

JUSTICE SELECT COMMITTEE

LADY CHIEF JUSTICE EVIDENCE SESSION

on

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CHAIR (ANDY SLAUGHTER MP): Order. Welcome to this public session of the Justice Select Committee where we are very privileged and pleased to have the Right Honourable Baroness Carr of Walton-on-the-Hill, the Lady Chief Justice of England and Wales, to give evidence to us. Just before I formally welcome the Lady Chief Justice we will begin in the usual way with declarations of interest by the members here. Mr Tapp, could we start with you, and...?

MIKE TAPP MP: Yes, I previously worked for the National Crime Agency.

SARAH RUSSELL MP: My interests are as listed on the register plus I'm a member of Usdaw Community, I'm on the executive of the Fabian Society, I'm a member of the Industrial Law Society, the Employment Lawyers Association and I hold a current practicing certificate as a solicitor.

WARINDER JUSS MP: Hi, I was previously a solicitor before becoming an MP. I'm an executive council member of the GMB Trade Union, member of various APPGs and I think that's about it.

LINSEY FARNSWORTH MP: Hello, I'm Linsey Farnsworth. I was a crown prosecutor for 21 years. I am a member of the FDA Union, which was the union for the CPS. I'm also a member of other unions as declared on the website.

ALEX BARROS-CURTIS MP: Good afternoon, I'm Alex Barros-Curtis. I hold a practising certificate as well as a solicitor. I'm a member of the APPG on whistleblowing, amongst a couple of others and I'm a member of Unite and GMB.

JOSH BABARINDE MP: I'm Josh Babarinde, the MP for Eastbourne and folks will be able to find my interests declared on the register.

THE LADY CHIEF JUSTICE: Thank you.

CHAIR: I'm Andy Slaughter. I'm a non-practising barrister, a member of the GMB Unite unions and a patron of two relevant organisations, which are Hammersmith and Fulham Law Centre and the Upper Room.

TESSA MUNT MP: Tessa Munt. I'm the member for Wells and Mendip Hills in Somerset. Everything's declared on my register of interests, however, I would point out that I'm also a member of Whistleblowers UK as a director and I'm part of their APPG. I think I'm the vice chair.

PAM COX MP: Good afternoon, I'm Pam Cox. My interests are as declared on the register.

ASHLEY FOX MP: I'm Ashley Fox, the member for Bridgewater. My interests are as declared on the register.

CHAIR: Thank you very much, everybody, and now, as I said, we very much value as a committee a relationship with the—

WARINDER JUSS MP: Sorry, I should have just mentioned that I did renew my practising certificate this year, but I haven't been working as a solicitor.

SARAH RUSSELL MP: The same.

THE LADY CHIEF JUSTICE: All in the detail.

CHAIR: Very good, very good. We very much value our relationship with the senior judiciary. It was why I'm very pleased to have Baroness Carr here today, and we'll do things slightly differently

to begin with, which is to hand over to the Lady Chief Justice to make an opening statement to the committee before we go into questions.

THE LADY CHIEF JUSTICE: Well, likewise, we value that relationship very much, chair. Well, good afternoon and thank you. It is a genuine pleasure to be here this afternoon. As I have said in the past, this committee plays such an important role both in ensuring that the wider public is kept informed and also that the Executive and Parliament are held to account, and today gives me the opportunity to speak publicly to the current state of the justice system from the judiciary's perspective, whilst at the same time, I hope, providing you with the information that you want. I'm going to be very brief because I know that you want to cover a lot of ground.

It was only last January that I appeared before this committee, but ten months is a long time in the law. It has been an exceptionally busy year, and although the political landscape has changed, my overarching objectives really remain sound. Firstly, to recognise and promote the judiciary's strengths and the value of their work, which we must never overlook and which we must never take for granted. Secondly, to build judicial unity, and thirdly, to reduce court and tribunal backlogs whilst improving timeliness and maintaining quality.

Now, much work has been carried out by the judiciary to progress under each of these three overarching heads. Transparency work, parliamentary engagement, international visibility, new or revived initiatives in civil, crime, family and tribunals, with progress on working practices and under one judiciary, and of course, my first annual report in Welsh.

Of course, now we have a new administration. It is early days, but I have no doubt that there are exciting opportunities ahead. I am delighted to hear that the rule of law is front and centre of the new Government's commitment, not just that of the Lord Chancellor, but up to and including the Prime Minister. But can I emphasise that a commitment to the rule of law is not just about respecting constitutional boundaries. That should be taken as read, I suggest. The foundation of the rule of law is a properly funded and a properly functioning justice system that delivers for our citizens. So commitment to and compliance with the rule of law is not cost neutral, putting it another way, the rule of law is not free, it requires investment.

Investment across the justice system benefits businesses and trade, social welfare and family life, public health and safety, education, housing and equality. I have spent a great deal of time this last year focusing on the importance of the justice system to every aspect of society, and the focus cannot just be on crime, though crime may always grab the headlines. In fact, other aspects of the justice system are much more relevant to the vast majority of the population who will more likely be affected by delays in probate, building or employment disputes, divorce, mortgage payment difficulties, enforcement problems.

We must celebrate and recognise the areas that are working well, for example, the business and property courts, but I cannot pretend that the picture overall is a rosy one. We have had to grapple with the ongoing prison crisis which has put immense pressure on the courts and judges. There have been challenges to the rule of law. Think of the Horizon legislation and suggestions of judges fast tracking riot cases to meet government agenda when listing is a judicial function, to name but a few, and we have worked against a backdrop of increasing backlogs, underfunding and staffing issues in both the courts and tribunals, crumbling buildings and serious security incidents.

Backlogs exacerbated by rising demand, and in particular in crime are a constant worry. The practical, not the policy, the practical solution, if there is one, lies in a holistic approach across the board. Access to justice with available prosecution and defence lawyers, legal advisors, functioning prison and functioning probation services, not to mention funding to allow the courts to sit efficiently and to capacity. In all jurisdictions we need experienced, sufficient staff and IT that works in buildings that are fit for purpose. Digitisation in civil is incomplete, meaning that only 23 percent of

issued cases will have been digitised by the end of next March at best. Successful initiatives in family, delivering speedier and more positive outcomes for parents and children need to be rolled out nationwide. The tribunals, a jurisdiction in massive demand, need basic technology such as recording facilities.

It is, I think, important to emphasise to you what is at stake by not funding the system properly, not only in terms of the daily impact of a lack of resourcing but as a distraction from what should be the real task, which should be for planning for, I would say, delivering a modern digitised court and tribunal environment fit for the 21st century and truly reflective of our international standing as a global centre of legal excellence. At the moment we are fire brigading instead of town planning.

Despite all of this, the Ministry of Justice is one of the most underfunded departments across government, with the resource budget at about £10 billion for this year and £11.8 for next, and that includes prisons. This is a tiny fraction of what is spent on other critical public services. In the midst of all these pieces there is one positive constant, and that is the resilience and the dedication of the judges and the magistrates to whom I pay tribute. Their handling of the summer riot cases is but one of many examples of that, and I hope you will take the opportunity as you carry out your work to meet as many of them as possible. So whatever lies ahead, the public, the Executive and Parliament can rest assured of the judiciaries and my personal commitment to doing the best that we can with the resources that are made available to us. Thank you very much.

CHAIR: Thank you very much indeed, and thank you for being so clear in those opening comments. As you probably know, the committee has visited two courts in the last two weeks, Snaresbrook Crown Court and Central London County Court, and I think we would echo some of your comments from those visits that we saw exceptional staff working in extremely difficult conditions, and I am sure those are areas that we would like to pursue in our questioning.

If I may begin with one or two questions, what clearly has been a hot topic, which is the Concordat for this year, and then I will go on to talk about the question of sitting days.

The Lord Chancellor told the House of Commons on the 17th of October that the Concordat process for 2024-25 has not worked as it should. Do you agree with that? If so, why do you think it has not worked, and what can we do about it?

LADY CHIEF JUSTICE: Would it help, chair, and tell me if it wouldn't, would it help if I explained how the Concordat process works, or are you familiar with it?

CHAIR: We may be familiar with it, but I think it might be helpful.

LADY CHIEF JUSTICE: All right. I would like very much to come to your question in a moment, because there is a very clear public interest in everybody understanding the correct position.

In very simple terms, the Concordat process is the method through which the financial settlement for the judiciary, courts and tribunals are agreed between me, the Senior President of Tribunals, and the Lord Chancellor. It is a process that was established under the Constitutional Reform Act 2005. Again, very simplistically, the Ministry of Justice negotiates with the Treasury to secure a budget, and it then decides from that budget what it is going to offer HMCTS. HMCTS receives the offer and provides me and the Senior President of the Tribunals with independent advice as to the robustness and acceptability of that offer. It is a really important constitutional buffer between the judiciary and the Ministry of Justice and the Lord Chancellor, that there is that independent advice from HMCTS. Then, if we agree, we reach an agreement under the Concordat that is written, setting out, amongst other things, the number of sitting days.

It is a complex process, but the fundamental point to understand as to why it works the way it does is because it helps to manage the balance between the independence of the judiciary, the fact that government holds the purse strings, and the Lord Chancellor's statutory duty to ensure the efficient and effective running of the system. As I know you all know, Section 1 of the Courts Act 2003 imposes on the Lord Chancellor an absolute and unqualified duty to ensure the efficient and effective systems to support the carrying out of the business of the courts. That obligation is then reflected in the oath that she takes under Section 17 of the Constitutional Reform Act 2005. It is balancing all those bits of the jigsaw together to achieve an outcome with, as I say, that essential constitutional buffer in the middle. The year runs from April to April.

I would like to explain, unless there are questions now, what happened in 2024-2025.

The short answer to your question, chair, is that the offer is never made and, by definition, therefore, the agreement never reached until well into the financial year. So this year, the offer wasn't made until June. Of course, it was the old administration. The offer wasn't made until June and agreement was not reached until June. The latest it has been agreed, I think, is possibly July, even August. But in the last six years, so far as I'm aware, the Concordat agreement has never been reached before the year itself starts. So that's the short answer to what goes wrong.

Then I'd like to talk, unless anybody would like to ask me a question at this stage, as to what has happened this year, which is your question, chair. Before answering what happened in 2024 and 2025, I'd like, and I think it's really important, to explain first the impact of the decision not to allow the crown courts to sit to capacity. As I said, there is a clear public and operational interest in this question.

So the short position is that the current sitting day allocation is 106,500 days. It transpires that we can sit 113,000 days, so a shortfall of around six and a half thousand. The decision to limit us to the 106,500 has frankly had a drastic effect across the board, and you may have heard about some of this when you visited Snaresbrook. Resident judges have had to take fixed cases out of their lists, they've all had to cancel recorder bookings and remove vacancies. To be very clear, the cases that are being taken out of the lists are cases that were ready to be heard before next April. So cases with judges, staff, courts, advocates, witnesses and complainants available. Their removals are accompanied by long delays, sometimes years.

This has been a most distressing time for witnesses, for police, CPS, advocates, court staff and judges alike. So I am having resident judges, so they are the lead judges for crown courts, reporting to me, listed trials including serious violence cases against the person, RASSO cases coming out of fixed lists, cases that were ready to be heard, coming back certainly not before I think late 2025, 2026 and now going into 2027.

We have courtrooms and some entire courts being stopped running for significant periods. Salary judges not sitting, so that's full-time judges not sitting because there are no sitting days, and really important ancillary impacts that I think you may already be thinking about. Think about criminal barristers who have cases taken away from them when the criminal bar is already suffering. Equally concerning for me, I've got the fee-paid judges, so those are the recorders, having their bookings cancelled, they're running practices, they've set the time aside, the booking is cancelled, they become very disenchanted. I'm going to have to work hard to keep them on side, so to speak.

I think you probably want some real-life examples. I'm going to take three courts from the West Country. In Bristol, hundreds of fixed trials are being removed and a number of backers are also being released, so those are cases that are backed, fixed for behind the fixed trials. On average, I'm being told 40 percent of courtrooms are not open on any given week and Bristol was dedicating certain courts to RASSO cases and that is no longer possible. In Taunton, next quarter, only one of two courts are going to be running and there are only 60 sitting days available in January to

March to conduct 76 trials, currently listed needing 265 days. Truro is going to shut one day a week until March 2025.

And before answering the how did we get here question again, can I also emphasize the obvious? This is not about saving anything. It is not about saving money. You are deferring the cost and indeed you are increasing it. Why are you increasing it? You are increasing it because inflation will mean everything costs more. You are increasing it because barristers and the CPS are going to have to redo the work they had done to be ready for trial because the case will be stale and that is not even to touch upon the acute social cost. You have all been reading in the newspaper what the attrition rate is for delay that affects particularly RASSO cases where complainants simply don't feel able to have confidence in the system anymore and walk away from what may be legitimate, very legitimate and very serious complaints.

So you are not saving anything by putting these cases down the road. How did we get here? I hope that we have explained the April to April budget system. As you will imagine, if you can cast your minds back to COVID, jury trials stopped. They started again in about mid-2020. Since then, the crown court judges have, if I can use the vernacular, frankly been working their socks off. They have been working as hard as they possibly can. So with jury trials coming back in 2020, 2021, 2022, 2023, the lists in 2024, 2025 are filling up through those endeavours. We get the Concordat agreement in June 2024 and the figure agreed is 106,000. The Concordat agreement says this is a minimum figure, it is a floor and not a ceiling, and, chair, you may want to ask me about previous years allocations. So 106,000 is a fixed figure as a floor, not a ceiling and a minimum. At the time the Concordat was agreed our understanding was that was basically more or less the maximum capacity for the courts. The previous year we sat at 107,700, which was an all-time high. So the 106 is fixed as a floor, not a ceiling, on the basis, as we understood it, that it was basically the maximum capacity. Come August, HMCTS tells us that actually we can sit to 113,000 or thereabouts. That is news to us.

We now have a new administration, and can I of course emphasise the Concordat was agreed with the previous administration. The new administration has arrived with a very clear and a very public commitment to cutting crown court backlogs. In the light of the information from HMCTS, inevitably there were conversations as to whether or not the Ministry of Justice wanted to fund the courts so as to allow them to sit to capacity in crime. The decision was taken not to fund them so as to sit to capacity. An additional 500 days was found, but that was from within HMCTS allocation. So no additional funding.

That is where we are and that is why we are now taking the drastic action that we are across the crown court estate. It's a very distressing situation. So, I agree wholeheartedly with the Lord Chancellor that the Concordat has not worked well. The central reason is it is agreed too late in the day. In a way though, I would say it doesn't really matter why we are here. There was the opportunity to sit to maximum capacity at 113,000 and it was not taken. That's a fact. But I am committed with the Lord Chancellor to making sure the Concordat process works better this year.

We will aim to seek agreement. We may not agree of course, but we certainly will aim to seek agreement in good time before the relevant April to April year starts. It will come as no surprise to the committee to know that I will be pressing the case to allow the crown courts to sit to maximum capacity under the Concordat agreement that we hope to be able to reach in good time for the next year.

CHAIR: Thank you, that's very comprehensive and it may have covered some of the other questions we were going to ask, but could I ask one more, which is what hopes do you have for... I'm assuming, but tell me if I'm wrong, that it is too late to correct the position in this financial year?

THE LADY CHIEF JUSTICE: Yes. As I understand it, the position is there are no more days now, and on the lateness you're spot on, if I may say so, chair, because it's rather, it's not something you can... it's not like a tap you can switch on and off. Those cases that have been taken out of the list, you can't pick up the phone and say actually we're all on again, because people have moved on.

So I think you're probably right, chair, if I may say so, that the die has probably been cast for the next three months for the very reason you identify. I'm not saying that there couldn't be some cases or some improvements that we could claw back, but I think for the big cases certainly, it is probably too late.

CHAIR: Have you got any more hope for the next financial year and the one after that?

THE LADY CHIEF JUSTICE: I'm sorry?

CHAIR: Where are we in relation to 2025/2026, 2026/2027?

THE LADY CHIEF JUSTICE: For next year, I have no indication from the Ministry of Justice or the Lord Chancellor. My understanding is that they are considering their position and what the offer will be.

CHAIR: I think Sarah and then Mike.

THE LADY CHIEF JUSTICE: Yes.

SARAH RUSSELL MP: Were you given an explanation as to why the decision had been taken to go from the 113 back down again?

THE LADY CHIEF JUSTICE: So, just to be clear, to be fair, entirely fair to the Lord Chancellor, which I hope I always am, there was never an agreement to go to 113,000. The Concordat agreement was 106. So, there was no suggestion that one would ever go under that. The option was to go up to 113. Obviously, I don't talk about private discussions between me and the Lord Chancellor. I think an educated guess would be that it is funding. It is budgetary.

MIKE TAPP MP: Thank you, chair. Is there scope to plan for more than just one financial year?

THE LADY CHIEF JUSTICE: Yes. It is a difficult... we're already... part of the difficulty of the process is you're already making assumptions for what the next year will bring as part of the negotiation, and you can see how difficult it is because they are predictions as to what happens in the future. I can see that predicting for more than a year in what is a very volatile state – I mean, after all, we're talking about tribunal sitting days as well, and family sitting days as well – it could be quite tricky.

On things like capital, it's much easier. Indeed, I would be looking for five to 10-year programmes. I think for the sitting days, it's not impossible and it might be something to think about. I can see where, if I may say so, you might be coming from if you're looking at listing cases years down the line, but at the moment, it is an annual process. I don't think anybody's thought beyond that for the sitting days. I mean, sitting days by themselves is quite an unusual measurement. It's a rather blunt tool. Sitting days, we need to, I think, work on the definition of a sitting day because as we move to doing more and more work outside court, particularly in civil and family, the idea that a civil judge's sitting day should be measured by time in court is frankly risible, isn't it? Because all we're trying to do is keep cases out of court. We're trying to case manage and make sensible directions, bring people together, find resolution.

CHAIR: If I may interrupt, we were asked that question by one of our members, Dr Neil Shastri-Hurst, who isn't here today, which is, what is a sitting day? It's a strange unit of measurement that we may not be used to, and how does that interact with the judiciary's responsibility for listing?

LINSEY FARNSWORTH MP: Why is it... the other member that wasn't here asked me to ask you, why is it sitting days? Why is that the unit?

THE LADY CHIEF JUSTICE: You're new, I'm new. I mean, I literally arrived and I said, "What is this?" Because it is, I can only imagine, it's a historic tool. It doesn't sit well with a modern judicial system. I, frankly, would love to start with the question, "What is an effective and efficient court system in crime?" That's the obligation of the Lord Chancellor, and then work out, have we got the capacity? How do you bridge the gap? But here I am with my sitting days. I am working very hard and I have actually made real progress in getting agreement that we have to find a consistent definition of sitting days because there has been inconsistency in the definition. And then also inconsistency in the application of whatever it is you think you're applying.

The sitting day, for my money, as a bare minimum, has to include all work that is judge-related. So other business, all the training... so, case-related, all the training, all the leadership can perhaps go in an 'other business' box, it's just as important. But the sitting day has to be defined in a way that captures or gets closer to capturing what a 21st century judge really does. I hope that they would at least have enjoyed some of that answer.

CHAIR: Sir Ashley and then Tessa Munt.

SIR ASHLEY FOX MP: You've described the wasted costs of reducing the number of sitting days and cancelling trials and the distress to victims and witnesses, but presumably the Lord Chancellor took that decision ostensibly to save money this financial year. Do you know how much money she has saved this financial year?

THE LADY CHIEF JUSTICE: No, I don't. No, I don't. No, I don't.

SIR ASHLEY FOX MP: Extraordinary, isn't it?

THE LADY CHIEF JUSTICE: I can ask and that's as far as it goes. I have no sight the other side of the line as to precisely what the modelling is.

SIR ASHLEY FOX MP: Because it seems, chair, that you're being told to cancel a great many trials and given no indication of what the saving will be.

THE LADY CHIEF JUSTICE: Yes.

CHAIR: Presumably, it's put the other way round.

THE LADY CHIEF JUSTICE: It's not my budget. I mean, it's not my job to allocate the budget in that way.

CHAIR: You've said the reason must be because the money isn't there. There's no other reason.

THE LADY CHIEF JUSTICE: Yes, it's not for me to answer for the Lord Chancellor.

CHAIR: We will ask that in a couple of weeks. Tessa.

TESSA MUNT MP: Thank you. I have a number of questions I want to ask. Most of them you have answered, but I did wonder if, in light of your just previous comments, before Sir Ashley, what

would your preferred metrics be for measurement? Or is it the adaptation of the metric you have? Is there any other way in which you would prefer?

THE LADY CHIEF JUSTICE: I think the closest I can get, if I had a blank piece of paper, would be the way that Ms Cox was nodding in the sense that you said, "What does an efficient and effective system look like?" It goes back to what I said at part of my presentation. Post digitisation, what does a modern judicial system look like and how do we fund it? And I'm not sure you'd even be looking necessarily at sitting days. You'd be looking at something completely different. It's a very good question because it's very easy to knock skittles down, isn't it, without coming up with a solution.

So I think that my step one is to make the sitting day have a consistent definition, applied consistently, because that's all I've got at the moment. I'm not going to change this overnight. Secondly, to stand back, take a deep breath and say, actually, should there be a completely different metric? Or perhaps no metric at all in that sense. Perhaps a budget.

We need to know, looking forward to what I was saying about the future, how many judges do we need? Where do we need them? What should they be doing? Post digitisation, when digitisation is fully complete. So they are big questions, yes.

TESSA MUNT MP: Which sort of led on to my next question, and that is I think we might have seen evidence of a moderate level of chaos around data and digitisation, as you say, might not be a complete thing. It might be slightly over the horizon for some areas of the system. But I just wondered where the priority would be for you in terms of capturing data? Because clearly there are lots of areas that don't have any consistent...

THE LADY CHIEF JUSTICE: Well, my data for today, as you probably know, is unpublished data in crime, so it's historic data, which isn't terribly helpful for you. I think the honest answer, and you're going to think that it's not a helpful one, but I cannot think of a jurisdiction that doesn't need accurate data. I could point in every single jurisdiction to... the one that immediately springs to mind, because it, well, they all slightly irritate me, which is probably not the sort of thing I should be saying, but in civil, for example, looking at getting to trial is a hopeless metric, because we all know, and there are many civil experts here, that 90 percent of cases, more, in civil settle. So going to trial isn't a metric. It was not a useful measure of anything. Equally, disposal rates aren't a useful measure of anything. It's actually timeliness that matters. I could dispose of ten consent orders in three minutes, and I'd be hitting a fantastic score without being remotely helpful in the grander scheme of things on the bigger cases.

So, we've got some good work going on at trying to work out what the proper metrics, what the useful metrics, really are. The other thing about civil, which you may have picked up from Central London, but perhaps not, is the metrics deal with delay without breaking down whether the delay is in the document reaching the court office, to the judge... the judge can turn it around in 24 hours. I'm not saying they all do, but you can, and yet your delay will still be 18 months. So, we've really got to break all that down and get on top of the data, make sure it's reliable, make sure we're asking the right questions.

People talk about disposals, and I say we're not making sausages. We're not producing cars at the end of a belt. It's a far more complex picture than that. I think it's understood by the committee, which is very helpful, that it's really timeliness, including in crime, that matters, rather than disposal rates, actually.

TESSA MUNT MP: Thank you. Thank you for mentioning Bristol. In my part of the world, I would point out that actually people go to Bristol or to Taunton because there's nothing in between.

THE LADY CHIEF JUSTICE: Yes.

TESSA MUNT MP: There's very little ability, and people very often have to leave the day before in order to get... if they're using public transport, they have to go the day before to get to court for ten o'clock.

THE LADY CHIEF JUSTICE: Yes.

TESSA MUNT MP: So it's fairly desperate. I just wondered, you mentioned the costs, things like the delays in Bristol, or the removal of sitting days in Bristol, the additional costs in future years. You referred a little to that, didn't you?

THE LADY CHIEF JUSTICE: Just pushing it down the line.

TESSA MUNT MP: Yes, and I just wondered whether there was any... had anyone done some work on what those costs might be, and you were talking about post... well, actually, I was thinking about post-2025 court cases that are going to be shunted.

THE LADY CHIEF JUSTICE: I'm being told that bail rape cases are now going off for two years or more. Obviously, custody time limit cases, as we all know, are different. But bail rape cases are going off for two years or more now. Sorry, I interrupted you.

TESSA MUNT MP: No, no, it's fine. No, exactly. You've probably...

THE LADY CHIEF JUSTICE: But I mean, the Recorder of Bristol has been working, I mean, he has been magnificent over the last three years, and this is a very difficult pill.

TESSA MUNT MP: Yes.

THE LADY CHIEF JUSTICE: And as I say, it's not about blame, it's about where we are, the decision has been taken, and he also has had some... really led on some really important RASSO work. So, if you remember, Bristol was where we had the... he was running a dedicated court for RASSO, which in big courts can really work, doesn't work in smaller courts, but can really work in big courts.

TESSA MUNT MP: So, the official figures, I think, were produced in December 2023 for the outstanding cases in the crown court, and that was up at 67,500 and a bit. When are the next set of figures? What do you think is going to happen?

THE LADY CHIEF JUSTICE: Imminently, and we can only go on published statistics, and I understand they'll be coming out. The best figure I have for you is the published one by the crown court. So Linsey will be happy, or not happy. But the crown court caseload as identified in March 2022 was 72,262. That was the open crown court caseload. If you compare that to 2022, that is 67,716.¹

I don't think anybody would criticise me for saying that it's probably got bigger, not smaller. But you must wait for the published statistics that are properly audited and available for public consumption, but that, I think, is, as I say, an official figure that I can refer to.

¹ The Lady Chief Justice was referring to figures contained with the [CPS's July 2024 annual report](#). This states that the CPS crown court caseload reached 67,716 in March 2022 and stood at 72,262 in March 2024.

TESSA MUNT MP: Thank you, Baroness Carr.

CHAIR: Josh, do you...?

JOSH BABARINDE MP: Yeah, it would be great to come in. I've been privy to some correspondence from judges, from court workers who are deeply concerned about the reduction in sitting days, and it would be good to get an idea from you of the extent to which the judiciary and indeed court workers were consulted about that decision.

THE LADY CHIEF JUSTICE: In discharge of my operational duty, I kept them as informed as I could.

JOSH BABARINDE MP: Are you able to expand?

THE LADY CHIEF JUSTICE: When the issue was drawn to my attention, I, together with the senior presiding judge, and can I pay tribute to Lord Justice Edis, who is the outgoing senior presiding judge who dealt with this in August, and his immediate successor, Lord Justice Green, senior presiding judge now, who is dealing with the situation as we sit here. I told them what I could, which was that we had a potential problem, that if we were not allowed to sit to capacity then they would have to adjust their lists. I tried to support them as well as I could in that, and so did the senior presiding judge and indeed the President of the King's Bench Division, everybody involved in the criminal justice system at a senior judicial level. But at the end of the day, they have done an astonishing job at very difficult times, knowing their own courts better than anybody else, but with support from us.

JOSH BABARINDE MP: I would agree that the work of those **judges** and court workers, in the context of an environment that wasn't of their shaping, must be commended. But just to clarify, so yourself and the rest of the judiciary were not consulted, by the sounds of it, you were informed and you personally—

THE LADY CHIEF JUSTICE: No, no. So, we were told by HMCTS about the problem in the sense that the lists were fixed so that we could sit to 113,000 days. So, HMCTS informed us of that, and as soon as we knew of that, there were discussions as to whether or not there would be funding to go up to the 113 or to go up to maximum capacity, and the decision was taken not to do that, and then I and the senior judiciary informed the judges.

So it wasn't really a question of being consulted, it was HMCTS telling us all, telling the Ministry of Justice and me, of the situation; discussions then what to do about it, which included obviously discussions about funding to 113; the decision communicated to me that the funding would not be available, and then I passed the information on to the judges. So, I was totally in the loop of what was happening, if you see what I mean.

JOSH BABARINDE MP: And to what extent do you feel that you were listened to?

THE LADY CHIEF JUSTICE: I'm sure I was listened to.

CHAIR: Warinder?

WARINDER JUSS MP: Yes, thank you for that, Baroness Carr. I know that in civil litigation the emphasis is always on keeping cases out of court, concentrating on negotiation and mediation. Can a similar approach in any way be made with criminal cases? Is there any way that they can be kept out of court?

THE LADY CHIEF JUSTICE: The closest to that we get is early guilty pleas. So, early guilty pleas. So everything, actually in all jurisdictions, there is one common theme for efficiency, and that is front-loading early disposal, and as consensually as possible.

So, you see that, and we can talk about this in pathfinder, we can talk about this in Public Law Online, we can talk about it in FDAC, we can talk about it in automatic referral to mediation of small claims, small track claims, sorry, small claims, which is ongoing. We can talk, and in crime the closest you get is early guilty pleas, and everything that we have been doing in recent years in crime is focused on getting early guilty pleas where they are appropriate.

So with the police, with the CPS, it's all about file quality. It's getting maximum disclosure to the defendant as soon as possible, and then giving the defendant access to proper legal advice, so legal aid for lawyers, so that the individual feels confident and able to take an informed and properly advised decision as to whether or not to plead guilty. That is the key to unlock so many things; front-loading, front-loading civil, so you use your pre-action protocols, you settle things out of court, pathfinder, make it less adversarial in family. So that's a constant theme, I think, across the board. That would be my answer in crime.

Obviously, by definition, mediation in crime isn't really a principle that can apply, but early guilty pleas certainly can. I think rolling it out from early guilty pleas, owning case files early on, having continuity of case file ownership in the prosecution so that issues can be narrowed, disputes can be resolved, so that although guilt or innocence will not be agreed, at least the ambit of the issues, the extent to which disclosure needs to be made, how many applications need... you know, to reduce all of that so we are as efficient and tight as we properly can be, so that the judge can case manage at the pre-trial preparation hearing, which is the first hearing in the crown court, and make sure everybody is on their game and that we are using as few days as possible.

CHAIR: Linsey.

LINSEY FARNSWORTH MP: I just wanted to come in in relation to early guilty pleas and the drive for that, I'm very familiar with the drive to that, as you can imagine. But would you say that the current situation with the backlog, we know the effect on victims of crime and witnesses of crime in terms of the likelihood of them attending court, if a case is listed very far into the future, and just wondered what your views are on defendants not pleading guilty at an early opportunity because the delay incentivises them not to.

THE LADY CHIEF JUSTICE: It's all a vicious circle. One of the things that I hope we all walk away from this afternoon understanding is the interconnected nature of everything. If you look at a day in the life of the criminal justice system, you start with the police, to the CPS, to the defence advocate, to the defendant, to the court usher, to probation services, how it's all joined up, the effect of delay on early guilty pleas is palpable. You're absolutely right. If somebody hears the trial is two years away, particularly in a RASSO case or other similar type of case, somebody who might otherwise, if they were facing trial next week, or perhaps more realistically in the next six to twelve months, take a different view to, well, in two years' time anything could happen, let alone three. So absolutely right. A really important impact on that as well.

LINSEY FARNSWORTH MP: I wanted to focus on crown court, as you can imagine, and in particular crown court efficiency, and I was looking at the figures, so in 2023 in the halcyon days we had 111,996 sitting days and disposed of 21,026 cases.

THE LADY CHIEF JUSTICE: For 2021... for 2023?

LINSEY FARNSWORTH MP: 2023, the figures that I was given.

THE LADY CHIEF JUSTICE: 99,304 for 2023, in the crown court?

LINSEY FARNSWORTH MP: Yes, that's—

THE LADY CHIEF JUSTICE: 20 can't be right, sorry.

LINSEY FARNSWORTH MP: No, that's fine, I mean, that was the figures we were provided with.

THE LADY CHIEF JUSTICE: Disposals, you're talking about disposals?

LINSEY FARNSWORTH MP: So there were 111,996 sitting days in 2023 and 21,026 cases were disposed of is what we've been told.

THE LADY CHIEF JUSTICE: Well, here we go, this is probably not the best way of spending our time. So the allocation in 2022 to 2023 was 105,000, we sat 100,625. 2023 to 2024, the allocation was 102,300, we sat 107,700. Disposals in 2022 were 91,730-something and 2023, 99,304. 20 can't be right, am I right, chair?

CHAIR: I think we have a fairly basic data conflict here, we're talking calendar years and I think you're talking financial years.

THE LADY CHIEF JUSTICE: But it still can't be twenty. Anyway, go on, but assume you're right.

CHAIR: But it's a good illustration of....

THE LADY CHIEF JUSTICE: So perhaps we can take away from this, it's not necessarily easy.

LINSEY FARNSWORTH MP: I think I will generalise in that case, what the question was getting at was that there seems to be occasions where there were as many sitting days to comparative years but there was a disparity in the number of cases disposed. So I think that really the question is about those differences and what is affecting disposal of cases, notwithstanding that the sitting days were equal on those years.

THE LADY CHIEF JUSTICE: Take away from it, what might effect different disposal rates?

LINSEY FARNSWORTH MP: Yes.

THE LADY CHIEF JUSTICE: Well, type of case. I presume we're out of COVID here. Number of remand prisoners can often have a massive impact, because of course custody time limit cases have to take priority. Also, as I say, yes, be the type of cases. I'm not aware, and I don't feel on the ground, that there is a massive discrepancy in disposal performance, as it were, although I actually think the better measure is timeliness and that again has stayed pretty constant. I would love to talk to you about crown court efficiency and the work that we're doing there because one of the things that I'm really keen to leave you with the impression of is how ambitious and progressive I am prepared to be and how ready I am to look at better ways of doing things, building on perhaps the work that we're doing already. But I don't want you to walk away from this afternoon thinking that we are just doing the cases as they come in as best we can. There is so much more work going on within the judiciary and the resident judge at Snaresbrook may have talked about some of that, but there really is some exciting work going on in terms of crown court efficiency that is relevant. I'm not aware of any massive difference in performance within the crown courts over the relevant years.

Things that have got worse are obviously the prisons and therefore late deliveries and all the impacts that has. If you, for example, get early release you're going to get more pressure on probation services, therefore you're going to have less access to probation officers for pre-sentence

reports and things like that, so it's all connected. But I don't think... I will have a think about it, if I may, that there is any reason for you to be concerned about something dramatic happening between one year and another in terms of either the way the courts have been operating or anything else. You know about all the work that's been going on in the criminal efficiency space, but we have had my predecessor Lord Burnett set up the Crown Court Efficiency Group, which we are now going to extend to become the Criminal Efficiency Group, bringing in the magistrates who of course do over 90 percent of criminal work and the work that has been done in that group has been transformational actually and it really came to the fore in the riots. But anyway, you haven't asked me about that, but I'm happy to talk about it.

LINSEY FARNSWORTH MP: Thank you. I also wanted to talk about ineffective trials and what might increase rates of ineffective trials and what challenges you have in the courts at the moment in terms of what's the cause of ineffective trials from your perspective in the main.

THE LADY CHIEF JUSTICE: Yes, so we'd start with what we really want here is accurate data don't we? And it's out of date and I'm sure you have been told that the current metric for ineffective trial rates counts every case that doesn't get on on day one of a week as an ineffective trial, even if it gets on on day two. Now, most of us... I mean, a day's delay is unwelcome, but most of us would think that if a trial still got on in the right week and completed that was probably an effective trial.

Putting that cautionary note to one side, the answer is multifactorial as you identify. I think part of it is to do with judicial listing and that is something we've got, I don't know if you've heard of His Honour Judge Martin Edmunds, King's Counsel, at Isleworth. He's an extraordinary crown court judge and he is carrying out a wholesale listing review, looking at crown court listing practices and whether or not we can improve them to reduce the ineffective trial rate. You will understand, Ms Farnsworth, that the balance is so difficult because we don't want to have empty courts. So we have to have backers for when the first trial goes, but we also don't want to over-list. So it's getting that balance right, it's really an art not a science that is at the heart of it, but certainly listing is one of it.

Then the multifactorial additional aspects are late deliveries, lack of advocates, late collections, witnesses not turning up, defendants being ill, defence not being ready, it's everything in there. I don't think there is one standout factor on the data, the reliable data we've got yet, that I can identify, but it's certainly something that has been a target ever since I arrived and it's something we need to improve on, we need to work out how to improve it, but not everything is in our control.

LINSEY FARNSWORTH MP: Is the ineffective rate increasing?

THE LADY CHIEF JUSTICE: No, it's gone... I don't know which published figures I'm allowed, I can confidently say it's not increased. It may have gone down, not dramatically, no dramatically

LINSEY FARNSWORTH MP: Thank you, and you mentioned that if a case was listed for a Monday and it didn't start till the Tuesday or the Wednesday, that's counted as ineffective?

THE LADY CHIEF JUSTICE: Yes. As I understand, that's your understanding too, chair?

CHAIR: That's what we were told at Snaresbrook.

THE LADY CHIEF JUSTICE: Yes, so that's my understanding.

LINSEY FARNSWORTH MP: Yes, at Snaresbrook they told us that and that that might be confusing the figures in terms of the real picture—

THE LADY CHIEF JUSTICE: Making it much worse than it is. Yes.

LINSEY FARNSWORTH MP: —because certainly as a crown prosecutor I would have said that if we got started on a Tuesday we were doing well often and that would, for me, be a successful case, not an ineffective case, so that's interesting that it would go down as an ineffective case.

THE LADY CHIEF JUSTICE: Yes.

LINSEY FARNSWORTH MP: Thank you for that.

THE LADY CHIEF JUSTICE: It is still something that... again, picking up on one of my themes, I hope, where there are things that the judiciary can do better with, I'm not shy of recognising that. I am keen that we do everything we can and I am very open to ideas and suggestions there and I think that's a really important attitude for the judiciary as a whole. I think we're often seen as a bit of a block, and we really aren't, we really are there to be open minded. We clearly... you've seen at least one resident judge, they know their patch so well, they are so dedicated and anybody who thinks that we're just sort of sitting there not ready to be open to criticism or change, it just wouldn't be fair or right.

CHAIR: Do you look at comparative efficiency at different court centres?

THE LADY CHIEF JUSTICE: Yes, we do. I think you may already have been struck by some of the data you've seen, chair, about regional variations. They are enormous, and in all jurisdictions that is because every court operates in a community, whether it's CAFCASS or the local probation, local CAFCASS, local prisons, so one size does not necessarily fit all. We definitely need overarching national principles for consistency, good governance and actually efficiency so you can see the nation as a whole, but you will find regional variations and sometimes the regional variation is because one judge is not doing a great job but very often it's because, actually, the local authority in that particular court is not functioning well so that will directly impact on family performance, for example, or probation services. Sometimes it can be as basic as how close is your prison? So in London, you know the vans, they do a route, don't they? They can cover a number of courts and you can mix and match sometimes and if one cell goes down you've got another court quite close by. Well, in the North or North East and North West that is in certain places absolutely not the case. So I think it's very important, if this was what was behind your question, chair, not to say well this court has got an ineffective trial rate of three percent and this court has got an ineffective trial rate of 20 percent, this court must be performing better than that court because it's not that simple. You need to look at the complete picture and dig down quite deep, but sometimes you can say well actually there's no good reason for that being so way behind on this and interrogate that.

LINSEY FARNSWORTH MP: Can I move on to looking at the remand side of things? Obviously you've mentioned challenges from prisoners being brought to court but are there any other impacts that custody cases are having? Because we heard at Snaresbrook about bail cases for very serious offences being put back for trial in 2027 and often get bumped back because of custody cases.

THE LADY CHIEF JUSTICE: They have a massive impact. As you all know the remand population, an all-time high over 17,000, 20 percent of the population, of that 20 percent 60 percent are untried. There are innocent people on remand in prison for potentially long periods of time under the custody time limits as you know better than anybody but you have to have... a crown court case must be heard within 26 weeks of reaching the crown court in crude terms and that has to happen or the defendant will be released into the community unless the Crown Prosecution Service gets an extension.

There's statutory provision for that, but a stringent test which is firstly the prosecution must have acted with all due diligence, and secondly that there is good and sufficient cause for extending the custody time limit. So this is all very challenging and you may be interested to know that I have been reliably told that it takes half a day for a Crown Prosecutor to prepare properly an application for an extension of a custody time limit. So that is a considerable resource demand because they are significant applications, they are not rubber stamped, they are fully argued out, and so if you are going to be in a position where you have to apply for an extension, that involves a great deal of additional work for everybody.

LINSEY FARNSWORTH MP: It's the chronology that takes a long time because the cases have been going on for so long so that causes additional work as well.

THE LADY CHIEF JUSTICE: But really important.

LINSEY FARNSWORTH MP: Good and sufficient cause has always been something that the CPS have had to concentrate on in terms of their activity, but some of the delay now is just not having the court sitting days and the court listing being so far into the future. Do you have any concerns about the good and sufficient cause in relation to the backlog?

THE LADY CHIEF JUSTICE: That is obviously a matter for each individual judge who will have to determine on the facts of each individual case whether or not there is good and sufficient cause. There, as you know, have been in the context of the prison problem, there have been previous reported cases. I think the President of the King's Bench Division delivered a judgment on this involving Bristol off the top of my head, Bristol Crown Court, I could be wrong about that, in 2022 that gives some useful guidance but if these applications are made it will be for the judges, another issue for the judges to consider carefully.

LINSEY FARNSWORTH MP: Thank you. Just one last question in relation to crown court efficiency and it is really in relation to how that fits in with the increased magistrates court sentencing powers. There has been some suggestion that that will free up around 2,000 sitting days within the crown court each year and I am just wondering if you agree with that assessment?

THE LADY CHIEF JUSTICE: I am glad to say that on this occasion our data matches. I know a few. Very roughly, we have to treat this as a modelling figure rather than actuality. I am about 1,950. Is the committee aware of the chronology of what has happened here? Would it help?

CHAIR: Yes, please.

THE LADY CHIEF JUSTICE: So in May 2022 magistrate sentencing powers for single either way offences were increased from six months to 12 months and that was really a measure taken by the previous Government to try and reduce the burdens on the crown court. Then the prisons fill up and we get to... if I get my chronology right, March 2023 and a pause is imposed. So the magistrates are back down to six months. As of November 2024, so last month, the pause has been released and the hope is that that will relieve the burden on the crown courts by approximately 1,950, 2,000 days. So that is the ambition. Of course, pity the magistrates now who... well, first of all they have got to be retrained and we spent all the money training them up and then there is the pause.

Secondly now, at least for a while, you have got to ask yourself when is the date of conviction? Which regime am I under? Am I under six months? Yes, so what should be a really straightforward exercise, you have got another added complication there. I welcome the lifting of the pause and I think the magistrates welcome it. So yes.

LINSEY FARNSWORTH MP: Thank you.

CHAIR: Pam, you have been waiting a long time and then we'll go on to Josh.

PAM COX MP: Thank you, Baroness Carr, I'm pleased to hear the judiciary at the forefront of reform here. It would be really interesting, I think, for the committee to hear more about the work of the Crown Court Efficiency Group and I wonder if maybe there are some reports or something that might be shared with us, if that would be welcome?

THE LADY CHIEF JUSTICE: Yes. I don't know whether there are open reports, but I can certainly get some material to you. I am grateful for the interest, because it has been something, as I say, that has been up and running since 2021. Three prime targets: improving the early guilty rate, reducing the ineffective trial rate and having as few hearings per case as possible. The beauty of the group, and the reason why it's special, is because it's cross-agency. So you have everybody in the room, and it's making people understand, making the prison understand what a five minute, 15 minute delay in a video link means to the crown court judge who's actually got two juries out, 12 sentences, and it's bringing people together, helping each other understand how their issues impact on other bits of the system. So, you've got probation, legal aid, CPS, the Bar, you've got the Ministry of Justice, HMCTS, and the judges all involved, trying to work together, and we've had some really notable successes, much better video links with prisons, for example.

The plan now, loosely, potentially, is, well, certainly to bring the magistrates in, because previously it was the Crown Court Improvement Group, and for all sorts of good reasons, hard and soft, bringing the magistrates in to what will become, I hope, a Criminal Court Efficiency Group will be good. I think, as I say, for my part, I like to think of it as a day in the life of the criminal justice system, because when you put it all together, you think of the usher switching the lights on in the court, the court clerk coming to switch on the screens, the computers, getting everything ready, the jury officer, the crown court judge, the advocates, the probation, the prosecution, everybody somehow helping each other to learn and improve from each other how to make things as efficient as possible, and also PECS are involved, the prison escort systems as well, services as well.

So they meet regularly, senior members of the judiciary go. If you are interested, I would be delighted to invite you to one of the meetings, if the chair was happy with that, I'm sure they would be. It's really impressive, and it's not standing still.

PAM COX MP: I would welcome that, thank you.

THE LADY CHIEF JUSTICE: Yes, well, I'll take that with me, thank you.

WARINDER JUSS MP: Yes, linked to the issue of sentencing is the problem of repeat offenders. There was a report this morning which posed the question whether repeat offenders should be given longer prison sentences, and I had a meeting in my constituency with the local inspector who said that one of the main problems he was facing was that it's the same people who are carrying out all the shoplifting offences, the burglaries and the car thefts, so repeat offenders was a major problem for him, and he said that a lot of it was due to drug usage. So the question that I have, Baroness Carr, I don't know whether you would be able to answer this, is do you have a view as to how we deal with repeat offenders?

THE LADY CHIEF JUSTICE: Yes, I do, but I'm sure as the chair has said, I just can't comment on policy matters, because then it risks me carrying out my day job, so to speak, or jeopardises that. But I am really pleased to see the sentencing review is up and running, and I will of course be engaging with the chair, the Sentencing Council will be engaging with the chair, and we will be doing everything we can to support the sentencing review when they are looking at various options to help inform them on the practical consequences, the operational aspects of any proposals they have. But I don't think it's for me as the President of the Courts to talk about what I think are

probably policy issues, but I totally understand your interest, and I'm sure it's something that the sentencing review will be looking at.

CHAIR: Okay, helpful.

JOSH BABARINDE MP: Thank you, chair. I mean, we've spoken a lot about the crown court backlog, we've spoken a lot about reform, and when you were last here in January, you spoke about the need for radical reform to take place, which might involve things like fewer trials of either way cases, or the establishment of an intermediate court that involves a blend of judges and lay magistrates. Are you still of the view that these kinds of measures might be necessary to reform the system with a view to bringing the backlog down?

THE LADY CHIEF JUSTICE: So, preparing for today, I reminded myself, I went right back, the Runciman review, do you remember that in 1991? Then we have the Auld review in 2001, we had the Leveson Efficiency Review in 2015, the previous administration talked about a Royal Commission in 2019. I am on record as saying that I welcome the new administration taking a big deep breath and taking a holistic view at the criminal justice system. It is not for me to suggest what radical options there might be, but I certainly support taking a good, long, hard look at all available options.

I gave a lecture in March, a Kalisher lecture, where you can see some of my thoughts, but I think fundamentally, these are matters of policy for government, and if the Government chooses to look at some of these radical options, as you described them, then in line with what I said previously, we will be very willing to engage and support and consider and input as is appropriate for the judiciary.

JOSH BABARINDE MP: That was going to be my next question. So, it sounds like the existence of some kind of vehicle that is a kind of safe way for you to be able to input without publicly jeopardising your position.

THE LADY CHIEF JUSTICE: Yes, so as I say, our job, my job really is to just help with the operational aspects, the practical implications of any particular proposal, and it is for government to come up with these big policy ideas, but I have encouraged and continue to encourage the new administration to take this great opportunity. I started, didn't I, about talking about exciting opportunities, to stand back. So many people have looked at the system, the market is quite crowded, and stand back and take a deep breath and make bold decisions if that is what they think is the right thing to do, but certainly I am open to progress and change if it is well evidenced and well thought through. I don't want things to be rushed. We have waited long enough. It is important we don't rush. These are big issues, and they will maybe, whatever is decided, may be controversial, so it needs to be done well, it needs to be done thoughtfully, but I can absolutely understand if there is an appetite for taking, if there is an appetite on the part of the Government to take a look at these issues, then I could understand that.

JOSH BABARINDE MP: If hypothetically a Royal Commission were set up to explore these issues, would you feel in your role that that could be a vehicle that could enable you to engage and feed in your insights?

THE LADY CHIEF JUSTICE: Yes, I mean I can feed in my insights from a practical point of view. I don't think the establishment of a Royal Commission would change my constitutional position, which is always to let Executive and Parliament legislate, to drive policy forward, and for me as the leader of the Independent Judiciary to implement and advise and input on operational practical matters.

JOSH BABARINDE MP: I want to move on to another kind of branch of the reform agenda, which is around physical facilities. Yes. It is pretty well documented that there are some serious challenges. One kind of umbrella one that I would like to ask is, in light of the fact that we are going to see magistrates taking on more cases, do you feel that in order to meet that demand, that we need more magistrates' courts open again? In my own constituency in Eastbourne, we lost our magistrates' court some years ago. It was, in my view, a pretty damaging thing for our town. Do you feel as though we need to re-establish some of those courts to meet the demand?

THE LADY CHIEF JUSTICE: I certainly think that's part of the overall discussion we were having earlier about where should we be starting? What does it look like? What does efficient and effective mean? I often think of the judiciary and the courts as a pinch point in an hourglass. We're not like a business, we can't close for business. We're not like a restaurant and say our tables are full, we won't take any more reservations. We are completely susceptible to the work that comes in. If the pinch point is like this, you can have however many immigration cases you want, however many criminal cases you want, we've only got so many judges, so many courts, so many magistrates to deal with the work. Just because there is more work doesn't mean that the work can be done. I do think that if the direction of travel is, I don't like to talk about hierarchy, but downwards or to the magistrates, then clearly somebody is going to have to look at capacity within the magistrates' court to do that.

One of the really important points to make here, I think, is as we've been talking about big ideas, is that what we cannot let happen in the here and now is let big ideas mask what is the critical state of underfunding. So big ideas cannot divert us from what is happening now. That's the first obvious point.

The second obvious point is if there are big ideas and if the decision taken by the Executive and Parliament is to follow them, it is going to cost a lot of money to do it properly. So people need to get ready for that. If it's going to happen, we've seen reform, we can see what happens and what works well and what doesn't, but it's really important, as I say, that we are forward looking, that we are progressive, but it's just as important, if not more important, right now, given some of the things we've been talking about, that we don't let that distract us from the immediate problems, the people we are trying to serve, the families, the defendants, the complainants in the justice system, to do right by all of them as best we can. And so I am keen that the two run in parallel, as it were, but we cannot get carried away with big ideas that may deliver, hopefully, perhaps, down the line (with an enormous amount of investment) to take us away from what we need to grapple with now, because we can't avoid what is going on now and the funding difficulties that we are experiencing.

JOSH BABARINDE MP: I agree with taking a parallel kind of approach, and so it sounds to me that if additional resources were to be made available to rebuild magistrates' courts like Eastbourne Magistrates' Court, that that would not be unwelcome from the perspective of the judiciary.

THE LADY CHIEF JUSTICE: Not in any particular location, I'm afraid, I'd need to take advice on that. I certainly think the estate needs looking at. There are some buildings that are great buildings that are underused.

I mean, again, as with some of the policy ideas you've been mentioning, we've got this estate here, we've got a huge estate, wild, unwieldy, hundreds of courts and tribunals ranging from Victoria Law Courts in Birmingham to the state-of-the-art Rolls Building in London. You know, we should be having a rationalisation as part of this national audit. How many judges do we need doing what, where and when post-digitisation? So I'm afraid I'm wary of committing to a particular project, if you'll forgive me. But in broad terms, your point, which is, if there is more work for the magistracy, do we need to look at capacity? Without a shadow of a doubt.

JOSH BABARINDE MP: People of Eastbourne will remain on the edge of their seat. I wanted to ask about facilities within those buildings.

THE LADY CHIEF JUSTICE: Sorry?

JOSH BABARINDE MP: I wanted to ask about facilities within those buildings, what they're kitted out with. You know, there are some serious challenges, especially when it comes to things like screens. Are they bright enough for juries to see? Are the acoustics in courts good enough? We've heard stories of, you know, lights needing to be turned off in courts for people to be able to see the screens, which means folks can't take notes.

THE LADY CHIEF JUSTICE: And judges turning their computers round and leaning over.

JOSH BABARINDE MP: Exactly. What do you think needs to be done to address what is clearly a kind of failure in the technology to meet the needs of the justice system?

THE LADY CHIEF JUSTICE: Yes, again, I would take the considered, rationalised, deep-rooted investment. If digitisation is the way to go, as it is clearly in civil and other areas, and in crime, there must be scope for a greater use of digitisation for certain hearings, I would have thought. The quality is essential. We haven't got time today to talk about Section 28, which is pre-recorded examination in chief and cross-examination of witnesses and the evidence that it's not as effective before a jury. If you can imagine it being played through a small, scratched, unclear screen, then the public is entitled to have a view on that. So you've seen the quality of some of the kit yourself, and the size of the screen. I'm told in Finland it's a cinema-sized screen, and they're tiny, aren't they, and even with my glasses on, I struggle to see, and this won't do, will it? So we need to improve the investment.

Digitisation, you know, it isn't just a word or a thing that you can do. Quality, I think, is everything if the public is going to have the confidence that it should in the justice system.

JOSH BABARINDE MP: You mentioned in your opening remarks that upholding the rule of law requires investment, and throughout some of what you shared with us, that's a theme that keeps coming back. One area in which there are campaigners who have campaigned for investment is when it comes to court transcripts, particularly victims who want to see what's been said. I speak as someone who's been a victim in a crown court trial, where it's been impossible, because of the financial barriers, to get a transcript of what happened, and why decisions might have been made that were made I wonder whether you feel that the failure, at the moment, of our system to provide that to victims, and indeed others, represents a kind of falling short of upholding the rule of law?

THE LADY CHIEF JUSTICE: It's a complicated area. It's not as simple as you might think. You would imagine, oh, well, it's just easy to get a transcript. It's not, actually, because lots of hearings, there is no transcript produced at the time, and a judge often has to approve a transcript, sometimes many months after the event. And of course, if you want a transcript of a hearing, that will involve a judge or somebody sitting for days and days and days in a court that will have to be set aside for the exercise to prepare the transcript.

So I think the answer to your question is, I think there is movement on this. I think there are some new policies out there. The Government has brought in some new procedures for allowing access to transcripts, and I do understand the desire for access, but I do think you need to look at the resource implications, particularly in terms of judicial time for that, and getting the balance right, particularly in the current climate. So it's a question of degree, almost. I mean, are you asking for a transcript of five days of evidence? Obviously, in the higher courts, for something like sentencing remarks, the judges will be able to give you a written set of sentencing remarks at the time.

The real problem is, when you're doing six or seven sentences in a day, you won't have anything that you can share in terms of notes, and it can become incredibly time-consuming to provide transcripts of all of those. So I understand the concerns and the desire for access, and as you know, I'm a passionate advocate for transparency and open justice. As it were, it's the practical consequences and difficulties that can arise that perhaps inhibit it being quite as easy as you would like.

JOSH BABARINDE MP: What extent have you explored using artificial intelligence?

THE LADY CHIEF JUSTICE: I think this is an area, an obvious area, where we could really begin to use AI, so I—

JOSH BABARINDE MP: By begin, it's not being used at all in that respect?

THE LADY CHIEF JUSTICE: I don't think so. If I'm wrong about that, I will follow up with that. I'm pretty sure... I mean, I'm in an AI working group. There is lots of work going on with AI, but I am not aware that we've got far enough or so far that we're actually allowing AI to look at transcripts yet. But it is an obvious, as it is for interpretation. We spend a lot of money on interpreters, don't we? So I think these are areas where AI could really provide some exciting opportunities for the future.

JOSH BABARINDE MP: What would you say are the blockers? Because we've spoken a lot about capacity really being stuck, and without underestimating the scale of the job to be done, using artificial intelligence or deploying it in some way, shape or form feels like it could be a relatively quick win compared to some of the alternatives.

THE LADY CHIEF JUSTICE: I'm not aware that there is any blocker. There'll be people who know much more about this than me. There may be all sorts of GDPR problems I don't know, confidentiality problems, system problems. It may well be a pure IT problem, I don't know. But I can assure you that AI is being looked at very much in the sort of space you're identifying. So I agree with you.

JOSH BABARINDE MP: Yes, we'll wrap up in a second. To reassure victims, survivors and indeed others, can you give some essence of a deadline or a target by which?

THE LADY CHIEF JUSTICE: AI? No. No. It's a really huge topic. So I'm afraid I can't. Sorry.

CHAIR: I'm aware we're still on crime.

THE LADY CHIEF JUSTICE: I have no idea what the time is.

CHAIR: We have a mile to go. But Tessa, briefly.

TESSA MUNT MP: Can I just ask about a middle stage before we get to full transcripts using AI? I'm aware that, for example, in the employment tribunal, some cases there has been guidance that says that these things should be open for people, people can now watch those cases. Is it not possible to release a recording? I know some cases don't have that facility. I don't understand what the reason is, but I just wondered whether in fact it would be possible for these things to be recorded and issued as a recording, which would at least be...

THE LADY CHIEF JUSTICE: Is that right? In the employment tribunal, they release recordings, do they?

TESSA MUNT MP: Well, they don't. No, but you can watch—

THE LADY CHIEF JUSTICE: I suspect part of the problems – there’s so much to talk about – I suspect part of the difficulties may be security and social media and what people can do with a recording if they are unrestricted, and there will often be reporting restrictions for all of these cases. That’s something we haven’t talked about.

In the sort of cases you may be talking about, there will inevitably be reporting restrictions, and that is part of the complicated process of deciding what you release, how you release it, and in what terms you release it. So you’d have to redact it to anonymise victims and so on and so forth.

TESSA MUNT MP: I was wondering really just about the fact that very often it’s victims who want precisely this information. It should be possible, since it is on Zoom or whatever the equivalent is, to be able to release that information as a recorded file to the victim, and then the victim can choose whether they wish to have it transcribed themselves, to do it using AI or whatever. I just think that in terms of access—

THE LADY CHIEF JUSTICE: We can certainly have a look at it, but the difficulty... No, absolutely—

TESSA MUNT MP: I get the difficulties and I’ll leave it with you.

THE LADY CHIEF JUSTICE: No, no, no, but I mean it is really interesting, and we have actually spent some time talking about it, and I’m struggling to remember the precise detail of some of the complications. I think that some of the complications do arise out of the reporting restrictions, because it’s not as simple as just giving it to the victim, because then what? But I hear, and that’s very helpful, so let me take me back your concerns, if I can put them that way, away with me.

TESSA MUNT MP: Thank you.

THE LADY CHIEF JUSTICE: Thank you. Thank you.

CHAIR: We will move on. If I might ask a question about civil justice.

THE LADY CHIEF JUSTICE: Yes.

CHAIR: Josh has just dealt with it, but I think it’s not too strong to say that we were quite shocked by some of the conditions we saw at Snaresbrook, and some of the equipment there. When we went to central London, I think what most shocked us was the use of paper, and the way that that really hampered the way that the staff worked, from lifts not working, so huge numbers of paper files had to be carried up on a daily basis, stored in cupboards and shelving.

THE LADY CHIEF JUSTICE: In roller cupboards, yes.

CHAIR: And also just ordinary filing cabinets and things. We absolutely admired the way the staff had learned to cope with those conditions, but it was, I think you said earlier, Baroness Carr, it looked like an organisation that was working on fire alarm all the time, and that must be hugely stressful for people in that situation. What is your solution to that problem, as far as the civil courts go? You mentioned a lack of digitisation earlier on, are there other deficiencies there that need to be made up before we can move to what would be a smoother running operation?

THE LADY CHIEF JUSTICE: I think digitisation will never completely eradicate the need for sufficient staff. By definition, it needs really good functioning IT, but the Master of the Rolls, as you know, is and has been for many years a passionate advocate, and he has done a magnificent job in hammering home the importance of digitisation. It’s vital to the progress of civil justice, and we

can see it. I mean, the data is there on this occasion. In the online civil money claim, for example, 29 weeks to get directions on a case issued down to 9.2 weeks.

I mean, everywhere you look, where digitisation is working, the efficiencies are there to be had, and it is a profound disappointment to him, I know, and all of us, that we have not achieved digitisation in civil, because it is, it seems to me, the obvious place where the public, particularly the growing public, the new public coming through, are used to dealing with digitisation. And it works when it works, and what has happened is, as you probably know, civil digitisation has been de-scoped, so bit by bit, things have been taken out of the programme, with the result that, as I said at the beginning, very few cases indeed are going to be fully digitised. So we have, Central London was all paper, wasn't it? Other courts are in the worst of all worlds. They have CaseMan, which is the old electronic system, then they have a bit of digitisation, and then they have paper. So it is a sort of hybrid system, which is utterly chaotic, going through a central sorting centre in Northampton, which has had significant problems with delays, and what should be such a simple system just isn't.

So to take examples of what's been de-scoped, chair, if it's anything other than a money or damages claim, so for example, if you want a declaration or an injunction, you come out of online civil money claim. If you have more than three parties, you come out of the system. Bulk claims aren't in there. So much is there, and we have to press this home, and if I could just repeat what I said at the beginning, improve the understanding of those who hold the purse strings of the importance of civil to the vast majority of the population. The figures are stunning. I think ten to 15 million civil family and tribunal disputes every year, 1.7 million cases every year in the County Court. Civil justice underpins every aspect of society. It travels out into health, businesses, and all the rest of it.

CHAIR: Exactly, and the effect of that, and a caveat here on figures as always, particularly in civil, but the ones that I have show that for quarter two of this year, the mean time for small claims to go to court is almost a year, and for multi-fast-track cases, it's 80 weeks, and I think we're going to get the quarter three data in a week or two's time.

THE LADY CHIEF JUSTICE: I've got the same stats.

CHAIR: What is the strategy for getting that down?

THE LADY CHIEF JUSTICE: There is a lot of work going on within the current strictures in terms of best management. We've got new things like automatic referral of small claims to mediation, reducing the amount of court hearings and all that sort of thing, but I'm afraid fundamentally it is as simple as digitisation. We just need to get cracking. I can see no argument against it apart from funding. And the travel out of the benefit of that in the efficiencies is enormous.

CHAIR: Is it just funding? I mean, for example, we were—

THE LADY CHIEF JUSTICE: I'm told it would take, I think, 15 million to get bulk claims digitised. That would be massive. So that's warrants, that's TV licences, all those huge, huge, huge numbers of civil claims.

CHAIR: Why haven't they been done so far?

THE LADY CHIEF JUSTICE: I don't know.

CHAIR: We are against time, so I'm going to move on to Pam Cox and family.

PAM COX MP: Thank you. We'll move to family justice for my questions, if we may. I'll start with public law and then go back to private law.

You mentioned the pathfinder courts earlier in your remarks, and there's a pilot that's been very successful, I understand. What are the plans to roll out pathfinder courts?

THE LADY CHIEF JUSTICE: I got this wrong as well, by the way, when I started out. Pathfinder is private law. So public law is Public Law Online. So pathfinder is private law, it's private disputes between parents over children, and as you rightly say, started three years ago, started in North Wales and Bournemouth and Cardiff and Birmingham, Swansea at the end of March, and Leeds if we get funding for it. Before telling you why it works, again, this is an area where, happily, we have stunning actual data. I think cases are being done in 21.8 as opposed to 38.9 weeks when they go all the way. So there's actually hardcore data there.

It's a very good example of what Mr Juss was mentioning, which is early resolution. It's as simple as having a child impact report from CAFCASS at the very beginning, and so rather than having the CAFCASS report right at the end of the process when it's going to its full final hearing, the parents who are starting out on this bit of their journey see the report from CAFCASS saying, this is the effect it's having on the child, and they go, do we really want to go through that? Wouldn't it be better for the child for us to agree arrangements? The results are staggering, and actually, we went to the opening of the legal year in Wales, right out in Haverfordwest, and one of the judges there, Her Honour Judge Gaynor Lloyd, who's been pioneering it, gave this demonstration to everybody on a graph as to how it works. It's so simple, and it really, really works. It needs to be rolled out. There is no evidence base on which not to roll it out, it will be a purely budgetary decision.

PAM COX MP: So is there a plan to roll this out?

THE LADY CHIEF JUSTICE: Yes, and we want to be in Leeds if we get funding. So we want to roll it out nationwide to every single family court, and so do the judges.

PAM COX MP: In terms of other innovations in that space on the public law front, Family Drug and Alcohol Courts, I know people have different views on them, I won't ask you for your own views on them, but in terms of ways of using the court as a problem-solving space for children, what might be the way forward with those?

THE LADY CHIEF JUSTICE: So FDAC is amazing. So I had a morning in FDAC two weeks ago, and it is transformational. There's family drug and alcohol abuse courts, and it is basically a judge-led opportunity to work with a person, social workers, supporters, psychologists, to give them a chance in a short frame of mind to work through their problems and see whether or not at the end of that process the child does not have to be adopted, or whether or not the child can come back into custody of the parent. It is transformational. There is hardcore evidence. I think for every £1 spent on an FDAC team, the taxpayer saves £3.20. It is revolutionary. It needs local authority funding at the moment, and that's been patchy and it comes and goes. But again, rather like pathfinder, you can point to the evidence and see that it works. It is early resolution, so it's part of the overall picture of early resolution.

And as the President of the Family Division, who also has led so many extraordinary new initiatives with vim and vigour, has suggested that perhaps the 'D' and 'A' might stand for domestic abuse and not drug and alcohol. Is there scope for rolling out this sort of pilot, this sort of concept, outside the drug and alcohol unit? Because it really does work, and it's very humbling. Early problem-solving courts, the Manchester Magistrates have just received a King's Award for their early problem-solving courts with women. I sat in on one of those, and these extraordinary women who were almost mute on day one come in, and you can't stop them talking after week six. It is transformational to see the work that can be done by judges and magistrates with people who

really, if at all possible, should not be in the court system at all. So FDAC is great. Thank you for mentioning it.

PAM COX MP: Thank you, and thank you for raising the possible connection with domestic violence cases. We're on day two of 16 days of international action against violence against women and girls, and that might be a very interesting route to pursue.

So my final question is around the average length of a case in private family law cases. March 2024 was about 44 weeks. Is that a sustainable figure? What are plans to—

THE LADY CHIEF JUSTICE: In private law or public law?

PAM COX MP: Yes. Average case length in private family law, 44 weeks, or 43.9 weeks.

THE LADY CHIEF JUSTICE: Right.

PAM COX MP: How might we get that figure down in your view?

THE LADY CHIEF JUSTICE: Well, I would say pathfinder in private law. Again, I don't know where that statistic comes from. I'm not doubting it, but in Cardiff, I think we've got the backlogs are down with pathfinder from 1,300 to 83, 280 live cases with only 70 live for over nine weeks. So I think pathfinder front-loading as few hearings as possible and making every hearing count. So those are some of the things actually that's happening in public law as well, but all of that is in the same direction of travel.

SARAH RUSSELL MP: You mentioned in respect of pathfinder a list of courts, which sounded to me mostly like they were in the South and Wales, and you did refer to Leeds as a potential further rollout. You then talked a bit about Manchester. I was wondering to what extent, both in civil and criminal potentially, what I've seen across the public sector since I've become an MP is that things seem to be completely different often in London. The quality of services or the way things work is just totally different in London, and then the further you get from London in any direction, but frankly, particularly towards the North, often stuff just doesn't go there, and the quality of services that my constituents in the North of England receive is accordingly completely different and bluntly often infinitely worse. So I was wondering if you get information about regional disparities across civil and criminal, if you feel that things are being moved forwards at an even rate and whether regional areas are getting what they need?

THE LADY CHIEF JUSTICE: Yes. I think regional justice is incredibly important. I would take as an example the regional business and property courts. We've just opened the new regional business and property courts in Leeds and Manchester. I think local justice is very important, and so we do very much... I understand sometimes things do feel very London-centric, but I'm unaware, there's certainly nothing deliberate about it.

SARAH RUSSELL MP: I'm sure that's true.

THE LADY CHIEF JUSTICE: I think it's an awareness and a sense. I mean, I was a presider on the Midlands Circuit, so Lincoln, Newark, Birmingham, Worcester were all my courts. So I will take that away to think about it. But I do want to assure you of my commitment that it shouldn't be lottery justice. It should be justice for all and it should be the same justice. As I say, where there are regional variations, often if it's with FDAC, which are local authority funded, it can be because you have a particularly bad local authority. I think Kent FDAC closed, I don't know, the funding was suddenly pulled. But, I mean, the courts in Manchester and Leeds and others and Liverpool are enormous and functioning well. They're certainly very busy. So I wouldn't want there to be an

impression that there is any desire, and if we aren't looking after the North enough, then we need to think about it.

SARAH RUSSELL MP: Moving on to tribunals.

THE LADY CHIEF JUSTICE: Yes.

SARAH RUSSELL MP: The One Judiciary reforms you have, I know, very much pioneered. What more do you need in order for there to be more cross-deployment of judges between courts and tribunals? What can we do to help?

THE LADY CHIEF JUSTICE: Thank you. So One Judiciary is very important. It's about bringing the courts and tribunals together to make better use of resources so there's a strong efficiency drive to it. Harmonising working practices so that we get the best out of everybody whilst respecting our differences is also a diversity and inclusion culture. I think that tribunal judges haven't necessarily had the respect that they deserve in some quarters, and I think that's an important thing for me to work on alongside the Senior President of Tribunals who is passionate about One Judiciary. I think I've spoken in the past and spoke in January about the need for legislation to bring about a healthier leadership structure which is more consistent with One Judiciary, whereby the Senior President of the Tribunals becomes a Head of Division and I sit on top, and he acts, as I say, as a Head of Division in that way.

The tribunals have led the way in many ways, so it was the tribunals that first came up with the idea of a virtual region, which has been a fantastic development that we are rolling out in civil and family which means that if one court has basically got capacity and another court is bursting we can go into the virtual region and redistribute the work digitally, and that's a fantastic idea. So One Judiciary is I think an incredibly important part of the future of a 21st century fit for purpose judicial system and that is all the more so when we look at what's happening to the tribunals at the moment. The tribunals are the most vulnerable part of our justice system when it comes to policy change and new legislation and we can see that, can't we, right here and now. Immigration and asylum, renters' rights, new property legislation, mental health cases, workers' rights. So all of that is going to affect the tribunals, so the demand on them is going to be enormous.

When we were short, for example, in civil with district judges we were able to cross-deploy employment judges across. So flexibility of deployment, feeling like we're all part of one system, you're a judge at a certain level, it doesn't really matter where you sit. You're a circuit judge and, you know, so I think that's important.

CHAIR: Do you ever feel you're asking too much of some of the judiciary?

THE LADY CHIEF JUSTICE: Yes.

CHAIR: The reason I say is that there aren't many professions where you'll be asked to work across the piece in the same way. Clearly for some judges, not only can they do it, they like doing it, but are you forcing everyone down that?

THE LADY CHIEF JUSTICE: Nobody will ever be forced to cross-deploy. But on a broader point, going away, if I may, from your point, there is something I would like to say, and that is I think you make a very good point, which is the judges in certain jurisdictions, their morale is very low, for reasons which you may be able to imagine, and in some areas we have been marched up the hill and down the hill. Take Rwanda, as an example, the training, the magistrates, up the hill and down the hill, and so on and so forth, and I do think part of my role is to support the judges through what is still a very uncertain time for them, both in terms of policy, everybody's got ideas about what

we might do, well that's quite unsettling, and in terms of money, because we don't know what's going to happen.

So I am a firm believer, as you say every now and then, in just saying actually, maybe we should just leave them alone for a bit and let them settle down. The problem is we are a little bit not able to because of the figures that we've been talking about, but I do think that part of my role will be to support judges in these challenging times, and sometimes maybe that means holding back for a bit.

SARAH RUSSELL MP: You've talked about the fact that you foresee significant increases in the workloads of those tribunals. Do you have any information about resources to go with that?

THE LADY CHIEF JUSTICE: No, and I think that we've talked in all sorts of jurisdictions, haven't we, about the interconnected nature of the different parts, and I think it's government responsibility to, whenever it looks at a new policy change, to look at judicial capacity and the effect it will have on judicial capacity. I would take that as read.

In the last quarter we have seen an 82% increase in cases in the first-tier tribunals, immigration and asylum. So, if there is 82 percent, that is huge. What we are doing is as much as we are allowed to recruiting new judges, but the numbers are small. I think we have 150 fee-paid judges who will not be in post at the earliest until autumn 2025, and I think we have a competition for some salaried judges as well. Again, I do not see any of those new judges coming online, after training, until well into the autumn of next year. So, going back to the hourglass, you can increase the ask, but you are not going to make the width of the hourglass at its pinch point any bigger unless you increase capacity, and that does not happen overnight.

So, and I think this is understood by government, you cannot make these big policy decisions without being acutely aware of downstream impact, if I can put it that way.

CHAIR: I am going to slightly reorder and move on to Warinder, if I may.

WARINDER JUSS MP: Yes, thank you, Chair. I wanted to ask you some questions about judicial capacity, the make-up of the judiciary and also diversity within the judicial profession.

THE LADY CHIEF JUSTICE: Yes.

WARINDER JUSS MP: So, you mentioned that there is competition for judges at the moment. When we were at the Central London County Court last week, I did raise that question because one of the issues raised was that there is a bit of a recruitment crisis.

THE LADY CHIEF JUSTICE: Yes.

WARINDER JUSS MP: So, we know we need more circuit judges for criminal cases and district judges for civil and family cases. So, what are the challenges? Why is there a difficulty in recruiting judges?

THE LADY CHIEF JUSTICE: There are different problems in different areas. So, the real problems, as you rightly identify, are salaried district judges and salaried crown court judges and salaried employment tribunal judges, to take examples.

We have seen significant shortfalls in all those competitions, even though we have had massive outreach, particularly, for example, salaried district judges, where there is an acute need, and we fell short in crime as well. One of the problems is that London and South East is very expensive. So, we have a challenge in recruiting full-time district judges to London and the South East.

The other challenges are what you have been hearing about, which is the conditions of the buildings, the stress, the workloads that judges are working under. So, again, it is multifactorial and it is a real problem, and we have to address that. Obviously, we are going to have perhaps a major review with the Salaries Review Board, and I would like to look at the possibility of legislation to look at how we calibrate the terms and conditions between salaried and fee-paid judges.

So, for example, a fee-paid judge gets their travel expenses and their accommodation paid, and a full-time judge living in London does not. So, I personally am a firm believer that the backbone of a modern 21st century English and Welsh judiciary should be made up of salaried judges. In civil, for example, it is 50-50. In the tribunals, it is, I think, 30-70, possibly, i.e. 30 salaried, 70 fee-paid. That is not the right balance. Obviously, I advocate for the joys of a full-time salaried judicial position, which are many. For people who like leadership positions or are truly committed public servants full-on, there is no better job, and of course, there are many opportunities that you would not have as a fee-paid judge, but it is a real problem that we are facing.

WARINDER JUSS MP: Are there any problems in terms of the applicants not being of the required high standard?

THE LADY CHIEF JUSTICE: The appointments are all on merit. Nobody will be appointed who does not meet the merit standard. That is incredibly important. So, I do not think there is a quality problem by definition because you would not be appointed if you did not meet the standard. But I do think that this is a really tricky problem, the balance between salaried and fee-paid. Fee-paid judges are incredibly useful and important. They do great work. They fill a business need, but they should not be the backbone, in my view, of the justice system overall.

WARINDER JUSS MP: I wanted to ask you a question about fee-paid judges and salaried judges, but before I come on to that, can I ask you a couple of questions about the actual make-up of the judiciary? Five per cent of senior judges in the High Court and above are non-barristers, and they are mostly solicitors, but when it comes to district judges and deputy district judges, non-barristers amount to something like 55 per cent. So, why is it that we get barristers who reach the higher positions in the judiciary and not, say, solicitors?

THE LADY CHIEF JUSTICE: The question is, why don't we have more solicitors at the top?

WARINDER JUSS MP: Yes.

THE LADY CHIEF JUSTICE: Right, so, I think we have at least one solicitor in the Court of Appeal, don't we? Over 20 percent. I've been working flat out with solicitors, if I'm allowed to say that... well, I just have. I'm doing quite well, so in the last three months I have had three full-on sessions with Magic Circle firms, as well as working with the Law Society more generally. Over 20 percent of the Chancery Division is now made up of former solicitors, which I am really excited about, and that is quite a statistic. The answer is... I don't know whether you... well, I'm sure you have better things to do than read my talk to the London Solicitors Litigation Association on Thursday night.

WARINDER JUSS MP: Not yet... .

THE LADY CHIEF JUSTICE: Good, well, perhaps you can give some of that out, chair. I am thoroughly committed – and actually it's front page of the Law Gazette as well, if you read that – I am absolutely committed and I think we are making real progress. As with women and ethnic minorities and black people, the reason why more people aren't getting to the top at the moment, why they aren't there yet, is because it's a pipeline and we need to work to getting the right people in from the very beginning and tracking and supporting them all the way through, so that we have a judiciary that is properly reflective of our society and as diverse as possible. In my lecture, I speak

of all the transferable skills and all of the benefits that solicitors can bring to the bench, because they are many. Of course, in the tribunals there are more solicitors than... or as many solicitors, I can't remember what the statistics are, in the tribunals; 59 percent solicitors,...41 percent solicitors...

CHAIR: You're not going to resolve your problem of salaried judges then?

THE LADY CHIEF JUSTICE: No.

CHAIR: What you're talking about, people who might do some fee-paid work.

THE LADY CHIEF JUSTICE: No, I am talking about full-time salaried judges.

CHAIR: Recruiting from Magic Circle.

THE LADY CHIEF JUSTICE: Oh, no, you're quite right, that's right. Overall, I must be taking into account fee-paid judges here. Yes, I am.

CHAIR: And you mentioned that they found time to do pro bono work.

THE LADY CHIEF JUSTICE: That was a good dig, I think, chair. I mean, the big—

CHAIR: You don't want them not to do the pro bono.

THE LADY CHIEF JUSTICE: No, but what I hear from Magic Circle firms is, "Well, our best people are so busy and making us so much money, we can't possibly release them to do six-week sitting." I am trying to appeal to their broader social consciences to understand that just as they can do pro bono work, so they can contribute to society in a broader way by allowing their solicitors to become members of the judiciary.

WARINDER JUSS MP: If I read your article, I might be able to get the answer to the next question. So, when it comes to ethnic minority background judges, district judges in Magistrates' Courts, you've got 14 percent who are from ethnic minorities. I hope these figures are right. And when it comes to deputy high court judges, 13 percent are from ethnic minority backgrounds.

THE LADY CHIEF JUSTICE: Yes.

WARINDER JUSS MP: But when we look at more senior appointments, those percentages are much lower.

THE LADY CHIEF JUSTICE: Yes, it is a similar answer. You always need to remember that you need to compare the statistics with the eligible pool. So it is not a percentage to be taken in isolation, it is to compare the number of people in the judiciary from the eligible pool of applicants. We've been making slow progress with Asian and mixed ethnic minority judges, far less good progress with black judges in particular. And that is, as you know, one of my particular priorities this year under our diversity and inclusion strategy and we have a long way to go there, but we are listening.

I think part of what I think we need to do is listen more to black judges' experiences and why they feel they aren't progressing more or there are things that we could do that we aren't doing. We have very good engagement with them, so we are involved with all sorts of relevant organisations. We have lots of reverse mentoring, lots of shadowing schemes and all the rest of it. But we aren't making the progress that I would like to see, and I don't think it is an easy issue to resolve, but I'm

not going to give up on it, and we will get there. But it is this pipeline thing, it is just making slow progress through.

We have made really good progress with women, and I know that's not necessarily a big news story anymore, but actually in ten years improved proportions by ten to 14 percent in certain jurisdictions. So we are going in the right direction and we will never give up. So, it's just a question of working at it. It is not good. I think everybody would like to see the situation better.

WARINDER JUSS MP: Thank you for that, because it is reassuring. One final question I have. In January you mentioned to the committee that you wanted to review the terms and conditions of salaried judges and fee-paid judges. So, are there any disadvantages that you see in having fee-paid judges in crime, civil and family cases?

THE LADY CHIEF JUSTICE: No disadvantages at all. They do, as I said, a really important job. They allow us to fill our business needs. Of course, I was a fee-paid judge and then I became a full-time judge.

It's a very good training ground to see whether you enjoy judging and want to take it all the way through. So, they do a fantastic job. They are very important. It's just that we can't have them running the courts for all sorts of reasons. They don't do box work, they don't take on leadership roles, and they won't be able to sit for three or four weeks, or let alone more than that, on the big cases. I hope that answers your question.

WARINDER JUSS MP: Thank you.

CHAIR: Linsey, your turn.

LINSEY FARNSWORTH MP: Thank you. Can I just take you back to the recruitment of salaried judges?

THE LADY CHIEF JUSTICE: Yes.

LINSEY FARNSWORTH MP: I've got a question that has two elements to it, in terms of increasing your pool of people. You talked about working with Magic Circle to try and get more solicitors. Are you working with any other pools of people, so law centres or high street practices?

THE LADY CHIEF JUSTICE: Absolutely flat out with the Law Society, and the reason why I... sorry to cut across. The reason why I mentioned the Magic Circle firms is because that is where we've made the least progress.

LINSEY FARNSWORTH MP: Right.

THE LADY CHIEF JUSTICE: So, they have been my target group, and of course, because I was a Business and Property Court judge and a Commercial Court judge and all the rest of it, I'm well-placed to understand their worlds and speak to them with conviction, I hope. The reason I singled them out is because every year, all the time, we are reaching out to solicitors across the nation in all practices. I work very closely with the CILEX, with the Law Society and, of course, through the Judicial Diversity Forum, where we all come together and discuss these issues.

LINSEY FARNSWORTH MP: Thank you. That is very reassuring. The second part of the question was in relation to female. Are there any schemes that will expedite increasing the number of female judges? So, for example, in the House of Lords, with female bishops, they have – as I understand it, and I am sure Andy will correct me if I am wrong – they were ring-fencing the next appointment

into the Lords for bishops would have to be a female, because they need to increase the numbers of female bishops in the Lords.

THE LADY CHIEF JUSTICE: We'd never do that. That's not something I would ever support. It doesn't fit, for me, it doesn't fit with a merit-based appointments process. But what I will say is that we have a lot of very targeted outreach, which has remarkably good results in terms of success rates with applications for judicial appointments, and women, and indeed all minorities, are supported through that process. It's current or retired judges giving one-to-one bespoke, tailored advice through the process, both what level to enter and all the rest of it. So, I think that the ring-fencing, as you put it, is something that I am not comfortable with, at least not comfortable with at the moment.

LINSEY FARNSWORTH MP: Thank you.

CHAIR: We are nearly there. A couple of questions, if I may, as we get towards the end. There's a lot of talk about conduct and regulation, perhaps more than there used to be, and that's across all the professions, from the Bar inquiry into bullying that in there were 27 complaints upheld by the Judicial Conduct Investigation Office, according to their recent annual report.

THE LADY CHIEF JUSTICE: 27 complaints of...?

CHAIR: 27 complaints upheld against judicial office holders for inappropriate behaviour or comments.

THE LADY CHIEF JUSTICE: Yes.

CHAIR: And that's a small number, obviously, overall in terms of the overall judiciary, but do you have any concerns that standards may have slipped? We also have a lot more litigants in person in court. We've, very sadly, had some violent attacks on judges. Those things must be of concern to you, but how would you put that into perspective?

THE LADY CHIEF JUSTICE: Yes. I am a passionate supporter of an open, transparent disciplinary system, as you know. I come from a disciplinary background. I was chair of the Bar Standards Board Conduct Committee, and I was the chair of the working group that brought in the recent revisions to the disciplinary rules and regulations that are operated by the JCIO.

Standards slipping – I suspect that the accurate answer to your question is that it is in part, no, because an increase in complaints is simply the product of a more open, transparent disciplinary system, which is a good thing. If complaints are made and they are well-founded, then that is a good thing because it holds us to account.

In terms of standard slipping, I suspect that the stresses and the strains on individual judges at times may take their toll, and that may be part of the reason. So I wouldn't necessarily see that as standard slipping as much as circumstances changing and affecting the way people behave.

What I am absolutely clear about is that I will not tolerate bullying, harassment or inappropriate behaviour and where it is established, it will be acted on. You can see from the complaints and their transparent outcomes, you now get details, that that is what will happen. The Lord Chancellor and I take our responsibilities for discipline very, very seriously. We discuss cases together. It is an independent process. I think sometimes it can be a bit quicker than it is, and it's not always completely perfect. No system is completely perfect, but it is robust and it's effective. As you say, I think two to three percent of complaints per year are upheld, which is not a lot in the grand scheme of things.

CHAIR: In those rare cases where disciplinary action needs to be taken, or even removal from office, do you think the system works? I am thinking, for example, in cases to do with coroners where it proves to be very difficult to take steps. Do you think we need to look at the way the system works?

THE LADY CHIEF JUSTICE: Yes, I think, and as with everything, I am always open to looking at ways of making it better. Advocates and solicitors, there are informal and formal channels of raising complaints. Informal is face-to-face, directly, and I can see that is difficult. It could also be through your Head of Chambers or your senior partner to the judge's leadership judge, or more formal processes. There are also things like Talk to Spot, which I think you probably know about, chair, which is the Bar's complaints line or counselling line. The Bar Council and I work very closely looking at themes and trends. It is a sensitive area. It is really important and I think you know about the Statement of Expected Behaviour that we brought in in January 2022, which is now an intrinsic part of the Guide to Judicial Conduct. I don't think any judge is in any doubt as to my position on bullying, harassment and inappropriate behaviour.

CHAIR: Thank you very much. We did have other questions, but I am not going to run this any longer because you've been extraordinarily generous with your time. I think we're all very grateful for the insight that you've given us today. We would like you to come back at some point.

THE LADY CHIEF JUSTICE: Yes, please. As I anticipated I would, I have found it a very engaging and helpful debate. I am, as I say, really keen to give you everything that you feel you need, and I will do my best to give you accurate, reliable and as objective as I can answers to your extremely insightful questions. We are going to extend an invitation to Ms Cox to come to the CCIG. There is, as you know, an open invitation to all members of the committee to come and visit us in the Royal Courts of Justice on an information gathering exercise at any time for a cup of tea. You know we see the parliamentary clerks from time to time. We are going to the Senedd to do the same in Wales, but I am really keen to support you and also to recognise, as I did at the outset, the importance of your work because you are in a very important area of civil society in the context of the rule of law. So, thank you for everything that you do, and good luck.

ALL: Thank you very much.

CHAIR: Thank you very much, Baroness Carr, and at that point I will bring this session to an end. Order, order.

[Ends]