as case management, in advance of any reform of committal proceedings.

Magistrates' Court cases, which commence by charge, have continued to improve with progress evident in all stages of case progression. The challenge will increasingly become one of sustaining and building on current performance as proportionally more defendants may be charged in the future.

Most of the additional delay in report/summons cases can be attributed to the period from when a summons is issued/served on a defendant up to their first appearance in court. This is the stage where ownership of the summons process is shared with the PPS taking responsibility for generating the summons and for issuing it by post or to the PSNI, and the PSNI undertaking the service of personal summons and the courts providing a date of first hearing. The primary cause of the spike in delay relates to the 20% of postal summons which are not served first time – many of these cases are leading to multiple attempts at personal service by the PSNI and hence long delays prior to court.



The three main justice agencies have a contribution to make, though the immediate solution rests primarily with the PPS and the PSNI. The PPS should direct more effort towards improving the number of summonses served first time by post, while the PSNI should prioritise the personal service of summonses. Whilst the PSNI argue that a different approach to the service of summonses is needed, the nature of the current problem including its disproportional impact on delay requires an earlier and more targeted response. An improving working relationship between the PSNI and the PPS should facilitate a more co-ordinated approach in this respect.

The immediate performance outlook for report/summons cases in particular, at least until the end of the 2011-12 financial year, is not positive as any of the benefits of existing initiatives are likely to be negated by those delayed cases already in the system. The impact of the legal aid dispute may also have some negative consequences for cases in the Crown Court.

In the longer term, there is an anticipation among the justice agencies that the benefits of a broad range of initiatives on non-court disposals such as Fixed Penalty Notices, case ready charging, improved file quality, streamlined decision making in the PPS, joint case management, earlier guilty pleas etc. will contribute to a significant reduction in avoidable delay. There are also plans to introduce new legislation in areas such as reform of committals and measures to encourage earlier guilty pleas. These activities can also be supported by ongoing judicial case management and further reforms to legal aid (e.g. fixed fees similar to Scotland).

The view of Inspectors is that incremental performance improvement can be delivered over a medium to longer term perspective, but that progress can also be derailed by a range of issues such as the service of summons and a case not being ready by prosecution and defence. There is also a concern that improvements, when achieved, may not be sustained due to competing priorities both within and across justice agencies.

CJI made a recommendation on taking a decision on introducing statutory time limits in both the 2006 and 2010 inspection reports. The response of the justice system on both occasions was to keep the issue under review. However, the lack of performance improvement, particularly in relation to youth cases, presents a strong case for an immediate decision. Statutory time limits could be introduced on a phased basis, with a period of two years, prior to the introduction of Youth Court statutory time limits, regarded as a realistic and challenging start.



## **Recommendation**

**Statutory time limits should be introduced on a phased basis, starting with the implementation of Youth Court cases within the next two years.**

Section



# Progress Report

## CHAPTER 1:

# Introduction



### Definition and scope

- 1.0 Criminal Justice Inspection Northern Ireland (CJI) has published two separate reports on Avoidable Delay – the first in 2006 and the most recent in 2010. The 2010 report included a broad range of strategic and operational recommendations aimed at helping the justice agencies to address the on-going problem of avoidable delay in the progression of criminal cases.
- 1.1 The publication of the report was welcomed by the Justice Minister who affirmed his commitment to speeding up the justice system through eliminating unnecessary and wasteful delay. A joint action plan was prepared in response to the recommendations. A follow-up review of progress against each of these recommendations will be conducted in 2012.
- 1.2 In light of the priority accorded to this issue by the Minister, it was agreed that CJI would provide an annual progress report to the Minister. This is the first of these reports.

## CHAPTER 2:

# Analysis of performance



### Main findings of 2010 inspection report

- 2.0 The second CJI report on Avoidable Delay examined end-to-end performance for criminal cases over a four year period 2006-07 to 2009-10. The data was compiled by the PPS from its case management system and formed the basis for performance against the criminal justice performance standards.
- 2.1 The Northern Ireland Office and justice agencies had set five performance standards for criminal cases:
- Crown Court;
  - Adult Magistrates' Court; and
    - defendant cases commenced by charge;
    - defendant cases commenced by report and summons.
  - Youth Magistrates' Court.
    - defendant cases commenced by charge;
    - defendant cases commenced by report and summons.
- 2.2 The assessment of Inspectors at the time of the last inspection was that performance had flat-lined across four of the categories with noticeable improvement only evident in adult charge cases. Inspectors expressed particular concern at the impact of avoidable delay for Youth Court cases.

- 2.3 A comparison of performance with England and Wales, as the closest comparator criminal justice system, pointed towards a disparity in timeliness with all types of cases taking significantly longer in Northern Ireland. While there are some important differences between the two justice systems and different counting rules are invariably used, the overall end-to-end timeliness data was negative for Northern Ireland.

### Recent performance

- 2.4 The most recent performance data for cases completed during 2010-11 and the first six months of 2011-12 shows that performance has improved for Magistrates' Court charge cases and deteriorated for report/summons cases. Following a period of little change, a negative trend is emerging for 2011-12 in relation to cases completed in the Crown Court.
- 2.5 A total of 34,431 completed defendant cases in the Magistrates' Courts were counted together with 967 pre committal and 1,540 post committals for 2010-11. The 2011-12 data is based on 17,202 defendants in the Magistrates' Courts together with 473 defendants committed for trial and 768 disposed of in the Crown Courts. This data is based



on counting rules which include defendants rather than cases and excludes certain categories such as persons initially charged who are later proceeded with by way of report, and cases where bench warrants were issued.

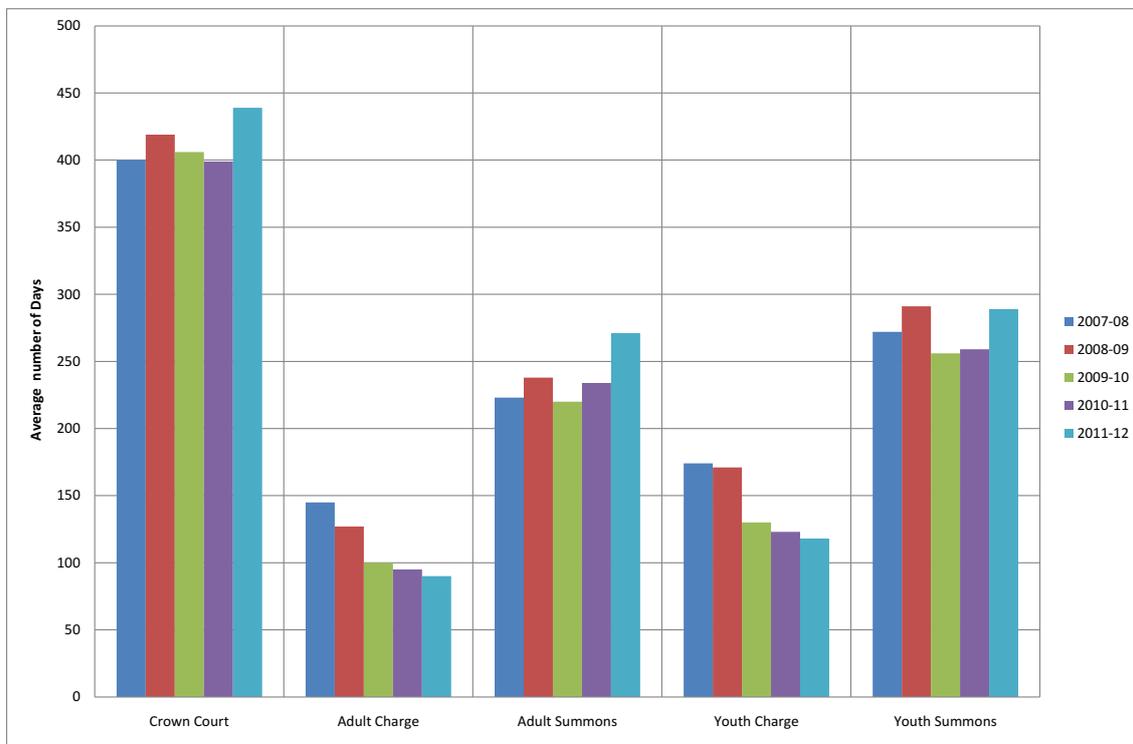
- 2.6 The number of eligible defendant cases has substantially increased from the time of the last inspection (2008-09 data). For example, adult summons defendant cases increased from 20,148 to 23,693 in 2010-11. On a broader level, the number of criminal cases that were sent to the PPS has declined from 63,433 in 2009-10 to 58,821 in 2010-11. This trend is likely to continue as a result of the range of justice sector initiatives, such as police discretion and non-court disposals, as well as a reduction in reported crime figures.
- 2.7 The PPS did state that the number of more serious cases has increased and this is reflected in the increasing number of indictable decisions taken in 2010-11: 2,076 compared to 1,623 in 2009. There is also some anecdotal evidence pointing towards increasing complexity of some Crown Court cases. These developments are likely to reduce the benefits of an overall declining workload of cases.
- 2.8 An overview of performance for all types of cases is shown in Graph 1. It shows average end-to-end times for defendant cases over a four and a half year period – the last eighteen months relating to the period after the fieldwork for the second CJI report on Avoidable Delay. The data for 2011-12 relates to completed cases in the period 1 April 2011 to 30 September 2011. A number of trends are evident:

- Crown Court cases improved slightly up until 2010-11, though the figures for the first half of 2011-12 are more negative;
- Charge cases, for adults and youths, shows continuous improvement;
- Summons cases, for adults and youths, continues to deteriorate since 2009-10; and
- The timeliness gap between charge cases and report/summons cases continues to widen.

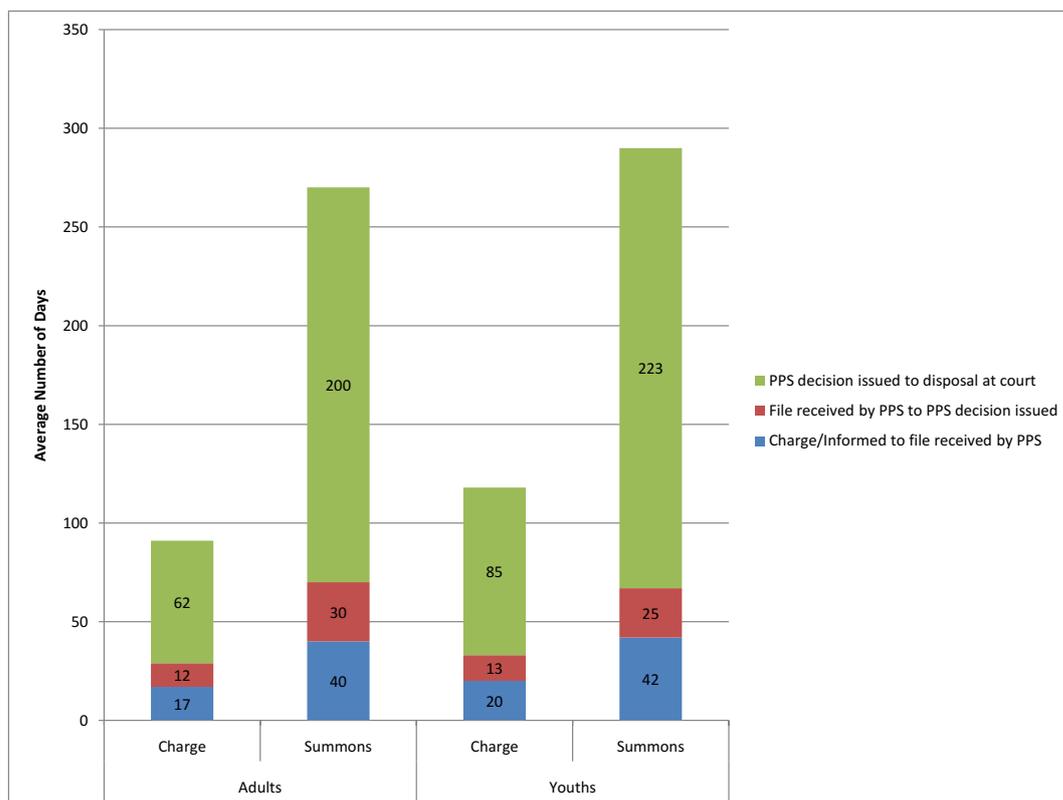
- 2.9 A comparison of charge and summons cases completed in the first half of 2011-12 shows that summons cases (adults and youths) are taking more than twice as long to reach a disposal in the courts. An analysis of the main stages of case progression shows that this gap between charge and summons cases is not restricted to one particular stage – i.e. summons cases are taking more than twice the time of a charge case in all three main stages of case progression (Graph 2).
- 2.10 The overall performance in relation to Crown Court cases was little changed in the period from 2007-08 to 2010-11 (Graph 3). The most recent data for the first half of 2011-12 shows a significant deterioration from 2010-11 with a longer average time in all stages except charge to file received by the PPS. The two stages which specifically relates to the PPS (file received to date of committal) should be considered together as some of the recent variations are due to administrative issues rather than a fundamental change in performance. The time from committal to start of hearing has increased from 114 days in 2009-10 to 121 days in 2010-11 and 141 days for the first six months of 2011-12.



**Graph 1: Performance by defendant case**

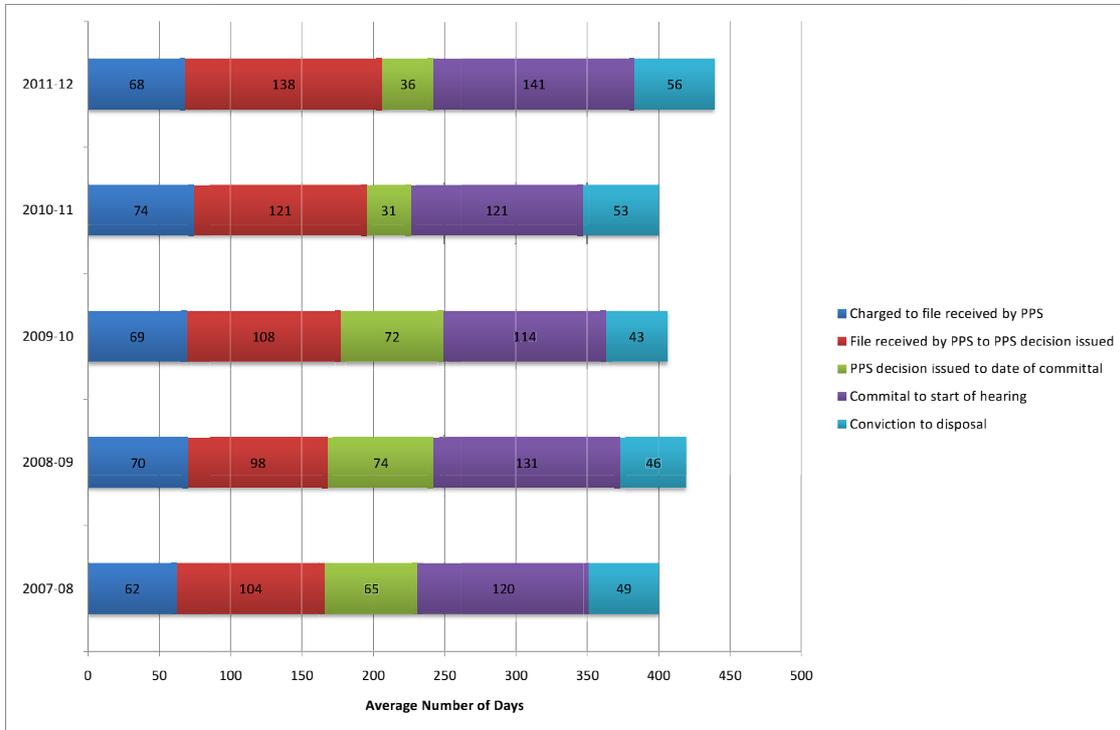


**Graph 2: Charge/summons defendants 2011-12**

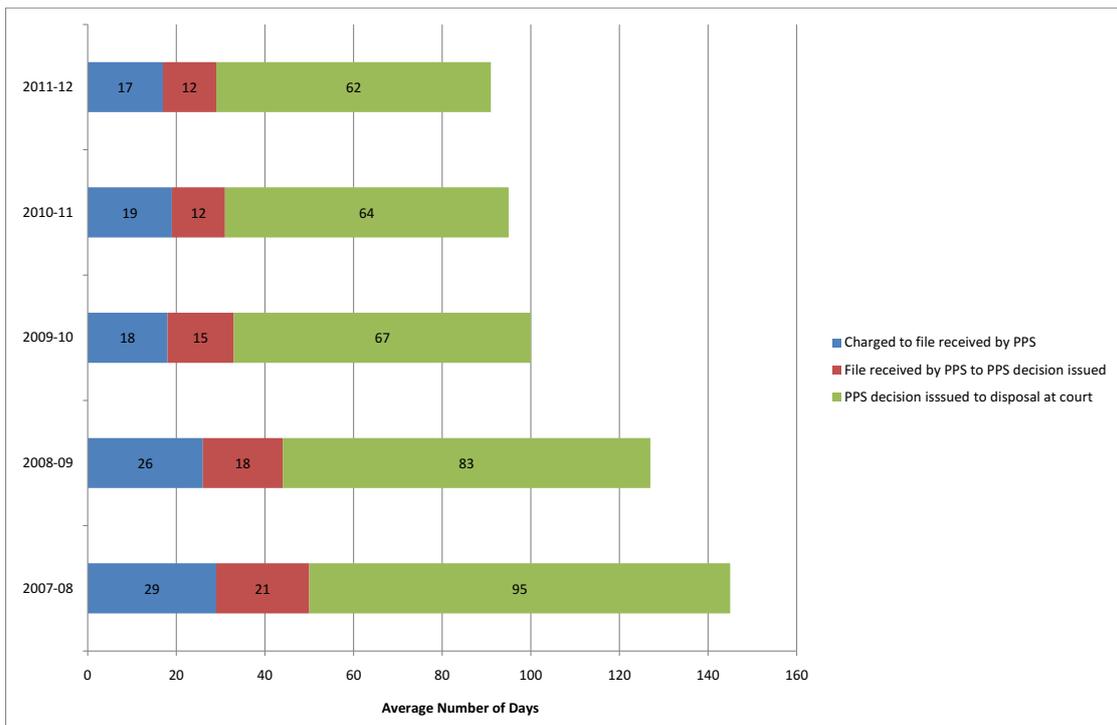




**Graph 3: Crown Court defendants**



**Graph 4: Adult charge defendants**



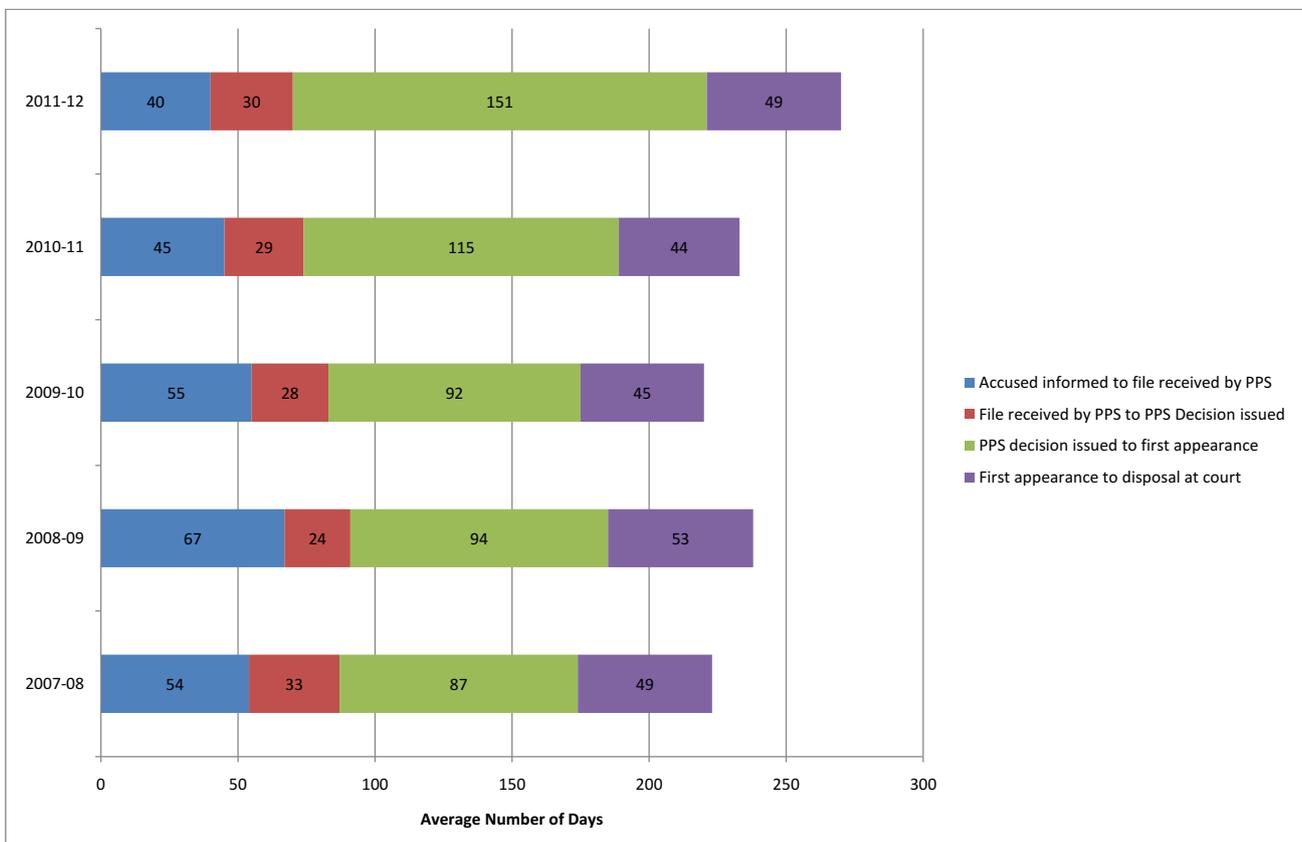


2.11 A total of 8,241 adult defendants, whose cases commenced via a charge, were disposed of in the Magistrates' Courts in 2010-11 and 4,520 defendants up to 30 September 2011-12. The average end-to-end processing time for these cases was 95 days in 2010-11 and 90 days in 2011-12 (Graph 4). This is a continuation of a positive trend over the past four and a half years. The evidence would point towards improved file quality by the PSNI, which is facilitating a more timely decision by the PPS and better case readiness at the courts.

2.12 Adult defendant cases, which commence when a person is informed that a report will be prepared with a view to prosecution, have increased from an

average of 220 days in 2009-10 to 234 days in 2010-11 and 270 days in 2011-12 (Graph 5). These defendant cases are the most numerous in the justice system. A breakdown of the process stages provides an insight to the immediate problem – the period from when the PPS takes a decision on prosecution until the defendant's first appearance in the Magistrates' Court. The PPS decision making stage together with the period from when a defendant is in court has changed little over the two years. An area of significant improvement is the file preparation stage, which took an average of 45 days in 2010-11 and 40 days for the first six months of 2011-12.

**Graph 5: Adult summons defendants**

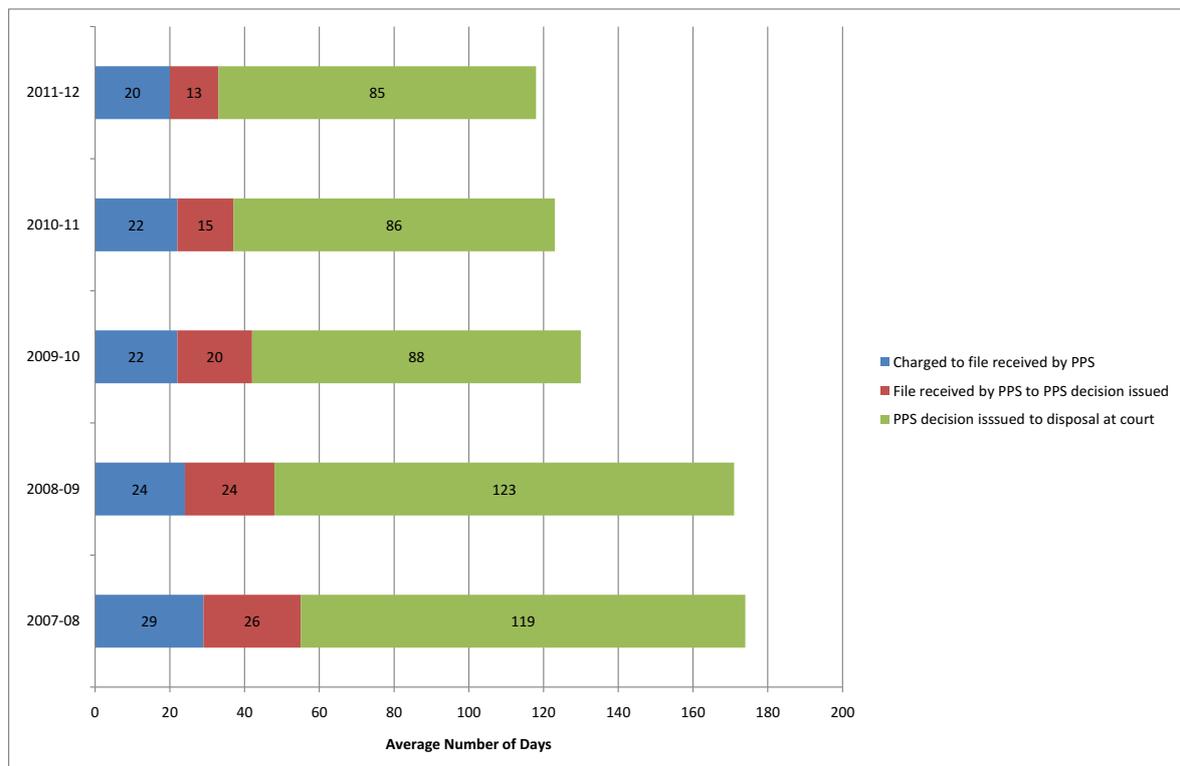




2.13 Youth defendant cases were a particular concern for Inspectors in the last inspection due to the unfavourable comparisons with adult cases and more particularly with similar Youth Court cases in England and Wales. The trend in youth charge cases is similar to that of adult cases, with the average end-to-end

reported in the last CJI report. A breakdown of performance across the four stages shows a close alignment with adult summons cases – an improvement in PSNI file preparation, little change in PPS decision making, a significant and continuing deterioration in the summons stage and little change in the courts –

**Graph 6: Youth charge defendants**



time falling by 7 to 123 days in 2010-11 and to 118 days in 2011-12 (Graph 6). The improvement is most evident in the period from when a file is received by the PPS to when the PPS issues a decision on prosecution (13 days in 2011-12).

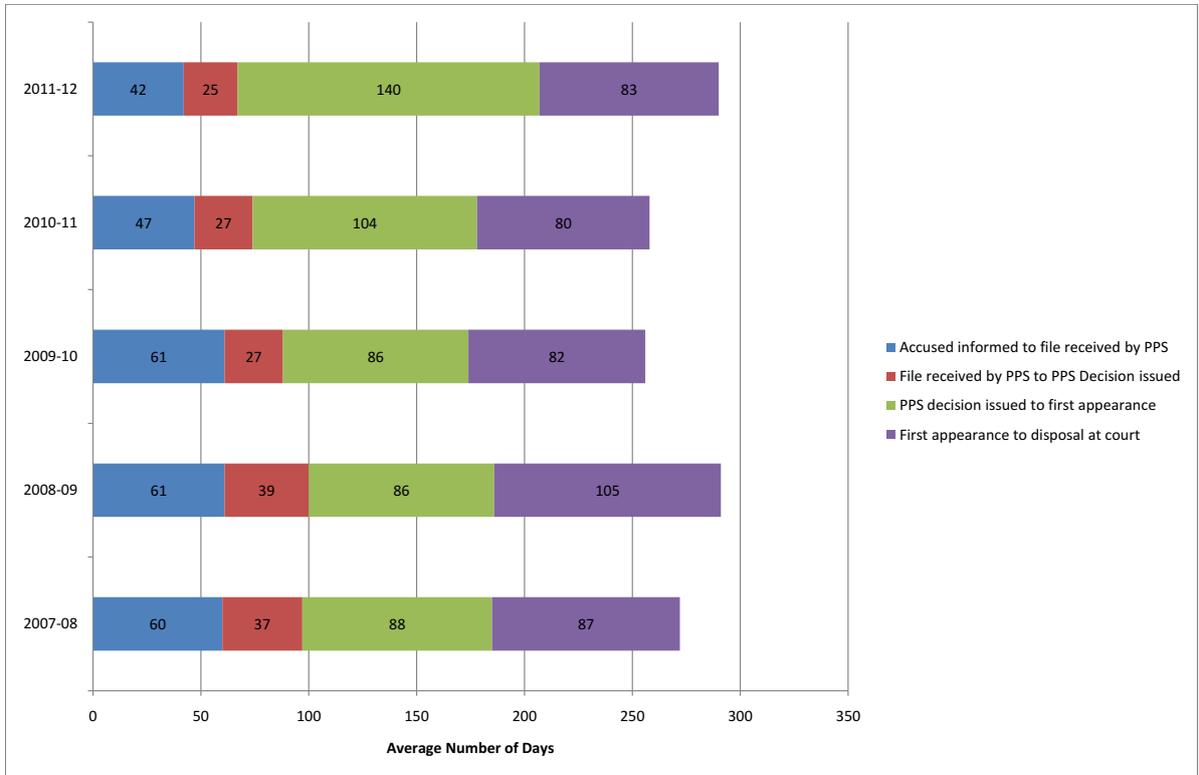
2.14 Youth defendant cases, where the prosecution was initiated by a report and subsequent summons to appear in court, took an average of 256 days in 2009-10, 258 days in 2010-11 and 290 days in 2011-12 (Graph 7). This reverses an earlier positive trend which was

the latter has shown some deterioration in the first half of 2011-12.

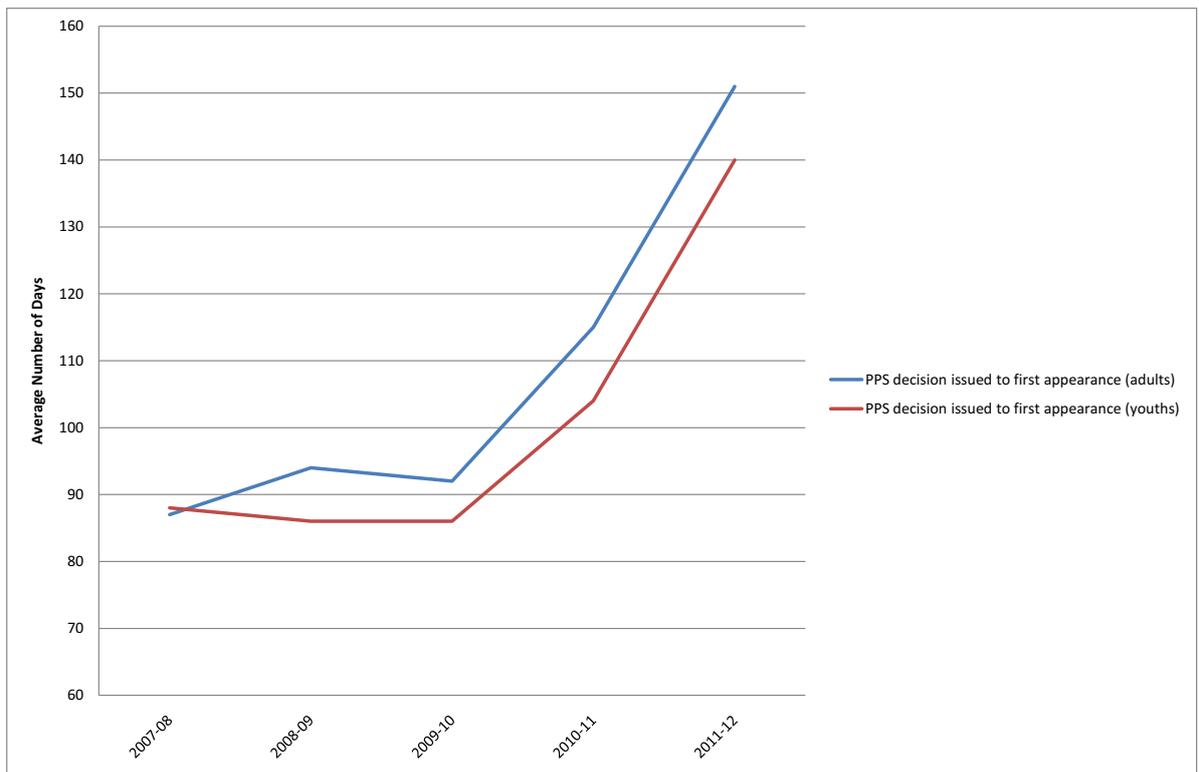
2.15 The summons stage i.e. from when the PPS issue a decision on prosecution to when a defendant appears in court, is a stage of considerable concern to Inspectors as performance has significantly deteriorated in 2010-11 and this has extended into the first half of 2011-12 (Graph 8). The most recent data shows that it has taken on average 151 days for adults (22 weeks) and 140 days for youth defendants (20 weeks).



**Graph 7: Youth summons defendants**



**Graph 8: PPS decision issued to first appearance in court**

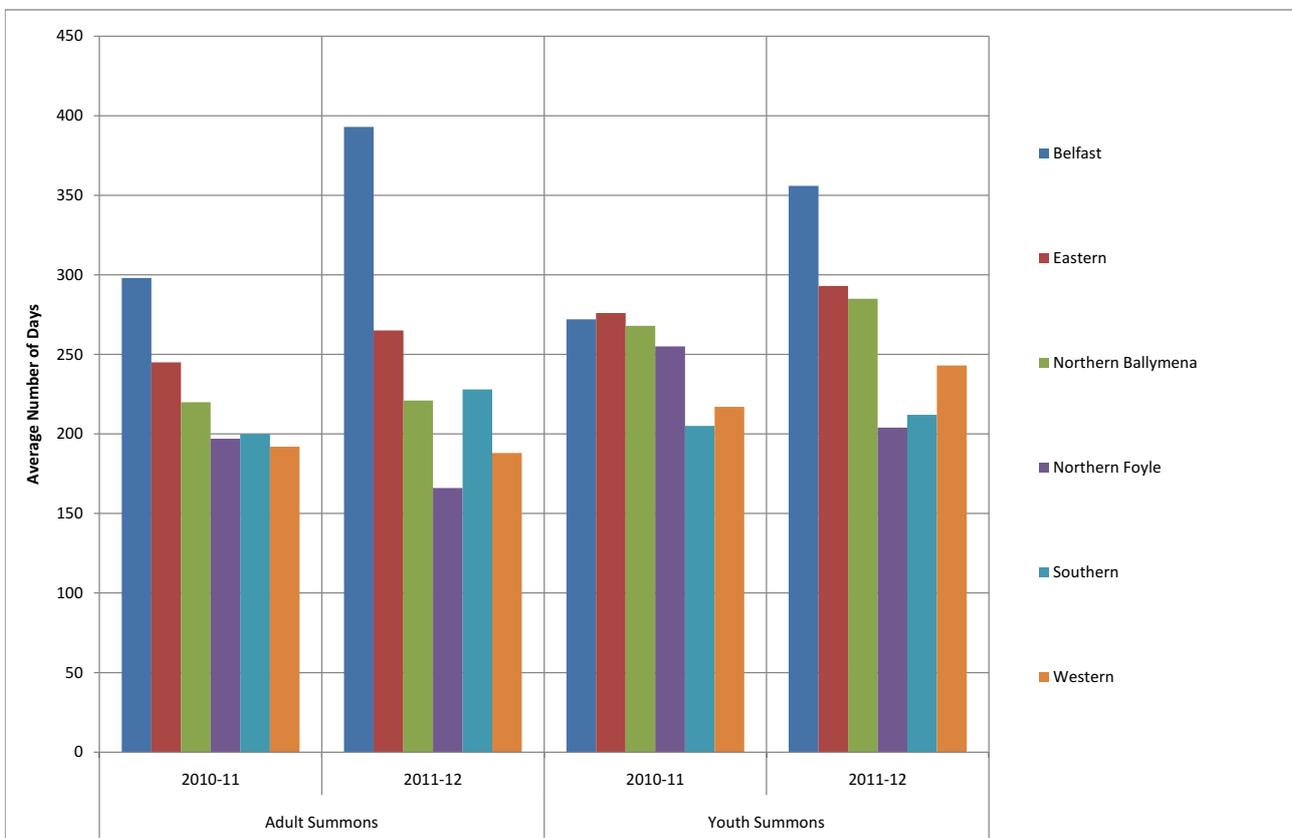




As this is an average, some cases are taking considerably longer. The justice agencies have a target of four to six weeks for the service of summonses.

2.16 A review of regional performance on summons cases, based on the PPS regions, shows considerable variation with areas such as Belfast and Eastern region showing under-performance (Graph 9). On the other hand, Southern, Northern (Foyle) and Western are consistently performing at above average. While the volume of cases is considered an important variable, it must also be balanced against the relative resources employed by each justice agency in each region.

**Graph 9: Regional performance on summons cases 2010-11 and 2011-12**



## CHAPTER 3:

# Work undertaken since publication of the 2010 report



3.0 Following the publication of the CJI report in June 2010, the Criminal Justice Board launched a renewed programme of work to speed up justice. This involved an allocation of responsibilities under four work strands: governance and accountability; case preparation; case management; and youth cases.

### Governance and Accountability

3.1 The CJI report included a number of strategic recommendations on the need to strengthen accountability and leadership supported by direct political oversight for the Minister of Justice. A new Criminal Justice Delivery Group has brought together senior staff from the main justice bodies as well as the Minister with a remit which includes speeding up justice.

3.2 The Governance and Accountability Group oversees the overall work programme on behalf of the Criminal Justice Board and the Criminal Justice Delivery Group. It is comprised of senior managers from each of the main justice bodies and is chaired by the Department of Justice. The group has initiated and led a number of the cross agency initiatives and shows a developing sense of the joint approach recommended in the last inspection. It needs the on-going support and challenge of the Delivery Group and should develop its capacity to monitor

and assess risks at the earliest opportunity (e.g. delays around summonses).

### Case Preparation

3.3 The early stage of investigation and case work is covered in the case preparation work strand, which is jointly chaired by the PSNI and the PPS. The remit of the work strand is wider than avoidable delay in that it is focused on improving a range of interface issues.

3.4 There was general agreement at the time of the last inspection that the quality of police files were insufficient to meet the standards required by the PPS. The approach of the PSNI has been two-fold – to free up resources devoted to file preparation (e.g. shorter files, more use of police discretion as a disposal etc.) and to streamline and improve existing processes. The purpose of both approaches is to improve file quality and overall timeliness.

3.5 The evidence to date on file quality is mixed – the PPS report that the number of Requests for Further Information (RFI) has remained high, particularly with regard to the more complex indictable cases where more than 50% of pre-committal files required more information before a decision could be taken by the PPS. The PSNI has also accepted that file quality will remain a



concern until the re-organisation of its file preparation and submission processes is complete. The PSNI do however point to an improvement in the type of RFIs with less use of the most serious requests (i.e. where the lack of information in the file can not support any PPS decision on prosecution). The PSNI also point to 'external' delays with regard to certain types of forensic science reports (e.g. particularly drugs, toxicology and firearms) and to continued problems with obtaining medical evidence – the initiative on expediting medical evidence/reports did not deliver the anticipated benefits. The submission of timely reports from Forensic Science Northern Ireland (FSNI) continues to be impeded by spikes in demand from the PSNI such as the recent surge in exhibits for serious/urgent cases and the over-submission of drugs cases. It is also linked to resourcing limitations within FSNI and issues in the provision of court hearing dates.

- 3.6 The primary responsibility for file quality in the PSNI (including timeliness) rests with the investigating officers and their supervisors (sergeants) with technical submission of files to the PPS the preserve of the newly centralised Occurrence and Case Management Teams. While the broad thrust of the reforms are intended to improve file quality and therefore overall timeliness, Inspectors did hear concerns around implementation, particularly around the introduction of a parallel paper file system, known as the 'blue folder'. This folder approach is part of a broader quality assurance process to ensure that supervisors and response officers are aware of their roles and functions in the file preparation process. An assessment

of the overall success of this project, linked to other quality assurance initiatives such as a gatekeeper process and dip sampling of cases files, will emerge as they are rolled out in more police districts.

- 3.7 The key drivers for improved timeliness (and quality) in the PSNI are a range of initiatives known as speedy justice. Many of these initiatives are based on increased and improved co-operation between the PSNI and the PPS, which in many cases require a common approach (e.g. the introduction of minimum standards for case files; PPS advice on cautioning, informal warning etc). This is a positive trend and has benefits for many issues beyond file preparation.
- 3.8 Inspectors have some concerns around the number of cases which become statute barred and therefore cannot be prosecuted by the PPS. This is both a symptom of delay and also ineffective case management in the PSNI – an extension in the time limit can be requested for identified cases by the PPS via a Form 1 application. Around 40 cases per month were becoming statute barred in the first half of 2011, which was similar to the position that Inspectors found at the time of the last inspection. However, an internal push by the PSNI has reduced this number to an average of 13 during the summer months of 2011. This will require ongoing monitoring by the PSNI and the PPS.

### **Case management**

- 3.9 The aim of the case management work strand is to develop better ways to improve the conduct of criminal cases through the court process. It is chaired



by the NICTS and has representation from the Office of the Lord Chief Justice. The input of the judiciary is recognition of their centrality to case management and is matched by a range of specific judicial initiatives around the progression of cases in the Crown and Magistrates' Courts. The Lord Chief Justice has recently issued a practice direction with the purpose to improve witness availability to ensure that avoidable adjournments can be prevented in the Crown Court.<sup>1</sup> The practice direction is operating in pilot form in Antrim and Belfast Crown Courts since September 2011.

- 3.10 Case management is supported by case progression personnel in each of the main justice organisations. There is evidence of increasing collaboration between case progression staff in relation to Crown Court cases and contested cases in the Magistrates' Courts. There is scope to better utilise this expertise now that more live time case information is becoming available via the Causeway data sharing mechanism and each justice agency's own case management systems.
- 3.11 The review of adjournment reasons which was initiated at the time of the last inspection has continued though it has been limited in its roll-out. The main challenge is however to utilise the available information to reduce the number of unnecessary adjournments across each of the Magistrates' Courts. Progress on implementing this stage of the project is just beginning to be implemented. There is also a key role

for case progression personnel in each region to collate and assess information on the outcome of each contest including reasons for adjournment. All of this information should be shared with the newly established performance improvement partnerships.

- 3.12 Preliminary findings from the pilot phases of the reasons for adjournments point towards a general lack of preparedness for court, by both the prosecution and the defence. Cases in the criminal courts cannot progress without all the relevant parties being present, and the absence of witnesses and injured parties can cause adjournments, delay and create inefficiency and increase costs.<sup>2</sup> The management of police witnesses should improve as the PPS now have access to the PSNI computerised detailing system (Options) in certain areas.<sup>3</sup>
- 3.13 The previous inspection referred to the need for a single source of case information, which in turn would also facilitate effective inter-agency case progression and be the foundation for the measurement of any new performance targets. A management information system to extract information from Causeway has been developed and some reports have been produced on end-to-end processing times for cases. The mechanism for extracting performance information from Causeway is being validated. It is intended that it will include the ability to measure performance by region, at key stages, case volumes and time taken to progress specific

<sup>1</sup> Listing of trials, agreement of non-essential witnesses and obtaining of witness availability, Practice Direction 3/2011 in the Crown Court of Northern Ireland.

<sup>2</sup> Taken from the introduction to the Executive Summary, Securing Attendance at Court, CJI, June 2011.

<sup>3</sup> A thematic inspection on The Treatment of Victims and Witnesses was published by CJI on 8 December 2011.



offence groups. Access to and use of this type of information should contribute to improved performance.

### Youth Cases

3.14 The CJI inspection report stated that young people, whether they are defendants, victims or witnesses are more negatively impacted by delays in the criminal justice system. The report went on to state that youth cases should be prioritised with a recommendation for a joint action plan on youth defendant cases.

3.15 Whilst the performance of youth charge cases has improved since the last report, the more numerous youth summons cases have deteriorated, particularly in the first half 2011-12. The end-to-end average time was 289 days compared to 259 days in 2010-11.

3.16 The Youth Justice Agency has taken the lead on developing an action plan which has linked into existing initiatives such as the multi-agency Reducing Offending in Partnership Project and to the more general delay actions such as case progression and prolific offenders. There is however recognition expressed in the most recent joint action plan that a renewed multi agency push on youth cases is required to focus more specifically on youth cases. The submission from the DoJ to the Justice Committee in June 2011 is notable by its lack of detail on specific youth cases initiatives.

3.17 The considered view of Inspectors is that replicating the wider criminal justice activities in areas such as case preparation and case management is not sufficient to address the deeper malaise around youth cases. Pilot work to date such as the fast-tracking by case progression personnel of cases involving the most prolific young offenders requires wider application and support.<sup>4</sup>

<sup>4</sup> This initiative involves expediting all cases relating to 30 of the most prolific young offenders in the system.

## CHAPTER 4:

# Looking forward



- 4.0 The response of the criminal justice system to the problems of avoidable delay can be described as comprehensive but conservative. It is comprehensive in that new governance and accountability arrangements have been established and a broad range of inter-agency and agency specific initiatives have been developed. The overall strategy is based on incremental performance improvement which has delivered a steady improvement in Magistrates' Courts charge cases. It has not delivered performance improvement in Crown Court cases and has allowed the problem associated with summonses to negatively impact the overall progression of report/summons cases.
- 4.1 The problems relating to the summons process is in part reflective of the deeper weaknesses of the justice system. Inspectors noted these concerns in the executive summary of the last inspection report and called for a more co-ordinated inter-agency response on summons cases. This level of co-ordination has been lacking and it is noticeable that neither the case preparation, or the case management work strands, have taken direct ownership for resolving this problem. As currently constituted, it would appear to fit best in the case preparation work strand where the two principal justice bodies – the PPS for the issue of all summonses and the service of postal summonses; and the PSNI for personal service – are jointly responsible.
- 4.2 The immediate solution rests primarily with the PSNI as it is responsible for the personal service of summonses, which includes those defendants who have failed to respond to a postal summons. All un-served postal summonses, accounting for around 20%, are re-issued by the PPS (some evidence from the PSNI of delays in re-issue) and passed to the PSNI for personal service. The PSNI allocate each summons to their respective districts, which in turn allocate to neighbourhood officers. It is the responsibility of neighbourhood officers to locate the specific individuals and serve the summons in person. The problem is that many of these individuals are not located within a reasonable timeframe and Inspectors have been made aware of multiple attempts at service – one case had 13 unsuccessful attempts before a summons was eventually served. While Inspectors accept that many of these defendants are not amenable to the service of a summons, there remains a responsibility on the PSNI to accord a greater priority to this work, particularly as it is having a disproportional negative impact on the overall performance of the justice system. The feedback from officers in two districts visited by Inspectors was that they were unaware of the extent of the problem.



- 4.3 A longer term solution to the service of summonses rests with the broader criminal justice system. The current trend towards case ready charging will reduce the number of report/summons cases as will the increasing use of non-court disposals. The summons approach to court attendance will continue for specific types of cases (e.g. road traffic offences), which in the main will continue to be served by post. The problematic issue of personal service of summonses could be outsourced, which is the preference of the PSNI, though it would require new legislation. Other options, presented to Inspectors, could include the service on an accused solicitor or the service on an accused on a voluntary basis at the time of police bail.
- 4.4 The broader work programme for 2011-12 includes a range of proposed legislative changes and procedural reform which involves encouraging earlier guilty pleas, reforming committal proceedings, case ready charging and a renewed focus on youth cases. There is however a caveat that the nature of the proposed reforms are likely to require a long term and sustained commitment. There may of course be other pit falls, such as the summons issue or delays with specific forensic science reports, which could undermine performance, and this will require vigilance and earlier robust responses. Budgetary cutbacks will also require a careful analysis of consequences, both within and outside criminal justice organisations.
- 4.5 The introduction of case ready charging, which is being piloted in one court area, has the potential to significantly change the way justice is delivered. Its success will ultimately depend on preparedness for court – i.e. that all parties are ready to proceed at the earliest opportunity. Any failure will simply move the pre-court delays into the courts. There is also a need to closely monitor pre-charge times to ensure that police bail is effectively managed<sup>5</sup> – this timeframe was not monitored by the PSNI at the time of this review.
- 4.6 The case for a more immediate response to the undue delays in youth cases has been strengthened in a number of recent reports on the criminal justice system. An independent review of the youth justice system, published in September 2011, stated that delay ‘permeates the entire criminal justice system’ and that ‘progress has been decidedly modest if indeed discernable’. It stated that a ‘step change is needed to secure real change’ and recommended the introduction of statutory time limits for youth cases.<sup>6</sup> An independent review of the Northern Ireland Prison Service, published in October 2011, also recommended the introduction of statutory time limits, beginning with cases in the Youth Court.<sup>7</sup>
- 4.7 The incremental approach has not delivered the anticipated performance improvement for cases in the Crown Court and the majority of Magistrates’ Court cases, and a new more radical

5 A contemporary outline on the use of police bail is contained in a recent application for judicial review: Connelly’s (James) Application [2011] NIQB 62.

6 A Review of the Youth Justice System in Northern Ireland, September 2011.

7 Review of the Northern Ireland Prison Service: conditions, management and oversight of all prisons, Prison Review Team, Final Report October 2011.



approach is required to deliver the required step change. The starting point, as recommended in the past two CJI inspection reports on avoidable delay, should be a decision to introduce statutory time limits for specific types of defendants/offences. **Statutory time limits should be introduced on a phased basis, starting with the implementation of Youth Court cases within the next two years.**

The time limits should facilitate the implementation of current improvement initiatives and then help to sustain performance improvement.

- 4.8 The mechanics of how statutory time limits should operate is ultimately the decision of the Department of Justice and the criminal justice agencies. This work should draw upon experiences from other jurisdictions such as Scotland and the pilot scheme in the Youth Courts in England and Wales. The recent independent review of the Youth Justice System in Northern Ireland stated that a time limit of 120 days should be set for youth cases which should commence at the point of arrest (not charge) and end with disposal in the courts. The independent Prison Review Team also recommended that the point of arrest should be the starting point. The youth justice review called for the provision to be contained in the next Justice Bill and thereafter implemented within 12 months. It should also include provision to protect victims in cases where the time limits are exceeded – this could take the form of time extensions though it would need to be used as an exception rather than become the norm.

- 4.9 The introduction of statutory time limits should not be a substitute for performance standards. Statutory time limits are in effect a set of minimum standards i.e. the upper time limit that cases should not exceed. Performance standards or targets have the objective to progress all cases as quickly as possible, preferably much quicker than the upper limit set by statute.
- 4.10 The newly proposed performance standards will be supported by the new management information tool which will extract data from Causeway relating to cases that have been completed. This data will then become the ‘single source of truth’ as recommended in previous CJI reports. Members of the case management work stream have devoted considerable effort over the past year to the development of these new performance standards and supporting management information system.
- 4.11 Inspectors had anticipated that Causeway would also have provided the capacity to extract live data extracts, which could have provided a single source of truth on live case progression and therefore aided the case progression officers/personnel. The importance of being able to utilise a common data set of live case information was emphasised by Inspectors in the last two inspection reports.



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