



Northern Ireland
Assembly

Committee for Regional Development

OFFICIAL REPORT (Hansard)

Safety Barrier Replacement Policy:
Department for Regional Development

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responses on time. In mitigation, a very extensive amount of work was required in the Department to get that information together for you. We also wanted to ensure that our search of documentation was as wide as it possibly could be so that you got everything that you asked for, and I believe that we have done that. The second issue to raise is that there is an ongoing PSNI investigation into the case, and we did not want to release anything that would jeopardise that in any way whatsoever. Indeed, I do want to say anything that would do that today, so I may seem a bit coy in my answers.

It is possibly worth going through some of the timeline of the incident. I will not go through it all, because I know that we are pressed for time. The original barrier at that part of the Malone Road was erected in 1977. When we investigated the incident previously, we did not know the full circumstances behind the barrier's erection. We now believe that the barrier was erected following an incident in which two passengers in a car were killed after the car left the road and struck a lamp post, which, at that stage, was at the kerb, rather than at the back of the footpath. We also know that the street-lighting columns have been moved and are no longer at that position. Therefore, the obstacles that the barrier was erected to protect against were removed some time ago.

The barrier, however, remained and was inspected from time to time. We know that it was inspected in 2002 and again in 2007. Importantly, between 2007 and 2011, the Department's policy on barriers was developed to quite an extent. Three new policy documents came out during the period, and those are listed in members' packs. I will not go through them in detail, but one looked at the sorts of barriers that we provide, one looked at how we manage existing barriers and one looked at how we prioritise sites for erecting new barriers. Therefore, quite a bit of development work was carried out during that period. Following that, another inspection was carried out in October 2011, during which the barrier was found to be in a hazardous condition. A further inspection was carried out in 2013, and the barrier was removed in 2014. That removal took place on 17 and 18 September 2014.

On 15 October 2014, we had the fatal collision in which a student tragically lost his life. There was no issue with our removal operation in that one-month period. We had removed the barrier, and there were no complaints about our removing it. No concerns were raised about its removal during that one-month period, despite the fact that 20,000 vehicles, and perhaps 30,000 people, travel up and down the Malone Road every day. In fact, it was not until just before Christmas that we received some requests from the media, and, in January, the Committee corresponded with the Department to ask for some information.

The rest of the events are fairly well known. We have had a series of pieces of correspondence, and I have apologised to the Committee for not getting back to it on time. However, I believe that you now have all the correspondence that you asked for. We also now know that, as well as the work of the Committee, the PSNI is carrying out an investigation. We also know that the Minister has asked for an independent investigation to be carried out into the policies that the departmental officials have been using and whether they followed those correctly. Of course, as there was a tragic fatality, we also know that there will be a Coroners' Court hearing at some stage.

In concluding my remarks, and before I take questions, I would like to say that there is a great deal of expertise in the Department for assessing existing barriers and assessing sites for new barriers. People have to make very difficult life-and-death decisions. People have to install safety measures at places where they think they will do the most good, and it does not always follow that they are right. We do not install barriers with the benefit of hindsight, so they had very difficult decisions to make.

I have gone through all the correspondence, as I am sure all of you have, and I think that it demonstrates that people took a conscientious approach to that particular barrier and whether it should be removed or replaced. I think that the correspondence shows that, but I am happy to answer any questions that you have.

Mr Lynch: Thank you, Andrew. To go back to the timeline, you said that there were no complaints about the removal option and that you did not know why the barrier had been put up in the first place. Was the reason for why you put it up in the first place not known at the time of the accident and then when you took it down?

Dr Murray: Yes. To clarify on that one, the assessment procedure that we use does not take account of the history of the barrier. It takes account of the current situation and whether the barrier is needed. That is what was done. I know that there is information in the file where the divisional manager has asked, "Can you investigate why the barrier was there in the first place?", and I think that he carried out a reasonable challenge.

The Deputy Chairperson (Mr Lynch): Should decisions be guided by your procedures rather than anything else?

Dr Murray: The staff had followed our procedures and, in following those procedures, they recognised that this might be a controversial decision. It is generally controversial to remove anything from the road network. The divisional manager was involved at that stage, and he asked some questions just to make sure that no stone was left unturned.

The Deputy Chairperson (Mr Lynch): Are those engineering procedures?

Dr Murray: Yes, they are.

The Deputy Chairperson (Mr Lynch): You said that there was no issue with the barrier's removal, even after the accident, until the media took up the issue in January.

Dr Murray: The first thing appeared in the media a couple of months after the accident took place in October —

The Deputy Chairperson (Mr Lynch): January, you said.

Dr Murray: — and the media interest started just before Christmas, so there was that period. People became interested and started asking questions just after the collision occurred, but the point that I was making is that there was nothing before that.

The Deputy Chairperson (Mr Lynch): I am going to bring in other members at this stage, because I want to come back in on a number of points myself.

Mr McAleer: On the basis of the chronology that you referred to — I have looked through most of the pack — in October 2011, the Department deemed the barrier to be in hazardous condition, yet it was three years before the barrier was removed. Why did it take three years, and why was it not removed and replaced?

Dr Murray: There are two things to say. Just because something is hazardous does not mean to say that it presents a serious risk to the public. We prioritise things that are identified as hazards, and, if it were a serious hazard and we thought that there was an imminent danger to life and limb, we would act very quickly. We also have a long programme of things that are hazardous to some degree but that do not require urgent attention. That barrier was one of those things that did not require urgent attention. Effectively, we were saying that it was not doing that much harm where it was.

Mr McAleer: You said there were no complaints. Would that be partly attributed to the fact that you did not do a great deal of consultation locally?

Dr Murray: I do not think so. Where we have a barrier, we would generally consult only with the people who are immediately in the vicinity of the barrier. All footways are busy: they all link to schools, universities and shops. Busy footpaths all lead to places that attract pedestrians, so it is normal that we would correspond only with the people immediately affected.

The point that I was making is that a large number of people passing that site will have seen the barrier being removed, or they will have seen that it had gone. It did not strike anybody that we were leaving the road in a dangerous condition.

Mr McAleer: At the previous meeting, we were surprised that there was only one house in Sans Souci Park that you had been in contact with. Indeed, I think that its occupants were contacted by way of a letter being put through the door. The students at Elms Village were not consulted about the barrier's removal, which we find quite astonishing. That might account for most of the complaints and concerns.

Dr Murray: Our current policy does not require any wider consultation than that. It is, however, being looked at as part of the independent investigation. If the independent investigators find something wrong with that, they will certainly make a recommendation to us.

Mr McAleer: I should also say that, although there has obviously been a lot of media attention, it was not just because of that media attention that the matter was in Committee. I went to see the family and got their permission to raise it in Committee. The first opportunity to do so in the new year was at the first meeting back on 7 January, so we are not just reacting to media attention. This is a widespread issue, and a lot of people are talking about it, you know.

Dr Murray: I can fully understand the Committee's concern, and, unfortunately, I have seen at first hand what it means to a family to lose a young adult. I know what it is like.

Mr McAleer: It goes without saying that the impact on the community and the family is devastating.

Mr McNarry: To establish where we are, can we agree that the PSNI investigation is not focused on the removal of the barrier?

Dr Murray: Yes.

Mr McNarry: You know and we know that, over five years, the PSNI issued over 2,500 speeding tickets. That is right, is it not?

Dr Murray: Yes.

Mr McNarry: People did not raise any comment to you or your Department when they saw the barrier being removed. Do you agree that it is fair to say that they were thinking that it would be replaced?

Dr Murray: It is hard to second-guess people, but I would not have thought so, because the pavement was properly resurfaced as a finished job.

Mr McNarry: What you are saying is that, on the basis that nobody said anything, you did not say anything. Was that it? You just left it at that. That was fair enough as far, as the Department's policy was concerned.

Dr Murray: I believe that the Department's policy was being correctly followed. That is being investigated, as indeed is the policy itself. It would be common —

Mr McNarry: It is strange if it was correct, Mr Murray, in the manner in which you are saying: it was so correct that why would anybody think that we should have an inquiry into its correctness. I do not think the inquiry is into the correctness but into the potential fault.

Dr Murray: You have seen the terms of reference of the inquiry. Our policy documents and how we followed the policy are being reviewed.

Mr McNarry: Further to that, is it fair to say that, prior to removing the barrier, the Department did not conduct a risk assessment, a traffic survey or a footfall survey?

Dr Murray: The policies, as they stand —

Mr McNarry: Sorry to interrupt you, but, so far, you are placing an emphasis that, both prior to the barrier being removed and afterwards, there was no comment. In other words, nobody came forward. Is it fair to say that the Department did not encourage any comment through not conducting a risk assessment, a traffic survey or a footfall survey?

Dr Murray: Let me clarify that. Our two decisions were made in a linked manner. After deciding that we were going to remove the barrier, we then did an assessment to determine whether a new barrier should be provided. Those two decisions were made at the same time. We did not wait to see whether there was any public reaction. We decided, at the point of removal, that we would not replace the barrier.

Mr McNarry: Fair enough. I understand that and do not want to dwell on it. Regarding the linked decision — remove and not replace — you did not ask anybody. You did not conduct a risk assessment. The reason that I say that is that I know you did not conduct one. I know that you did

not do any traffic survey. A footfall survey is perhaps different, but 2,500 people had been given speeding tickets, yet you do not seem to have considered that.

Dr Murray: If we should have considered that, our policy would have to be amended. That is something that will come out of the inquiry.

Mr McNarry: It might be the case that it will come out. You did not know about 2,500 speeding tickets having been issued when you took the decision. Had you known, who knows what would have happened?

Dr Murray: Road safety is a combined effort between the engineering measures that are carried out by the Department, the enforcement measures that are carried out by the PSNI, and the education measures that are currently carried out by DOE. Speeding tickets are part of that triangle — the part that tries to ensure that people stay within the speed limit.

Mr McNarry: Therefore, you did take into account the fact that there had been 2,500 speeding tickets issued.

Dr Murray: Our current policy requires us to take account of the speed limit on the road. You will subsequently have seen that we provided you with the speed surveys, but they are not part of our —

Mr McNarry: I know. I hit that barrier when it was there. I know about it, and I hope that I do not end up where the Minister is perhaps going, with the two of us sharing a place, but no matter.

Finally, Mr Murray, on behalf of the Department, have you any regrets over moving the barrier?

Dr Murray: That is an emotive question, and I am answering these questions from an engineering perspective. I would rather wait until all the evidence has come out from all the investigations before I make a comment of that nature. There is a lot of information that we do not currently know.

Mr McNarry: OK. Finally, on what you do know, do you believe that negligence could have been avoided?

Dr Murray: Negligence by?

Mr McNarry: The Department.

Dr Murray: On the basis of what I know, no. Barriers are not generally erected to protect pedestrians. That is not why that barrier was there. It was most unfortunate, particularly for the family, that the incident happened shortly after the barrier was removed, but the barrier was not there to protect pedestrians.

Mr McNarry: What was it there for?

Dr Murray: It was there to prevent cars from driving into the street-lighting columns that, in the 1970s, were at the edge of the footway.

Mr McNarry: If it had not been there, I could have mounted that footpath. There could have been some poor unfortunate person on the footpath, and I could have knocked him or her down. Is that not protecting the public?

Dr Murray: It is unfortunate that we do not have audiovisual facilities here, because I could show you —

Mr McNarry: We have all the photos.

Dr Murray: I have a photograph that you have not got. Here is one that shows how a safety barrier operates when a vehicle crashes into it.

Mr McNarry: That is not the same type of barrier.

Dr Murray: No, but it is the sort of barrier that we would erect now.

Mr McNarry: Right, so you are going to erect that one.

Dr Murray: No. Here are a couple more of those photographs.

Mr McNarry: Thank you.

Dr Murray: Safety barriers are designed to deflect and direct an errant vehicle back on to the carriageway. That is what they are designed to do. They deflect considerably. The photograph that I have passed around, which is part of a movie sequence, is of an ordinary car, as you can see, hitting the barrier at a narrow angle. If that were a heavier vehicle, or if it were to hit at a steeper angle, the deflection would be much greater. Therefore, you can see why we do not use barriers of that nature to protect pedestrians. Pedestrians would not be protected by that.

Mr McNarry: Finally, having seen that photograph, I ask you what the intention is behind the policy of erecting such a barrier such for protection. Whom or what are you protecting?

Dr Murray: Such barriers are to protect motorists from roadside obstacles.

Mr McNarry: Even though they are abutting a footpath.

Dr Murray: Yes, because —

Mr McNarry: That one is not, but the one that we are talking about is.

Dr Murray: Yes. When the barrier was erected on the Malone Road, there were street-lighting columns out at the kerb, and —

Mr McNarry: You care more about the street-lighting columns than you do about the public.

Dr Murray: No, we do not care at all about the street-lighting columns, and that —

Mr McNarry: You said that that was the purpose of erecting them.

Dr Murray: In that respect, they are not there to protect the columns. It is a very dangerous incident when a car travels side-on and hits something like a tree or a street-lighting column, because the head of the car's occupant tends to hit the side of the car. That is a very dangerous type of incident.

Mr McNarry: To wrap it up from my point of view, you are saying that there was no negligence involved, even when this road had a history such as it has of speeding.

Dr Murray: I am pointing out that an independent inquiry is being carried out into whether our policies were appropriate and whether they were followed appropriately. There will also be a Coroners' Court hearing at some stage.

Mr McNarry: Not so long ago, Mr Murray, a more senior colleague to you told the Committee that there was no negligence and that the position adopted by the Department prior to the holding of an inquiry was that there was no negligence. Does that mean that perhaps the jury is out and the Department is not admitting or not agreeing?

Dr Murray: I am simply recognising the fact that this is being investigated. I have been through the papers, the same as you have. I do not believe that there was any negligence, but an independent review of that decision is being carried out.

The Deputy Chairperson (Mr Lynch): Just one point, Andrew: you said that barriers were not to protect pedestrians, but do you still take into consideration schools and meeting places when erecting barriers?

Dr Murray: Generally, the barriers at schools are pedestrian barriers. They are there to stop pedestrians moving on to the road; that is the more likely scenario.

The Deputy Chairperson (Mr Lynch): We have a copy of the detailed inspection template and scores in front of us. It mentions "School/Meeting Place" and "Housing".

Dr Murray: I would need to come back to you on that.

The Deputy Chairperson (Mr Lynch): It forms part of the report. It is from the report that goes back to 24 September 2013. It is a director of engineering memorandum (DEM) — DEM 127. It lists those.

I have another point to make about the collision history. This is a point that David brought up. You sit on the board of the Road Safety Partnership. Is that correct?

Dr Murray: Yes.

The Deputy Chairperson (Mr Lynch): Then you should have been aware that it was a dangerous corner, because of the number of speeding tickets given out and the number of times that the barrier was hit. You should have been aware of that, being on the board.

Dr Murray: We do not need to be on that panel for that. We share information with the PSNI, so we get all its records of incidents in which people have been killed or seriously injured. We have those. We use them to identify clusters, and we try to carry out engineering measures to alleviate those clusters.

The Deputy Chairperson (Mr Lynch): Therefore, you knew there was a collision history.

Dr Murray: I do not know that there was a collision history at that site.

Mr McNarry: You need only to look at the flipping thing: it is dented.

Dr Murray: We get information on fatal collisions and on areas where people have been seriously injured.

The Deputy Chairperson (Mr Lynch): I think that your officials recorded somewhere in that report that there was accident damage.

Dr Murray: Yes, there was minor accident damage. Some of it was at the ends of the barrier. It might have been caused by vehicles reversing, which would indicate that the barrier was more of a hazard than it was doing any good.

Mr Byrne: Dr Murray, what was the Department's priority in the immediate aftermath of the accident and fatality?

Dr Murray: Following an incident, particularly in the greater Belfast area, we generally carry out a joint inspection with the PSNI to see if any roads-related feature had contributed to the incident. If it has, we would consider remedial action.

Mr Byrne: Did the urgency of the priority change once the Minister met the family?

Dr Murray: Until the point that the Minister became involved, the decisions had been made purely on the basis of our policy and on the engineering assessments that had been made. When the Minister became involved, as he said, he took a wider view. The process allows for that.

Mr Byrne: Did he take a wider view or a more rational, practical, common-sense view?

Dr Murray: He did not go into the engineering assessment, if that is what you mean.

Mr Byrne: Are you saying that he was in default of that engineering consideration?

Dr Murray: No, the engineering assessment is purely that. It is a means by which we prioritise areas for treatment where we think there is the biggest chance of preventing accidents from happening.

Mr Byrne: Obviously, the Minister met the family, and then consulted you guys, and persuaded you, gently or otherwise, to get a barrier up. Are you happy about putting up a new barrier?

Dr Murray: It is not the same sort of barrier. It is a high-containment kerb.

Mr Byrne: I know that it is a high kerb, but, even if it is not waist-high, are you happy about having to put it up?

Dr Murray: Yes, the Minister is the head of the Department. We presented him with options, and that is the one he selected.

Mr McNarry: He selected?

Dr Murray: Yes.

Mr McNarry: I did not know Danny Kennedy was an engineer.

Dr Murray: We gave him the pros and cons of each option.

Mr Byrne: Finally, what is the priority of the Department officials now?

Dr Murray: We will wait and see. We have obviously got thousands of safety fences around the country.

Mr Byrne: I mean relating to this site.

Dr Murray: On that site, the remedial work has started. The high-containment kerb work started yesterday. The priority is to get that finished and get it finished safely.

Mr Dallat: Andrew, in an earlier presentation, we recall that you produced a document that was drawn up by Roads Service consultants. Can you just go over again who those consultants are? Are they independent? Are they free from the influence of the Department? Was that independent information not really just yourselves talking to each other?

Dr Murray: You could characterise it as us talking to each other. What used to be called Roads Service consultants —

Mr Dallat: That is what was on the sheet.

Dr Murray: Yes. As you know, we have gone through a rebranding exercise. Roads Service has become Transport NI, and Roads Service consultants have become design and consultancy services. They are part of Transport NI. They are the engineering part of Transport NI. Basically, they have high engineering skills, but they carry out work on behalf of the client part of the organisation.

Mr Dallat: OK, they are consultants, but they are really just a brand name for you.

Dr Murray: Yes. They are a branch of Transport NI that does engineering work for us.

Mr Dallat: OK. Obviously, they must have some kind of criteria that they apply. How much are those criteria influenced by road traffic conditions, say, in some English suburban area that is quite different from the semi-rural area from which this barrier was removed?

Dr Murray: They are influenced because we do work with other highway authorities across the UK to produce guidance. We do not have to follow it letter by letter. We can tailor the guidance to suit Northern Ireland circumstances. These are director of engineering memoranda. They are the policy documents we have used. They are basically taking national practice and applying it to Northern Ireland.

Mr Dallat: Andrew, do you not think that if you had used your own common sense, the barrier might not have been removed, rather than trying to implement criteria that might apply to an avenue in Corby or some place that is completely different?

Dr Murray: I have to say that incidents involving pedestrians and vehicles on footways are very rare. If you were looking at a safety measure that you could introduce to save incidents from happening, it would not be to protect pedestrians with a barrier along the side of the footway.

Mr Ó hOisín: May I ask another question?

The Deputy Chairperson (Mr Lynch): OK, Cathal. Make it sharp.

Mr McNarry: He would usually say that to me, Cathal.

Mr Ó hOisín: Thank you, Chair. The critical issue here is the criteria. The demography of areas changes. I would say that every elected Member sitting here has been lobbied on road-safety measures prior to and in the aftermath, unfortunately, of many tragedies. In this area, one letter went to the neighbourhood. I know that neighbourhood. I would say that it has changed dramatically since my knowledge of it in the 1970s. How often are the criteria actively looked at?

Dr Murray: Basically, once we put up a safety barrier, we maintain it and it will stay there. There is not really a procedure for deciding whether we need to take it away unless it is in poor condition. That is when we would make that decision.

Mr Ó hOisín: How much have the design features changed since the time when that barrier was put up?

Dr Murray: I understand that they have changed enormously. We certainly do not use wooden post barriers any more.

The Deputy Chairperson (Mr Lynch): I have just one final question: who is carrying out the independent review, Andrew?

Dr Murray: It is going to an organisation called TRL. It used to be called the Transport Research Laboratory. It was part of government but is now a private company. It has a great deal of expertise in many areas of transport and highway engineering.

The Deputy Chairperson (Mr Lynch): OK. Thanks for that. There is no doubt that this is something that we will hear more about after the review and police inquiry have been carried out. Thank you.

Dr Murray: Thank you very much, Chairman.