

CONFERENCE

THE LORD CHIEF JUSTICE OF ENGLAND AND WALES  
(The Right Honourable The Lord Burnett of Maldon)

on

Tuesday, 1 December 2020

Conducted Remotely via Teams

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Transcribed from the Audio Recording by  
Apple Transcription Limited  
Suite 204, Kingfisher Business Centre, Burnley Road, Rawtenstall, Lancashire BB4 8ES  
DX: 26258 Rawtenstall – Telephone: 0845 604 5642 – Fax: 01706 870838

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**CHAIR:** Good morning everybody, can everybody hear me? Thank you all for coming and I'm sorry it is virtual but we are doing our best. I hope this feels as much a press conference as possible.

It is the usual terms where everything said is on the record and you can ask The Lord Chief Justice any questions about any subject but he will not be able to comment on politics for constitutional reasons, he cannot talk about cases he has heard or anyone else has heard and he cannot talk about political issues. So same as every year and that is how it is, but other than that, any question, any subject at all that you would like to... If you could ask... we will do, as always, Lord Chief will do a short opening statement, after that, I will invite questions. If you know how to put the... I do not know, anyone using Teams before will know there is a little picture of a hand up on the black line at the top and if you put your hand up to ask a question, that will notify me that you are doing that. If for any reason that is not working or whatever, put your hand up on the screen and I can see pictures, so that will work as well, I hope.

The press conference is 45 minutes so it is due to end at 10.30, and if you could just identify yourself and the organisation you work for, that would be helpful for everybody in case everyone cannot see the name on the screen. There will be a transcript afterwards sometime after the press conference which we will circulate as soon as we have got it.

Also, we will get a copy of the opening remarks that The Lord Chief Justice is about to make, we will send those round certainly at the end of the press conference, if we can get them out before that, so you do not need to get every word of that in shorthand. So if I could then, I will introduce The Lord Chief Justice.

**THE LORD CHIEF JUSTICE:** Well, good morning everybody. I am sorry that the national restrictions mean we cannot do this face-to-face but I do hope that soon we will be back to normal.

My last press conference was at the end of February just as COVID was engulfing the world. The courts have coped well with what followed due to the hard work and flexibility of all judges, magistrates and staff, who kept the courts and tribunals running throughout the pandemic. My profound thanks to them, of course, and also to you, the press, who have continued to report on court proceedings in all jurisdictions, in circumstances which have been very far from easy. Judges want the work of courts to be seen and understood and that would not happen if you were not there.

Without the pandemic, you would have been able by now to show film of sentencing remarks in the Crown Court for the first time. The law has been changed to make that possible and I hope filming can start soon.

I am reassured that the government recognised last week that even at this time of financial pressure, the courts are an essential service too.

Funding for the courts is being increased. The courts are a vital public service and more because they underpin the rule of law.

Now, anyone charged with a crime should be dealt with reasonably quickly, whether in the Magistrates' Court or the Crown Court. Family courts need to continue making decisions every day on the welfare of children at risk and in resolving family disputes. Civil claims, from small debt collection up to multi-billion pound international lawsuits between companies, must be decided fairly and efficiently, and disputes between citizen and the state swiftly determined in the tribunals.

I am acutely conscious of the impact of delays caused by the current level of backlogs which have grown significantly in some jurisdictions as a result of the pandemic.

The Judiciary is working tirelessly to increase the capacity of the courts to hear cases and will continue to do so. I will deploy judges, salaried, fee-paid and those sitting in retirement to the full with the aim of reducing backlogs over the next financial year.

This is not just a matter of funding, judges, staff and courtrooms. Backlogs can only be reduced if all those involved in court hearings are able to work at full tilt. As you can imagine, these are matters I discuss regularly with the Lord Chancellor and I am grateful for his support.

Our experience this year has reaffirmed the urgent need for modernisation. Necessary technology often was not in place when the pandemic struck. We were still relying on outdated systems and hardware. Where modernisation was more advanced, we were able to work more effectively. The modernisation programme must be seen through to its conclusion. Individuals and organisations who use the courts deserve far better than to be stuck with outdated paper-based processes which should have been done away with years ago. The coming year will undoubtedly be tough but the courts and tribunals will weather the storm. Thank you.

**CHAIR:** Thank you, Lord Chief. The first question, Martin Bentham has had his hand up. Martin?

**MARTIN BENTHAM:** Yes, hello. Lord Chief Justice, you have mentioned recently the problems of delays and the fact that the longer the cases delayed, the more likely things are to go wrong with cases. Could you expand on that a little bit, please? What is likely to go wrong? What are the threats? In particular, when you are talking about cases with vulnerable victims, such as rape victims for example, and other such people, could you spell out what the risks are in those cases in particular and also what is being done, if anything, and what should be done to expedite those cases to minimise the risk of problems arising in their cases?

**THE LORD CHIEF JUSTICE:** Yes, well as you will know well, there are delays built into the system long before any cases enter the courts. In many cases, particularly the sort of cases you are describing, there are significant delays between the reporting of an offence and a charging decision. Then the cases come into the courts. It is the experience of everybody who is involved in the Criminal Justice System that the longer the gap between the reporting of an offence and its eventual trial, the more likely it is that something will go wrong. It can be as simple as important witnesses losing interest, for example, in continuing to pursue the case, and so that is the sort of thing that I had in mind.

Now, the things that are being done at the moment to try to deal with this particular problem involve increasing the capacity in the criminal courts.

Now so far as the Magistrates' Court is concerned, the turnaround, despite COVID, has been quite remarkable and in the Magistrates' Court at the moment, more trials are being conducted each week than were being conducted pre-COVID. That is not to say that there are not still problems but it has been a real success as a result of the enormous hard work of everybody involved, including the CPS, police and the legal profession.

In the Crown Court, the position is more difficult. As you will know, Martin, there was a need to suspend jury trials for a short period, simply because we were not able to deal with them safely, but they restarted on 11th May and gently built up over the ensuing weeks and months. There are now over 265 Crown Court rooms that simultaneously can hear Crown Court jury trials and there is a small number of additional courts in the so-called Nightingale Courts. So volumes are building up very quickly and our hope is that the court service will be successful in having roughly 300 courtrooms capable simultaneously of hearing Crown Court trials by the beginning of next year.

Now, obviously in general terms, what are described as custody trials have to be given priority. These are people who are in custody awaiting trial and so my underlying concern is that as a result of necessarily prioritising those cases, the cases where the defendants are not in custody are likely to get hearing dates longer into the future, but all that can be done to increase the capacity of the courts, and it is not simply physical capacity, as you will appreciate, is being done.

**MARTIN BENTHAM:** Okay, thank you. Sorry, one final question actually just on that, just to return very briefly, in terms of rape, do you have anything to say, is there anything the Judiciary can do to reassure those people who have a lack of faith in the system, I know most of it is not your doing but is there anything from the Judiciary's point of view that you would like to see improved, to improve public confidence in rape prosecutions and the whole system in dealing with rape cases?

**THE LORD CHIEF JUSTICE:** Well, I appreciate the context, your question is material that has been published, I think, only in the last week or so which focuses on what is happening in police forces when investigating sexual offences and then also charging decisions by the CPS. Once cases, sexual cases and of course rape cases, get into the court system, the rate of conviction is no less than in other serious criminal cases, indeed more. The rate of conviction is higher than in some and so I think that is not widely understood as a result of the omnibus nature of much of the reporting. What I can say is that through the Judicial College, we keep a constant eye on the way in which sexual offences are dealt with by judges, including constant review of appropriate directions and that is something we will continue to do.

**MARTIN BENTHAM:** Okay, thank you.

**CHAIR:** Joshua.

**JOSHUA ROZENBERG:** Thank you, Steven. Lord Chief Justice, my question is this... it is Joshua Rozenberg. Last year the courts were accused of interfering in politics, are you concerned that politicians may now be interfering in the courts?

**THE LORD CHIEF JUSTICE:** There have been a number of instances which bubbled up into the public domain just recently of what might be thought to be interference. There was an unfortunate letter only last week to two senior judges, copied to a trial judge, which appeared to be an attempt by a group of parliamentarians to influence the outcome of a pending decision, so that is obviously an unfortunate lapse but it illuminates, it seems to me, a wider problem. There needs to be sensitivity displayed by all branches of the constitution, so that is the legislature, the executive and the judiciary as to the proper sphere of the others. I am pretty confident that judges understand where the boundaries lie but I am less confident at the moment that all parliamentarians have an instinctive understanding of where those boundaries lie, and one of the things that I am concerned to think about at the moment is how we, the Judiciary, can help to ensure that the understanding is deeper.

**JOSHUA ROZENBERG:** Just to come on that briefly, that has changed really. A few years ago, you would have thought that members of parliament, members of the House of Lords would have that instinctive understanding of these boundaries which you say they do not have anymore. Is it appropriate for the Judiciary to explain this when you give evidence to select committees of parliament or perhaps send a note round? What can you do to educate legislators in their proper constitutional role?

**THE LORD CHIEF JUSTICE:** We have a dialogue with both Houses of Parliament and obviously dialogue with the government. It is something which I and other senior judges have been thinking about quite deeply recently and quite what steps we will end up taking is premature to say but it does seem to me that even if it amounts to a very short briefing provided to new members of both houses of the legislature on the boundaries between our respective roles and the need to respect the independence of the Judiciary, that is something that we are thinking about and will have discussions about.

**JOSHUA ROZENBERG:** Thank you.

**CHAIR:** Next, Jonathan Ames from The Times.

**JONATHAN AMES:** Good morning. The last time we met for a press conference the COVID virus was just beginning to affect the courts. Do you think now that a vaccine is on the horizon, thankfully, that judges and lawyers should be in the priority queue for the jab?

**THE LORD CHIEF JUSTICE:** It will be a matter for the government to decide the order in which the public is offered vaccination when the vaccines are approved, as we all hope they will be. One of the things that I suspect the government will have to contend with is that a very large range of groups, bodies and organisations will make a case for priority and if too many do so, then, of course, one does not have any prioritisation.

Keeping the courts going is an important matter and as you have seen over the last eight months, we, with the court service and others, have managed [inaudible] but being quite blunt about it, Jonathan, I can, in my own mind, think of groups who would have a better call for priority. In my mind, without having thought deeply about it, I would include the NHS workers, for example, care workers in homes looking after the elderly and disabled, and no doubt there are others. So I will wait to see, as everybody will wait to see, the broad priorities that the government suggests when they publish them and then think more about it and, if necessary, have a discussion with the Lord Chancellor.

**CHAIR:** Thank you. Dominic Casciani from the BBC.

**DOMINIC CASCIANI:** Hello? Is my mic working? Yes, sorry, hello. Hello, Lord Chief.

**THE LORD CHIEF JUSTICE:** Morning.

**DOMINIC CASCIANI:** Morning. Dominic Casciani, BBC. Can I just quickly ask if you can give us some clarity on some statistics? You mentioned volunteer and retired judges coming into the fray to deal with a backlog, if you have got any statistics on that I think they would be useful, and also spelling out exactly what full capacity in courtrooms would look like, given you are heading towards 300. But, if we had all courtrooms open, what would that be and, just aside from the statistics, picking up on Joshua's points about the suggestion of political interference. Can you remember an instance similar to the sending of the letter that you referred to during your time in office? Thank you.

**THE LORD CHIEF JUSTICE:** All right, there are three questions wrapped up in that. I will try to deal with each of them relatively quickly. When judges retire, so long as they are still under 75, they may sit in retirement as fee-paid judges, and in all jurisdictions, a number do so. I have not got the precise figures in my head, I am afraid, and so cannot give you that, but particularly for the District Bench which deals with most of the family cases and the County Court cases, the availability of retired district judges to sit in retirement as fee-paid judges is vital in supporting the system. Until recently, there has been no need for retired Crown Court judges to sit in retirement, because with the salaried judges and fee-paid recorders, there simply has not been the number of cases to justify that. I have recently started authorising a number of retired Crown Court judges to sit in retirement in anticipation of there being a step-change increase in the number of Crown Court trials that we hear once, to come back to Jonathan's point, the vaccine is available and we can return to something which does not involve social distancing. So it is one of the arrows in the quiver, as it were. It makes up a relatively small proportion of the sitting days undertaken across the judiciary, but it is an important part.

Now, so far as capacity is concerned, I have been emphasizing that capacity means much more than courtrooms. Obviously, having a courtroom that is safe to hear a case is part of the story, but capacity stretches much more widely than that, and there needs, for example, to be [inaudible] to support the increased number of hearings.

The Court Service is in the process of recruiting an extra 1,600 people to support recovery from COVID. I wish them well in that and hope that those 1,600 will all be in post before too long, but that is a capacity issue. So too, for example, is the ability of the main players in each jurisdiction

to play their part, so, to give an obvious example, in family cases, the public law cases, in particular, Cafcass needs to be involved and there are limits to their capacity. In criminal cases, the police, the CPS, the probation all need to play their part and there will be limits to their capacity as well. Then, in capacity we also have judicial capacity. In crime, all the work that I have asked to be done has convinced me that there will be no shortage of judges to hear criminal cases.

The same is not necessarily true in civil and family, where we have a shortage of judges; we have a significant shortfall in district judges at the moment.

There is a competition running, but it will not produce new judges until the early summer of next year, so we may have a problem there. Then, of course, capacity also engages funding. I mentioned a little earlier that the government last week, the Chancellor, in his statement, indicated increased funding, particularly for crime, for family and tribunals. So I hope that funding will not be a constraint in the next financial year.

It is not in this financial year, I should emphasize. We are able to sit to full capacity, whatever that entails, with a social distancing.

Your last question, political interference and the letter that you referred to, there has been nothing quite like it in my experience. Individual judges do occasionally receive letters from constituency MPs pressing the interests of one of their constituents. Some of those letters, similarly, lack the sensitivity to the appropriateness of a legislator or politician seeking to influence a judge.

There are very few of them, but a handful and they come to my office and a response is sent, but the invariable practice, if a judge receives any communication about a case from somebody not involved in the case is that the judge will release that communication to the parties so that they are aware of what has happened and the judge is in a position to say that he or she takes no notice of it.

**CHAIR:** Thank you, Jane Croft from the Financial Times and then Owen and then Steve Doughty. I have noted you have all got your hands up. Jane first. You are on mute.

**JANE CROFT:** Hello, hopefully you can hear me now. I just wanted to ask really about the rhetoric around lawyers, particularly from politicians at the moment. There has been a lot of attacks on the legal profession “lefty lawyers”, and also there has been the furore around the Internal Market Bill where the government has said it is prepared to break the law. Are you concerned particularly about the rhetoric from politicians around the legal profession and around the judiciary?

**THE LORD CHIEF JUSTICE:** I was asked a similar question two weeks ago by the Justice Select Committee and expressed my concerns. It is really as simple as this: that the vitality and independence of the legal profession is an essential hallmark of a society governed by the rule of law, and lawyers have a duty to act fearlessly for their clients, subject always to overriding professional obligations and duties to the court. So, in my view, they should not be subject to criticism for doing their job. A general attack on the legal profession, in my view, undermines the rule of law. Now, the Lord Chancellor has spoken publicly in similar terms at the beginning of

October, and I so I do not think there is anything surprising about that observation, but what I would emphasize and have said publicly recently is that that does not immunise lawyers from criticism of individual conduct in appropriate circumstances. But there is only a tiny minority of lawyers who cross the line in the individual case and so general attacks on lawyers, I think, are extremely unfortunate.

**CHAIR:** So, Owen Bowcott from The Guardian.

**OWEN BOWCOTT:** Good morning, Lord Chief Justice, Owen Bowcott from The Guardian. You have expressed some concern in the past about funding and resources for the courts, and you say there is sufficient money now been promised in this year. Do you feel that similar amounts should be made available in the following years and that there is still a danger of lack of resources to keep the courts running properly?

**THE LORD CHIEF JUSTICE:** Whether the amount that the government is setting aside is sufficient, we shall have to see, and I am yet to have discussions with the Lord Chancellor concerning the particular allocations of funding to each jurisdiction. Perhaps I should note, that in addition to the general funding that I spoke of, the funding for the estate for repairs and maintenance to the court estate is being significantly increased for next year, which is very welcome because the backlog of maintenance is quite alarming. So the increase that is being flagged up, or has been flagged up by the Chancellor of the Exchequer is welcome. Whether it is enough, we shall see.

I am quite sure that it will need to be carried forward into future years. This is not a one-off, and that is really for a very straightforward reason. First, dealing with backlogs is going to take time, inevitably. Dealing with backlogs depends also upon when we are free of restrictions which flow from COVID. We obviously belong with everybody else, I am both heartened and optimistic about the impact of vaccinations, but none of us is taking anything for granted. The second part of the reason is that the volume of work coming into most jurisdictions has been growing for some time, and our assessment, supported I should say by the Court Service, is that in crime, in family and in civil, there will continue to be a growth in work. We are, essentially, a demand-led organisation, and other aspects of government which are demand-led are not subject to financial constraints. So, for example, the amount that the government has to pay out in benefits is set by statute and it just has to be paid out.

That is demand-led. The number of cases that come into the Magistrates Court or the Crown Court or the Family Court is also demand-led, but the way the government funding works is that there are constraints. That is a long way round to saying that it would be enormously disappointing were the increases announced by the Chancellor of the Exchequer last week seen as a one-off.

**OWEN BOWCOTT:** Thank you very much. Can I just ask another short question? Just about the way in which... "discount" is probably the wrong word, but the way sentencing has been allowed to be reduced for those serving sentence during the COVID emergency. Are you happy the way that has worked and do you think there have been many reductions in sentences as a result?

**THE LORD CHIEF JUSTICE:** I think you are overstating the position, if I may say so. It is a long-standing principle of sentencing law that judges take account of the impact of the sentence upon the defendant in question and, more widely, the impact on those who are close to them. That is basic stuff. Now, in the early months of COVID, in particular, there were real restrictions in the prisons, as you remember. Prisoners had to be kept in their cells for much longer because, no doubt, that was judged by the Ministry of Justice and Public Health England as necessary to protect them from COVID. There were considerable restrictions on the ability of people to visit prisons, for example. Now, all of those things make prison a more harsh environment, and so that was an entirely appropriate thing for judges to take account of, and perhaps particularly in connection with those cases which were on the cusp as to whether they called for an immediate custodial sentence or whether a suspended sentence or community order would be appropriate. So there is nothing novel about this, it has just arisen in a rather unusual set of circumstances.

**OWEN BOWCOTT:** Thank you.

**CHAIR:** Steve Doughty and then Charles Hyas after that.

**STEVE DOUGHTY:** Good morning, Steve Doughty, Daily Mail, can you hear me?

**THE LORD CHIEF JUSTICE:** Yes.

**STEVE DOUGHTY:** Lord Chief Justice, if it is the case that attacks on the legal profession undermine the rule of law, do you think there could be mechanisms to restrain such attacks? It is possible to imagine extensions to contempt law, to defamation, even to privacy law, is that a direction you think should be explored?

**THE LORD CHIEF JUSTICE:** I would not have thought that that is necessary, but so much of the way in which things operate in the United Kingdom depend upon well-understood conventions. It comes back, perhaps, to some of the earlier questions that I was asked about legislators appearing to be wishing to seek to influence the outcome in a particular case. So, I think this something which is best dealt with by calm response from the professions, and I hope my response will be judged to have been calm, to explain why attacks of that sort are not appropriate. Personally, I would not favour exploring any coercive further steps.

**CHAIR:** Thank you, John Hyde from the Law Society Gazette.

**JOHN HYDE:** Hello, Lord Chief Justice. Can you hear me okay?

**THE LORD CHIEF JUSTICE:** I can, thank you.

**JOHN HYDE:** Excellent.

Just a very quick question in follow up to Owen, and then one of my own, if that is okay? The spending review didn't mention the courts' modernisation programme. Are you confident there are funds in place for that, and just my own question, do you have any misgivings about extended operating hours for courts?

**THE LORD CHIEF JUSTICE:** So, so far as the first is concerned, the way in which the modernisation programme is funded requires a new business case to be presented by the Ministry of Justice to the Treasury each year. A business case was prepared and presented to the Treasury I think at the beginning of October. I do not have the precise date in my mind. As you can understand, both the Ministry of Justice with the Court Service and the Treasury have been very busy on other matters, and so the decision was taken to defer consideration of that business case until February. So that is why it is not mentioned in the Chancellor of the Exchequer's statement last week. But I should make absolutely clear my view that the continued funding of the reform and modernisation programme is absolutely vital to the efficient functioning of the courts, and it is also my view that modernisation and recovery are not separate matters; they are two sides of the same coin, and I can give a very clear straight forward set of examples. At the moment, the digitisation of the public law side of the Family Courts is underway, it is expected that that digitisation process will lead to quite significant efficiency savings. To fail to provide the money for that to be seen to the end would be an act of self-harm, in my view. Similarly, the County Court, now the County Court deals with between 90 and 95 per cent of all civil cases in England and Wales and yet, save for a small online money court which is expanding, it is all paper-based so people have to fill out long forms, put them in envelopes, send them in, they get put [inaudible], they get wheeled around buildings, vast files dumped on judges' desks. Now, all of that is grotesquely inefficient and the digitisation of the County Court, which has yet to commence, is again an absolutely vital step to ensuring both efficiencies but also recovery. So that is the spending review.

Extended operating hours these, as it seems to me, are much misunderstood. There is no question of individual judges or practitioners having to do extended court days. What extended operating hours is looking at is to run essentially two courts in one courtroom in one day that lasts longer. So, in the Crown Court there is a pilot underway, a number of pilots around the country, where two trials in the same day are heard in the same court, so one judge with one set of lawyers starts a trial at 9.30 in the morning and finishes at lunchtime, effectively, after four hours.

The court is then cleaned and then the second trial starts after lunch for four hours. Now that is being piloted as I said and the results of it will be looked at in the context of increasing capacity in the courts. I recognise that there are some who are not keen on it, in the end, it will be a matter for the Lord Chancellor to decide whether that is extended or continued, but it is something in the context of recovery and dealing with the problems of delay that we were speaking about earlier that at least needs careful consideration.

In the Magistrates Courts on Saturdays, there is an increasing number of hearings being conducted. Now, Magistrates Courts have always sat on Saturdays in some parts of the country so, again, that is something which is contributing towards recovery. In the Civil Courts there are some plans to have short additional hearings at the end of the day, essentially half-day hearings, to deal with small cases, particularly involving litigants in person. All of this is in the context, as I say, of trying to recover backlogs. Nothing like this will ever please everybody, but it does seem to me that it has got to be looked at with care.

**CHAIR:** Thank you. Charles Hymas, Daily Telegraph, thank you for being so patient.

**CHARLES HYMAS:** Hi, Lord Burnett. Two questions, one is if social distancing is going to continue for quite some time in the courts, we can I think assume that, is there any structural change that you believe is necessary. So, for example, in Scotland, they have got courts where you have got the jury sitting in a separate place and they are doing it via video so that you can then actually sit, as it were in a cinema, for example. The second question, you have previously mentioned the idea of reducing the size of juries, are there any structural changes that you have added in order to finally address the backlog?

**THE LORD CHIEF JUSTICE:** Yes. Social distancing is going to be with us for some months, I have no doubt about that, irrespective of the availability of vaccines. The concentration of effort in England and Wales has been in getting a very substantial number of our courtrooms capable of conducting jury trials. Now that has involved a great deal of imagination and different solutions in different places so, for example, in some places the public and press sit in a different courtroom that is not able to hold a jury trial itself, so as to reduce the number of people in court, reduce the number of physical interactions but the jury, with the lawyers and the judge and any witness whose physical presence is necessary, have remained in the main courtroom. That, as I said earlier, has been successful.

In Scotland, they are trying a system whereby the jury sits in a [inaudible] and has the proceedings in the courtroom beamed to them. They have a few of those running and they are looking extremely carefully at how that works. It is actually very expensive and hitherto the judgement has been, this is the judgement of the Court Service and the MoJ that it is much more cost-effective to get our existing courtrooms running alongside so-called Nightingale Courts, which are courts in other buildings. I think all options remain on the table so far as physical changes are concerned but, so long as we can continue to increase the number of courtrooms that can hear jury trials, that is likely to be a better way of dealing with it than something which may seem more eye-catching but will not deliver any better results. I should add that in some courts, specially constructed portacabins have been put into car parks to provide extra accommodation, in particular for the juries to gather.

So far as legislative changes are concerned, the various options that have been mooted include trial by judge alone, trial by judge and two magistrates, both of those in respect of what are either-way offences, so offences that could have been heard in the Magistrates Court but have gone to the Crown Court, and both strictly time-limited, and the third is reduced jury size. In the Second World War jury numbers were reduced to seven. All those options were floated straight after lockdown and, indeed, I mentioned them before a Parliamentary Committee, the Constitution Committee of the House of Lords, being careful not to advocate any of them but simply saying that policy makers, so that is the government, and legislators should think about this if backlogs became unmanageable as a result of social distancing. All of you will remember that what I said before the Constitution Committee received absolutely no publicity at all, in other words not suggesting any of them but simply floating the possibility. I then, if I recollect correctly, did an interview with Joshua and it bubbled up very furiously into a debate. I see Joshua smiling, it shows where people really listened but, more importantly, the Lord Chancellor

floated possibilities of this sort sometime in the summer and there was a very strong adverse political reaction.

The MoJ has made it clear that all options remain on the table but if, as we all hope, social distancing becomes a thing of the past at some point at Easter, after Easter, early summer, I simply read what everybody else reads in the paper about that, then realistically changes of this sort which would require primary legislation are not likely to be feasible. Perhaps I should finish by emphasising that I am not positively advocating any of them, recognising that that is a matter for others.

**CHAIR:** I think we have got to the end of the time, I know the Lord Chief has another appointment shortly but, Jonathan, are you putting your hand up, Jonathan, particularly for one more question could you take Lord Chief?

**THE LORD CHIEF JUSTICE:** Yes, has everybody had a question? That's the important thing.

**CHAIR:** Everybody has asked one, yes.

**THE LORD CHIEF JUSTICE:** I have certainly got a handful more minutes if anybody has anything pressing they wish to ask me.

**CHAIR:** Jonathan, was that a hand up?

**JONATHAN AMES:** Yes, this is Jonathan. Right, Stephen, if I could ask a quick one about Nightingale Courts as you mentioned them earlier.

**THE LORD CHIEF JUSTICE:** I am afraid you have frozen, Jonathan.

**JONATHAN AMES:** Are Nightingale Courts a little more than window dressing? As only about 15 have opened, are they actually making any impact and are they worth the expense?

**THE LORD CHIEF JUSTICE:** When you say only about 15 have opened, that is buildings, rather than the number of courts within them and there is a plan that there will be some more before too long. They are making an impact, they are making a contribution. Most of the hearing rooms in the Nightingale Courts are being used for family and civil cases because it is much easier. About ten at the moment are being used for criminal cases, that is to say, jury trials, but you will appreciate that they cannot be used for custody cases, in other words, cases where the defendant is remanded in custody.

I think one has to look at all of the measures that have been taken without the benefit of hindsight if I may say.

Six or seven months ago everybody, including the judiciary, were scratching our heads and wondering how we were going to cope with, particularly jury trials, with distancing of two metres.

All sorts of different ideas emerged and Nightingale Courts are simply one and they are making a contribution, a modest contribution it has to be said, but I do not regard them as window dressing.

**CHAIR:** I think that is probably the end of time but thank you everybody for coming, thank you Lord Burnett, and I hope we can all keep going through the winter and look forward to things opening up again tomorrow to some extent.

**THE LORD CHIEF JUSTICE:** It is good to see everybody, you have now all gone on to the bottom of the screen so I wish you well and hope to see you in person next time round.

**ALL:** Goodbyes and thank yous.

[ENDS]