

JUSTICE COMMITTEE

ORAL EVIDENCE SESSION WITH THE LADY CHIEF JUSTICE
THE WORK OF THE LADY CHIEF JUSTICE

on

Tuesday, 25th November 2025

The Lady Chief Justice, The Rt Hon Baroness Carr of Walton-on-the-Hill,
Head of the Judiciary of England and Wales and President of the Courts of England and Wales

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CHAIR (ANDY SLAUGHTER MP): Order, order. Welcome to this afternoon's session of the Justice Select Committee, where we are very pleased to have the Lady Chief Justice, Baroness Carr, in front of us to ask her a series of questions from the members of the Committee. Before we get on with that, we will do our declarations of interest from members of the Committee, starting with Sir Ashley Fox.

SIR ASHLEY FOX MP: Good afternoon. Ashley Fox, member for Bridgwater. My interests are set out on the register.

THE LADY CHIEF JUSTICE: Thank you.

SARAH RUSSELL MP: Good afternoon, Sarah Russell, member for Congleton. My interests are set out as the register. I'm a member of various trade unions. I'm also the Chair of the All-Party Parliamentary Group on Access to Justice as of this morning.

THE LADY CHIEF JUSTICE: Oh, congratulations.

SARAH RUSSELL MP: Thank you. *[Laughs]*

TONY VAUGHAN KC MP: Good afternoon, Baroness Carr. My name is Tony Vaughan. I'm the MP for Folkestone and Hythe. I am a barrister in King's Counsel, and an associate tenant at Doughty Street Chambers.

THE LADY CHIEF JUSTICE: Thank you. Nice to see you.

CHAIR: I'm, as I said, the chair of the Committee, Andy Slaughter. I'm the member for Hammersmith and Chiswick. I'm a non-practising barrister. I'm the patron of two justice-related charities, the Upper Room for ex-offenders and Hammersmith & Fulham Law Centre. I'm a member of the GMB and Unite trade unions.

TESSA MUNT MP: Good afternoon, Baroness Carr. My name is Tessa Munt. I'm the member for Wells and Mendip Hills in Somerset. Everything is as per the register, but I would just highlight the fact that I am the Vice-Chair of the APPG for Penal Affairs, and I am the Vice-Chair of Whistleblowers UK, which is a non-profit-making organisation.

THE LADY CHIEF JUSTICE: Thank you.

VIKKI SLADE MP: Good afternoon, I'm Vikki Slade, I'm the member for Mid Dorset and North Poole. My interests are as per the register.

THE LADY CHIEF JUSTICE: Thank you.

LINSEY FARNSWORTH MP: Good afternoon, Baroness Carr. My name is Linsey Farnsworth. I'm the Member of parliament for Amber Valley in Derbyshire. My interests are as per the register, but of particular relevance to today I was a Crown Prosecutor for more years than I care to remember. *[Laughs]*

THE LADY CHIEF JUSTICE: I remember, yes. *[Laughs]* Thank you.

PAM COX MP: Good afternoon. My name is Pam Cox. I am the Chair of the APPG Penal Affairs, and other interests are as declared on the register.

THE LADY CHIEF JUSTICE: Thank you.

WARINDER JUSS MP: Good afternoon, Baroness Carr. I am Warinder Juss, Member of parliament for Wolverhampton West. I am a solicitor but not practising. And I'm a member of the GMB Trade Union Executive Council, as well as being a member of various APPGs.

THE LADY CHIEF JUSTICE: Thank you.

CHAIR: Thank you very much, members. Baroness Carr, it's almost exactly a year since you were last before the Committee. Quite a lot has happened in the world of justice since that time. So, as we always extend to the senior members of the judiciary here, the opportunity for you to make an opening statement to the Committee before we go on with questions. So I will hand over to you.

THE LADY CHIEF JUSTICE: Thank you. I promise you I won't abuse the opportunity by going on for too long, and thank you, Chair, for inviting me. You're absolutely right. I think it's almost a year to the very day since I was last here. Many of the members of the Committee are now familiar to me, which is great. There are a few new faces, also very good to see. I'm also conscious, Chair, that it's the day before the budget, and also that the Government is shortly, I think, to announce its response to Leveson Part 1 in particular, so there is an awful lot going on. As you anticipate, it has indeed been another very busy year for me. All of my court visits, I think I've done more than 20 court centres, several international visits, countless bilateral meetings, school visits, prison visits, and too many lectures and speeches to count.

I wanted to start, actually, by expressing my thanks for the Committee's engagement over the past year, including Chair to you, for your thoughtful engagement on issues concerning the rule of law. It is an issue that demands constant vigilance. I know that the whole committee has also been working hard. Amongst other things, you have heard evidence from the Master of the Rolls on Civil Justice in spring, and of course, you've produced your excellent report on the work of the County Court. I was delighted to see the Government publicly accepting that civil digitisation is a priority, amongst other things, on the back of your report. So, thank you for that, and I know I think a month ago you heard from the President of the Family Division in person as well.

For me to communicate what the judiciary does and how it does it seems to me to be more important than ever. The outside world, including parliament, remains unaware of much of what we do, and a few recent events have illustrated that vividly. It's one of the many reasons why today is a most welcome opportunity. I would like to open with a simple, but I think important, message. For the judiciary at the moment, it is, so far as I am concerned, business as usual as far as possible.

Now, as I will explain, that very much does not mean standing still, but it's an important aspect of what I have been saying to judges up and down the country in difficult and challenging times. So, you know that quietly and without fanfare, they are just getting on with the day job. That, I think, deserves recognition and gratitude. But it should also provide, I hope, some reassurance to the public, so that with all that is going on around us, we are trying not to be distracted.

So, it's not my intention in these opening remarks to dwell on the many challenges. The nature and scope of those are probably very well known to this committee. You know, we have resourcing problems, we know we have likely significant changes to the criminal justice system, including in particular with the magistracy. We know that there is a new policy on the abolition of the Immigration and Asylum Chamber. We know that there are constitutional developments concerning the Sentencing Council. We know that there is an ongoing interplay between media, politics, and the work of the judiciary. My views on many of these matters are, I think, well known, but they are all part of the backdrop against which we are operating.

So, to my theme, "business as usual", what do I mean by that? Well, of course, I mean that we are working hard on daily caseloads. You know that receipts are outstripping disposals in many jurisdictions, including in the criminal jurisdiction. The open case backlog is 26% up on where we

were last year. You know that receipts in the immigration tribunals have rocketed 45% up from where they were last year. The trajectory, the modelling for receipts in the future is only going upwards, and it's going upwards actually faster than we have been anticipating. But, as part of this business as usual, the daily caseload, I wanted to emphasise very briefly the proactive judge-led modernisation work that we are doing alongside all of that, all of the time, as part of our business as usual.

I feel that there is a real and tangible energy and commitment across the judiciary to bring about change that goes way beyond simply reacting to problems as they unfold, and I think that many politicians and members of the public might be surprised to learn about much of the work that is going on.

I could come up with an incredibly long list of examples of the sort of work that I am talking about. I've limited myself to a short list: AI and transcripts, video hearings, transparency and open justice, the Criminal Courts Improvement Group, magistrates' governance, and recruitment. And to pick out of that enticing list, just two topics, if I may: AI and transcripts.

AI. So now, after careful piloting, every judicial office holder in England and Wales has access to the Microsoft Co-Pilot Chat tool. Now, if we are not the only jurisdiction in the world to have achieved that, then I believe that we are one of the very first to have achieved it. In addition, we've got, I think, just under 300 leadership judges with access to additional functionalities. We are working with HMCTS to build a cross-jurisdictional, bespoke judicial AI tool. It's going to be looking at, as you might expect, transcription, interpretation, but also things like bundle summarisation, analysis, chronologies, summaries again, and search capacity.

Work is being done on a prompt library. Did you know that there is a job now of being a prompt engineer? Well, there is, and they're working for us, looking at whether or not we can improve our prompt functionalities, and we've got work going on in the Judicial College focusing on a prompt library on the Cco-pilot on everybody's computers that I've just referred to. I remember well this time last year, Mr Babarinde was asking me about the use of AI in transcripts, and we have been making good progress there, as I hoped we would, so I'd like to report back.

Transcripts, of course, play many different functions. They are an external tool in terms of access to justice, but they also can lighten the load of a judge every day in court because the judge doesn't need to take notes at such a ferocious rate on their computers, so there are a variety of benefits to keep in mind. But in the Immigration and Asylum Chambers, we've been piloting since January with HMCTS the use of AI for transcripts, and it has been a great success. I hope that it will be rolled out. There are bids for that work to be carried out. So, that is a very positive development, and I'm sure it holds massive potential for the future.

Then, on to transcripts more generally, if I may. Transcripts have rightly been a massive topic of debate and discussion, both in and outside of parliament recently, and we discussed it last year as well. It's a very important issue. In general terms, my position is that if a hearing is in public, then you should be entitled to a transcript of the hearing, subject to fees and subject to reporting restrictions. This, of course, has a particular salience given Sir Brian Leveson's proposals for the magistrates' courts to become courts of record. So, it's a very lively topic. If you look at the work of my Transparency and Open Justice Board, you will see that at key objective 3C: effective access to, amongst other things, transcripts, is a key target. It's good for me in terms of open justice, and it's good for me in terms of enhancing public understanding and confidence in the work that we do.

As we discussed last year, releasing a transcript isn't as straightforward as you might instinctively think. Different jurisdictions have been operating different practices, and one of my goals will be to ensure and promote better consistency in those practices. But, ultimately, I think it's very important to remember that the provision of transcripts is a matter for and the responsibility of the Ministry of

Justice. Judges make the decisions, they impose reporting restrictions if that's appropriate, and then, really, the mechanics of releasing transcripts is something that judges don't have time or resource to do.

I wanted to just flesh out, because it's easy to think, well, what's she talking about? Why is it so complicated to release a transcript? Well, we can all immediately think about the potential for compromise to the anonymity of victims, particularly with jigsaw identification and cases involving multiple complainants, breaches of reporting restrictions that are in place for confidentiality or fair hearing reasons. But there are some perhaps less obvious complications that I think I should flag up to you, just so it's in the public domain.

Think for a moment about the Rehabilitation of Offenders Act 1974 – how you're going to interact with that and the policy behind that legislation, which provides that people are entitled at a certain point, depending on the nature of their crime, to have the slate wiped clean. Think also, please, very carefully, and I don't want to go into detail, about the potential for use of transcripts for improper purposes: sexual gratification, harassment. Once the documents are out in the public domain, we know that they can be used. We know what goes on in prisons and elsewhere. There are many, many ways in which this sort of material can be used which would not be seen as helpful or perhaps even in the public interest. So, quite a lot wrapped up in there. It's not a straightforward exercise, which I think is why people have been struggling with it a little in the past.

I wanted to move on in the open access space to one final topic before rounding up, and it's the topic of publication of decisions from the Immigration and Asylum Chambers, because there's been a bit of a false narrative going on here. The narrative that I've been sensing, rightly or wrongly, is that somehow judges have been standing in the way of the publication of First Tier Tribunal Immigration and Asylum decisions. If there is such a narrative, it will be not only inaccurate but entirely unfair. The only thing that has been holding back the publication of transcripts from First Tier Tribunal decisions is resources. So, I have set up, and I set up actually in May of this year, a task force to look at what we could do to get publication of these decisions, and that task force has put forward a bid and a model for the work to take place.

Please do bear in mind... I don't know what impression you have of the sort of volume of decisions we're talking about every year? 30,000 and more. So, for example, for the National Archives, which is where all other judgments get published at the moment, to take on that sort of volume would be a very major undertaking, or you have to set up a new engine to cope with publication of these decisions. But I wanted to make it absolutely clear that way before the debate appeared to be taking place in public, we, the judiciary, were on it with a task force looking at ways of publishing these decisions. It's all part of my constant theme, which is the more access and the more public understanding there is of the work that we do and the judgments that we produce, the better. It's, as far as I'm concerned, a one-way street. So, I just thought that might be a useful bit of information for the Committee.

So, in conclusion, Chair, to emphasise, I'm very keen, obviously, not to sugarcoat the performance position in the courts and tribunals, and we clearly need this afternoon to discuss what are some fundamental issues. The latest Judicial Attitude Survey confirms high levels of stress and very heavy workloads within the judiciary. This year has shown again the level of responsibility – that's an important word – the level of responsibility carried by judges under what has been sometimes relentless scrutiny. Think of Epping, think of Palestine Action. Last year in this committee, we talked about the summer riots of 2024. The judiciary has, I think, continued to demonstrate its ability to respond at speed when appropriate, and under pressure. Trust in the judiciary rightly remains high if you look at the surveys and you look at the evidence and that, to my mind, is all thanks to business as usual. Thank you very much.

CHAIR: Thank you very much indeed. If we go straight into questions, I'll begin with one or two questions on the theme of judicial independence. Following your appointment, Baroness Carr, you said that you were determined to foster the independence of the judiciary separate from both government and parliament. How would you characterise the current relationship between the Government, parliament, and the judiciary?

THE LADY CHIEF JUSTICE: Thank you for that. Again, I very much welcome that debate. I see fostering a collaborative, constructive relationship between the judiciary, government, and parliament as an absolute priority. It's important to say at the outset that there's an awful lot of work that goes on in this space behind the scenes that people don't know about and probably don't need to know about. But you will not be surprised to hear that my primary relationship is with the Lord Chancellor of the day. I meet with him or her very regularly, both in person and remotely. I see the Home Secretary, I see the Prime Minister. Members of the senior Judiciary engage on a regular basis with all relevant ministers, depending on their cohorts. So, there is an awful lot of work that goes into this relationship.

It's often said that if there weren't sometimes disagreements, that would be something to worry about rather than something to applaud, and I would endorse that. But where we do disagree, it is always professional and understanding the different tensions and the different interests that we represent. So, in answer to your question, Chair, on that level, it has remained constructive and collaborative. It was an extremely good relationship with the now Home Secretary, who I've seen already in her new capacity. The new Lord Chancellor has landed on his feet. Obviously, he's very familiar with many of the issues that we're dealing with.

That's, as it were, a slightly personal response in terms of the role of the Lady Chief Justice. Of course, at a higher level, we've had splendid engagement from MPs. I think we've had 75 visits to courts, and I know that, Mrs Cox, you visited Chelmsford.

PAM COX MP: Yes.

THE LADY CHIEF JUSTICE: And we've got a good sort of strategy of engagement there. I think we've got 19 more visits planned and another 31 in the pipeline. Everything the Committee can do to encourage MPs to visit their courts would be very, very welcome. We've also got our parliamentary liaison judges, our strategies and engagements with speakers, and so on and so forth, and I wouldn't want to omit reference to the Foreign Office, because we have a very successful international programme, and in that context, both at the beginning of the opening legal year and elsewhere, we work very closely with the Foreign Office, not only with the Foreign Office's lawyers, but also with the Perm Sec and the Foreign Secretary herself. So, do unpick any of that if there's anything particularly you'd like to ask, Chair. But, genuinely, relationships are really good. I look forward to my engagement. I think that's a mutual feeling. The rules are clear, the lines are drawn, and I think, most importantly, for me, when I talk about my relationship with the Lord Chancellor of the day, which is the most important relationship, the most important thing for me is that I feel able to have a healthy debate, that we actually discuss what are sometimes very, very difficult issues.

I think a willingness to change position, to be flexible, to listen and learn is incredibly important, and that is the sort of relationship I have with the Lord Chancellor.

CHAIR: Thank you. That is the positive side of it.

THE LADY CHIEF JUSTICE: Yes.

CHAIR: There have been, however, recent high-profile examples of public political commentary on live cases with, the risks obviously of contempt, judicial decisions and the suitability of individual

judges based on decisions or the other things in their previous lives. What challenge does that narrative pose for the judiciary?

THE LADY CHIEF JUSTICE: Yes, that's very important, an important topic. I would say, and I will address it because it is important that you understand my position there, but I would say that I do not consider that any of those events, as it were, fundamentally damaged the relationship between the judiciary and the Government or parliament of the day. I think it was a moment when, I hope, everybody had a moment to stand back and reflect. I'd also like, without, again, being too positive, to put on record the fact that there is an awful lot of accurate reporting, responsible and healthy debate, all of which is to be welcomed. You know, I think, my position that nobody has ever suggested that you cannot disagree with a judgment of any court, you are able to criticise it, debate it in the sorts of politically charged areas that judges are being asked to make decisions, it is inevitable, is it not, that everybody is going to have their own view and not necessarily a single view?

But there have been a number of occasions, whether in the media or a single occasion in parliament when things, as far as I am concerned, went badly wrong, and the problem for me was the inaccurate narrative, the inaccurate premise of the debates that were taking place in a manner that made and caused and led to immediate security threats to my judges. So, if you choose to debate on a premise that is so false and sounds so remarkable that the judge's competence, bias, integrity, call it what you want, is called into question, then that for me is a line in the sand.

One of the problems of the world that we now live in with social media is the reach is so fast and so widespread, and it's impossible to wind the clock back. Once the narrative is out in social media you can't bring it back in, you can't correct it, it will be there forever. So, to reflect on the particular incident that I think the Committee will have in mind, debate in parliament, as I say, with parliamentary privilege, with all of the protections that that carries, seems to me to come a heavy responsibility, and the responsibility is to debate responsibly, so to debate fairly and accurately, get your facts right. Then there can be no legitimate complaint, subject to attacking individual judges' integrity and so on and so forth. So that was the issue for me and as I say, the trigger, the immediate trigger, was what happened to the judges on the ground in terms of their personal security.

But I do think you can break the consequences of this sort of event down into four particular categories, and they all matter, but on different levels. The first level is the threat to the rule of law and the democratic process, because if things are being presented in a way that is inaccurate in parliament and then in the media and beyond, politicians and members of the public are going to be making decisions about, for example, whether or not to leave the convention on a completely flawed premise. Is there a need or not, on a completely flawed premise? Now that, to me, seems to be a fundamental threat to the rule of law and democratic process. The next level is the security concerns that I've been referring to. The next level is the pragmatic challenge for me in this context when this happens, which is recruitment, retention, and getting judges to sit in these jurisdictions.

So you know from my evidence last year that the overwhelming percentage of judges in immigration and asylum are fee-paid. So they can vote with their feet. They are not employed. They are not full-time judges. 70% of tribunal judges are fee-paid, and so the question I pose rhetorically is if when you go and sit in that jurisdiction, you're at risk or your judgments are at risk of ridicule and inaccurate reporting on a flawed premise, why would you? So recruitment, retention, and the business as usual case. How do I keep business as usual going?

The fourth level at which I would suggest, respectfully, this sort of incident has repercussions, is public confidence, because we need to, I said at the beginning, trust does rightly remain high in the judiciary, but that cannot be taken for granted, and every incident that undermines that trust needs to be fully justified and thoroughly examined, I would suggest.

So lots of levels to the concern. To emphasise, the headline is criticise, disagree, all of that is entirely legitimate and indeed welcome, it's part of an open, healthy democracy, but an inaccurate narrative on a flawed premise, I think, is very dangerous, particularly in a parliamentary context where you are ring-fenced. Obviously, judges aren't there, they don't have a voice, that's an additional layer of compromise.

CHAIR: Let me bring Sir Ashley, yes.

SIR ASHLEY FOX MP: Yes. Thank you. You talked about the need for public confidence, Lady Carr. I mean, on the subject of immigration tribunal decisions, surely the best way of ensuring that judgments aren't open to ridicule is to ensure that the whole judgment is available, and then people can make a judgment? Now, you said the only thing stopping that happening is resources. How much money do you need to make that happen?**THE LADY CHIEF JUSTICE:** I don't know what the cost of... I wouldn't want to put a figure on how much it would cost to get the system up and running, but I can try and get one for you, Sir Ashley, if that would help. I don't think it would be a lot, but I think it's enough for it to be a block at the moment. It certainly needs to go through the process. I certainly think that the National Archives would need significant investment to be able to take on the 30,000 or so decisions that are made every year. Putting the recording equipment in the tribunal hearing rooms will cost something as well.

But, in the grand scheme of things, given what's at stake, I would suggest that there is a very compelling case for it. May I add one point? Because I think it's a very, if I may say so, pertinent point that you raise. I do think that we, the judges, can also, we are getting better at making our judgments more accessible, and you've heard me speak before about press summaries. So I gave evidence to the Constitution Committee I have a luxury of being able to do a press summary for all of my decisions because I'm not doing day-to-day. So I will be doing big cases, important cases. I will have time to do a press summary. Any member of the press will tell you how invaluable a press summary is because it can cut to the chase and obviously help everybody understand better. Tribunal judges don't have that luxury. They're doing a lot of decisions, fast. Press summaries probably aren't practical without slowing the whole thing down, but we are doing a lot of work to make sure that we minimise, as far as we can, the scope for misunderstanding. So—

SIR ASHLEY FOX MP: If the resources were made available, how quickly do you think this could be implemented across the system?

THE LADY CHIEF JUSTICE: Well, I think it could be very fast indeed. I can't see any barrier to that at all. I mean, the work in terms of training and looking at how we can make judgments more accessible, and I'm talking, when I say the lower courts, I don't mean that pejoratively, I mean in the courts where there's a lot of high volume going through. Everybody's working at this. I mean, apart from anything else, out of self-preservation, you know, the clearer your judgment, the less likely somebody is going to be able to make hay with it.

SIR ASHLEY FOX MP: Just one more, if I may. Some charities acting for victims of the grooming gangs have discussed their difficulty in getting transcripts of trials, and it seems to be more difficult than for other matters. Is there a particular policy reason why it would be more difficult, or are individual courts reluctant for different reasons? Can you offer an explanation as to why it might be more difficult to get a transcript of a grooming gang trial than another court case?

THE LADY CHIEF JUSTICE: I think we've got to be very clear on where we are now, which is why I said what I did at the beginning, which is I think actually it's for the MoJ to deal with the release of transcripts. I don't think there's been consistent practices across the courts, and that's something I want to address. My suspicion as to why these transcripts are particularly difficult and complicated to release is because they are multi-complainant and they deal with sex cases, so the victims have

anonymity. So they are the most complicated transcripts to redact or decide what you can and can't release and how. They're also, I'm sorry to say, the sorts of transcripts that are most vulnerable to abuse. But that may be an issue that has to be dealt with separately and perhaps it doesn't matter. But I absolutely agree with you that I think there have been inconsistencies in the past. Inconsistency is undesirable, and we need to get to grips with it because it's an issue that has been gaining a lot of traction, which is one of the reasons why I took it, as it were, front up. So I think that the reasons, and I'm only speculating, will just be an abundance of caution. I don't think there's any suggestion of an attempt to cover up, it's just, you know, it would be awful to get one of these releases wrong, wouldn't it?

SIR ASHLEY FOX MP: Thank you.

THE LADY CHIEF JUSTICE: Thank you.

CHAIR: Pam Cox, do you want to come in?

PAM COX MP: Beyond that, thank you for your answer and, indeed, the question. Would you agree, therefore, that although there may be inconsistencies in the release of these transcripts, that we should be very careful that we guard against the exploitation of that fact?

THE LADY CHIEF JUSTICE: You put it in a nutshell.

PAM COX MP: Thank you.

THE LADY CHIEF JUSTICE: But I do hope when I'm back here next year, I'll be able to say that there is – and I'll be able to point to – a more consistent, overarching policy to be agreed with the MoJ, that this is something that they've got to take forward and put the resources into dealing with if it's a priority. I understand why these transcripts are seen as so valuable for the victims.

CHAIR: Sarah, did you want to come in on this?

SARAH RUSSELL MP: Shall we move to question three, and then I'll jump in after?

CHAIR: Yeah, you mentioned in your introduction, Baroness Carr, the changes to the asylum system and adjudication there. We've written to the Home Secretary with a whole series of questions about that, because we're not quite clear. We're not quite clear what the nature of these new adjudicators will be, where they will come from, how that will speed the process up, how much money is attached to that, how this one decision, one appeal system will work. Can you shed any light on that?

THE LADY CHIEF JUSTICE: No, I don't think I'm in a position to. The decision, obviously, is a policy decision. We, as ever, will stand ready to respect the will of parliament and whatever parliament decides to bring in and what changes it chooses to make, we will respect parliamentary sovereignty in the normal way. However, what I can tell you, so as to the mechanics of it, I'm not in a position to share anything about that. What I can tell you is that we were given little to no notice at all about the decision to abolish the Asylum Chamber.

CHAIR: But you're clear that is what is happening, that the First Tier Tribunal—

THE LADY CHIEF JUSTICE: That is what I understand the public announcements have stated. We were given, I think, 24 hours' notice of that development, and I have made it extremely clear that I will do everything I can to lead and support the current judges who are sitting in that

jurisdiction, who have little to no information as to what their future looks like in terms of timelines and the like.

CHAIR: Where does this leave the Upper Tribunal? Where does it leave the opportunity to judicially review?

THE LADY CHIEF JUSTICE: So, I am sticking to script here, Chair, in the sense that I haven't got a script, but I am thinking, be careful, because I'm not sure how much is in the public domain. My understanding is that there will be a route of appeal to the Upper Tribunal from the independent body of adjudicators.

CHAIR: Thank you.

THE LADY CHIEF JUSTICE: As I say, it's very early days and, together with the Senior President of Tribunals, you know we have a new Senior President of Tribunals, Lord Justice Dingemans and I are doing everything we can to look after, if I can put it that way, the immigration and asylum judges who have this news to grapple with.

CHAIR: Sarah?

SARAH RUSSELL MP: On that topic, may I ask, I appreciate you haven't been pre-briefed on this so you may not have the answer, but how many Tier 1 and Tier 2 immigration tribunal judges there are, so we understand how many people are impacted?

THE LADY CHIEF JUSTICE: Well, I think you're going to be impressed, I hope so, I happen to know that there are 85 full-time equivalent full-time immigration and asylum judges, tribunal judges, and I think 275 also fee-paid judges. So full-time equivalent is a dreadful phrase to use when you're talking about people, so I would prefer to say something like 100,100 salaried immigration and asylum tribunal judges producing 85 full-time equivalents.

SARAH RUSSELL MP: Thank you.

CHAIR: Thank you.

THE LADY CHIEF JUSTICE: 87 and 250, what did I say, 87 and 250? I meant 87 full-time, 250 fee-paid. Was I about right? Good.

CHAIR: Just before we move off the thorny issue of politicians and the judiciary, in the... as part of the sentencing bill, a so-called democratic lock has been imposed on the Sentencing Council, whereby approval will be needed by yourself and the Lord Chancellor before guidelines can be issued. What discussions did you have with the Lord Chancellor prior to that piece of legislation being produced, and do you have any concerns about subjecting guidelines to ministerial approval?

THE LADY CHIEF JUSTICE: Before answering the question, I hope you don't mind if I take the opportunity to recall the tragic loss of Lord Justice William Davies this summer, unexpected death. He served with extraordinary distinction as chair of the Sentencing Council and his loss is very keenly felt throughout the criminal justice system. I don't think I should go into the detail of my discussions with the Lord Chancellor before this legislation, draft legislation came out, but I do welcome the opportunity to speak about it. I'm not going to go over the illustrious 15-year history of the Sentencing Council, of its remarkable work in promoting consistency and transparency across the criminal justice system. The over many hundreds of guidelines are frankly part of the DNA of every Crown Court and Magistrate Court's judges day in, day out. The calibration and the constitution of the council was very carefully constructed securing that everybody's interests were

protected through a combination of the membership of the council, eight judges, six other specialists, and an exhaustive consultation process of which you, Chair in this committee, is intimately well aware. So a very carefully, well-constructed, well-functioning organisation.

My voice is heard through a representative. I am not a member of the council, but I have a representative who can feed my views in, and likewise the Lord Chancellor of the day has a representative who can feed the Lord Chancellor's views in at every stage of the process. Against that background, clearly, the draft legislation, if implemented, has the potential to significantly undermine confidence in and the independence of the Sentencing Council. There are of course two clauses. We focus on clause 19, which is the veto clause. But clause 18 is not to be ignored because theoretically clause 18 would enable the Lord Chancellor of the day to bring the work of the Sentencing Council to a halt, because clause 18 provides that the annual business plan of the Sentencing Council must be approved by the Lord Chancellor. I think a question has been raised in the Constitution Committee or in the House of Lords as to quite what the consequences of non-approval might be.

Those are policy matters as it were, although practical matters as well. I don't want to get too stuck in. But my position is, of course, a power of veto on the part of the Lady Chief Justice or the Lord Chancellor does not sit easily when we are dealing with an organisation that is independent. That is its DNA. So the idea that I have a power of veto over an independent organisation is entirely counter intuitive. I cannot see realistically any situation in which I would exercise that power of veto because my views are represented through my representative on the council, the council is made up of the experts that I have described, there is an exhaustive consultation process. It is difficult to see how it would ever be of any meaningful value. But then, it is a matter for parliament and others, but of course that is the here and now. One never knows what is round the corner and whether or not one legislates on a basis that it's alright to let it in because it won't do any harm at the moment may or may not be a sound basis for legislation. That's a matter for others not for me,

I would also just like to add this because I think the Committee ought to know that the mood in the Sentencing Council is pretty bleak. There is a deep, deep uncertainty hanging over its head at a time when it could not be more important. It is more important now, if Gauke reforms come in and Leveson comes in, than it ever has been you could argue. I have made it very clear. I, as you know, under the Act, the relevant legislation, nominate eight representatives, the judges. I have made it clear to them that I consider their positions to be entirely independent and a matter for the individual conscience of each judge. So as far as I'm concerned, they must act in accordance with their own consciences and their own views of what independence and the rule of law means in the light of any legislation that goes through parliament. So I'm not threatening or saying anything in terrorem, I'm just saying as a matter of fact that is my understanding of the position and that is what I've said to the judges and we will all wait to see what parliament decides and in the light of that decision individual judges will be able to take their own positions and I will support them in those individual decisions as being a matter for their own individual independence.

CHAIR: Thank you. Sarah Russell?

SARAH RUSSELL MP: In the course of the debates on the Sentencing Council and in other debates in parliament, many members of the judiciary have been characterised as lefty activist lawyers. I was wondering if, in your experience, there are any or many judges whom you would consider in your independent position to be lefty activist lawyers.

THE LADY CHIEF JUSTICE: So I deprecate the phrase "activist judges." What we have is we have judges who are being asked to make legal decisions in a highly politically charged environment on highly politically charged issues. So they have to make a decision that will be politically charged but it doesn't mean they're politically activist. It's a great pleasure to be talking to the lawyers in the room but I would encourage everybody, it's a very good paragraph, go to paragraph 25 of Lord

Bingham's judgment in a case called *Locabail* and you will see him set out with characteristic brilliance the essence of what the judicial oath means and where you draw the line, you leave your background at the door of the court. That is how our system works. Fee-paid judges can in fact be serving members of parliament. That is... yes, full time salary judges can't but we have many, many eminent jurist judges such as Sir Ross Cranston who was a Labour MP who went on to be a highly distinguished member of the senior judiciary.

So, the narrative of digging into judges' pasts – what political party did they belong to, did they do pro bono work for an asylum charity? The suggestion that that somehow creates actual or apparent bias to that person sitting five years later in an immigration chamber is not I think a proposition that would be acceptable to anybody who understands the rules. Now it may be there's more to be done in terms of improving public understanding of what I'm talking about but the rules are very simple and of course if there is some connection or some proper basis on which to say that there is an appearance of bias or actual bias, the Home Office, for example, is extremely well placed to raise a challenge on that basis and to invite the judge to recuse themselves. My experience is that judges are incredibly careful when it comes to issues of bias, they over declare, they tend to sort of overshare on the basis of the safest course to take, so it can never come back to bite you. But I don't... I recognise the phrase because I've seen it, heard it and read it, but I don't see it in my judges, and I don't think it's a healthy or appropriate approach. As I say it's confusing the fact that judges are making legal decisions in arenas that are highly politically charged.

CHAIR: Isn't it the case more so that in past years that judiciary are being pulled into a political narrative. The House of Lords Constitution Committee produced a very recent report on—

THE LADY CHIEF JUSTICE: It's a very, very good report I think.

CHAIR: —very good report, they said the judiciary should play a more active role in tackling misleading narratives about courts and their decisions. Is that a good idea or would that further muddy the water? Whose job is it to stand up for the independence of the judiciary?

THE LADY CHIEF JUSTICE: It's a shared responsibility. I very much feel that, it's a shared responsibility and I think the Constitution Committee was very helpfully focusing on something I was discussing with Sir Ashley which, for example, is the press summaries. So we've got to get better at getting out there and making things as accessible and simple as we can, and as you know from the experience of the last year, I will certainly speak out if I feel I have to. I don't want to have to, but I will if I have to.

It's a shared responsibility and I really would underline what the Constitution Committee... it's a shared responsibility of politicians, all politicians, as well as the serving government of the day and the judiciary. So it's a shared responsibility and I think we are stronger together. The Lord Chancellor obviously has particular responsibilities, discreet and bespoke to them to speak out and I'm very grateful for the statements that both the Lord Chancellor and the Attorney General have been making in recent times to stand up for the judiciary. It's regrettable that it's necessary but I do very much feel, Chair, that we should be doing it all together and certainly not competing with each other but doing it in a joined-up fashion.

But I think it's also important to emphasise something that I have been talking about with others which is timing is quite important. It goes back to the point about social media reach, once something is out there it mushrooms doesn't it and it multiplies many, many, many times. So nipping things in the bud early on is absolutely key, which means making the correction, making the objection, whatever it is, the point that has to be made, it has to be done in the heat of the moment, then and there, rather than a week later when nobody's thinking about it anymore and the damage is done because the narrative is out. So I think it's a real and present danger point that in the particular, with the particular issues we're dealing with, we all have to stand up as necessary but

we also need to do it at the very point in time when it's happening rather than six months down the line or even a week later.

CHAIR: Thank you very much. We'll move on to Vikki Slade.

VIKKI SLADE MP: Thank you, Chair. Nice to meet you.

THE LADY CHIEF JUSTICE: You too.

VIKKI SLADE MP: This is my first time of meeting you.

THE LADY CHIEF JUSTICE: You're a few days in, I think.

VIKKI SLADE MP: Yes, this is my second meeting.

THE LADY CHIEF JUSTICE: Congratulations, it's the best committee.

VIKKI SLADE MP: One of the things that inspired me to ask to join the Committee was in fact my visit to my local court.

THE LADY CHIEF JUSTICE: Where did you go?

VIKKI SLADE MP: Poole.

THE LADY CHIEF JUSTICE: Oh great.

VIKKI SLADE MP: I was quite shocked actually at the state of the whole of the court. The rooms themselves, you know they'd done a great job in making them as accessible as they could be and as workable, but the whole estate was really in a terrible condition.

THE LADY CHIEF JUSTICE: May I ask which courts you visited?

VIKKI SLADE MP: I visited the...

THE LADY CHIEF JUSTICE: Crown, County, Mags?

VIKKI SLADE MP: The Magistrates' Courts, yes, and all of the wonderful tall buildings that sat alongside them in which the staff were doing their very best in a really bad way. But you, I understand in your last appearance, talked about the drastic action needed and one of the things that I was particularly concerned about was the suggestion that courts should be having a rationalisation of building use and given out in the South West actually there's some real regional inequality in terms of how people get to courts and the space and distances between them, what your thoughts were about how that rationalisation might look and what work is really needed to be done to make the court system function for the people that need to use it?

THE LADY CHIEF JUSTICE: We went through a very painful process with Wales where there are real accessibility problems between courts and real transport problems as well. So I think you make a very, very valid and important point that regional justice and the practicalities of it all are very important. I think the rationalisation has to take into account AI, audio, video – progress that we will be making – and we are doing some pilots for example with remote sentencing hearings in the west, Salisbury, Wiltshire that are working really well. So I think we can't ignore the fact that there has got to be some rationalisation in that sense but I do absolutely support your direction of travel in saying that we have to keep an eye on access to justice and what that really means on the ground for the normal people who need that access. So don't worry, as far as I'm concerned I'm

not going to be getting rid of court buildings, if I've got anything to do with it, at least that's what I'll be saying and trying to influence. I'm just wondering when I was last at Poole Magistrates', I can't remember how bad the condition of the buildings is at the moment.

VIKKI SLADE MP: Some of it was pretty difficult to see.

THE LADY CHIEF JUSTICE: Buckets or heating or...?

VIKKI SLADE MP: Yes, people sitting with coats on and it was either too hot, too cold, tiny little rooms where people didn't have decent workspaces to work with each other. The court rooms themselves, I actually thought were in reasonable state, but certainly the places to wait, the places to work for the magistrates and all of the staff that support them was really not great.

THE LADY CHIEF JUSTICE: HMCTS staff are absolutely incredible. We got an increase in capital maintenance and estate project funding in the last Concordat round since my last appearance, that was increased to £148.5 million up from £120 million. That was very welcome, but it still falls well below. We've got a £1.3 billion maintenance backlog across the estate.

HMCTS, just to put this in context, has to deal with over 300 courts and tribunal buildings. I think 170 county courts, 70 crown court centres and it's a vast and sprawling estate, which ranges from Victorian buildings where we've got really, really very old, dilapidated buildings to some state-of-the-art buildings. So it's a massive endeavour and not just in Poole have there been problems, I mean I've got a list of... I think Nottingham Crown Court, the roof has been a complete nightmare. We lost a hundred sitting days in January simply because of the roof problems and you're aware of that. We've lost days in Northampton because of drainage problems in the cells, Wolverhampton - boilers, ventilation. We've still got courts closed through RARC, Harrow is taking much longer than we would have hoped and of course we're still reeling from the collapse of the independent contractor ISG which went into liquidation and was working on a number of our new projects.

So we are still losing very large numbers of sitting days every year due to maintenance problems and HMCTS is doing its level best with the funds that it's got. We've also got to deal with security improvements as part of these works, barriers and the like and of course we're now looking at a world where I think, depending on what the response to Leveson is, there are going to have to be adjustments to the court estate to take account of different ways of working in the courts there as well potentially. So it's a big issue, we talked about it last year and I suspect we'll be talking about it next year but thank you for putting your marker down about the need to look at the geographical layout, geographical distances and access to justice in that sense.

VIKKI SLADE MP: Can I just go on to, obviously there's a £600 million development in the City of London, Salisbury Square, which is obviously part-funded by the private sector. I'm wondering what your thoughts are and whether you've got hopes for more estate related engagement and partnerships with other people and how you feel about more private money being used to invest in the estate?

THE LADY CHIEF JUSTICE: So I wouldn't describe the City of London as private, I would say that they are, I know what you mean, the sort of hybrid, they are going to be, the City of London courts are going to be fantastic and this time next year, if I'm back in November, we should have had handover. So the idea is handover, I think 18 new courts, new crown courts, new magistrates courts and new civil courts, a fraud centre for the world. It's going to be flagship and fantastic and I went to the topping out ceremony, I was at the bottoming out ceremony and I was at the topping out ceremony, and it's been a fantastic collaboration with the City and very important and as you say a huge financial investment from the City.

There are tensions working with the private sector just in terms of Rule of Law, independence, so it's not straightforward and I think HMCTS is actually trying to extract itself from various private finance initiative properties at the moment. My answer to you I think would be a little bit hesitant about private sector but very, very strong on being more creative than we have been perhaps historically in terms of how to model the estate solution. So for example Cardiff where we desperately need a new civil justice centre, a building has been identified that would involve government and the local authorities all working together to reconfigure a building that's already there and work together. So I think my message is let's be more creative, we need to be more creative, we need to find solutions and opportunities like we have with the City of London, but whether I'm going to be going, or HMCTS, and the Government's going to be going out sort of with a bowl to the private sector I think is a little bit more complicated. We shouldn't be in this position.

I mean there is a moment that I would like to take at some stage and perhaps now is that moment just to ask the Committee to stand back because we're dealing with estates, we're going to talk about backlogs, resourcing problems every which way we look and we have been dealing with, in the justice system as a whole, a number of big issues haven't we, for example, early prisoner release did involve I think one or two did involve some court errors in terms of processing certain information. I think it is worth when these incidents happen and when we are dealing with such big, big problems for us to stand back and contextualise the work of the Committee, my work, the justice system as a whole and remember that we are bottom, nearly bottom of the list of priorities in the current spending ladder. So you go at the top health, you go education, you go defence and then you go right down to the bottom, so the justice budget, that's to say including prisons, probation and the courts and tribunals is less than half the transport budget. So we're coming in at £11.5 billion, I think the budget for the Health Department is £800 billion and more, education right up there although not as much, defence right up there, health sorry £188 billion for health, £86.7 education, transport £26.2, justice £11.5 and I think my point is this, that these are political decisions but political decisions have political consequences.

You have on the ground consequences for these decisions so when things go wrong and when we do the best that we can with what we've got there's only so much that we can do within the present context and unless somebody takes a radical look and says actually I don't think justice should be bottom of the list, I think justice is up there with defence or education then when I say nothing is going to change I don't want to sound pessimistic because you can see that we're up for it, we will do everything we can to get the most out of every penny that we get, and we're not giving up, but unless there is a radical recalibration of where we are in the pecking order then we are going to be having these sorts of discussions for a very, very long time. I mean that's a big, it's a big moment and it's a big sort of issue to tell but I do think it's worth every now and then just standing back because we have to examine when things go wrong, why they go wrong and why we mustn't let it happen again and what we can do better but that is the reality of let's say the political will and of course we're not talking just about now, we're talking about decades. I'm not trying to target any particular regime at all, it's just been a historic position and so when you look at increases, a 3% increase on last year's budget, one might say you're not starting from the right place.

CHAIR: Linsey Farnsworth?

LINSEY FARNSWORTH MP: Thank you, and thank you for mentioning Nottingham Crown Court, my old stomping ground. I can't tell you how many times over the years I've had to dodge a bucket that's collecting rainwater dripping down.

THE LADY CHIEF JUSTICE: I remember outside court one when I was sitting in Nottingham, the resident judge brought in a bit of his own carpet to fill the gap for the jury between the jury, so the entry to the court and actually stepping into court and the roof has been a disaster. Have you been recently?

LINSEY FARNSWORTH MP: I've not been recently, I dread to think what it's like since I left but thank you because in the East Midlands we often do feel that we are overlooked in all manner of policy areas so it's nice to have that recognition and it doesn't surprise me the resourcefulness as a result that your judge has moved to. It won't surprise you that I'd like to return to a hot topic that we discussed last year which was sitting days. I think we discussed it at quite a lot of length last time so I don't want to necessarily do a rerun of that but I think recalling last year you did agree with the then Lord Chancellor in terms of the Concordat process and that it hadn't worked as it should have done. Has there been any improvement this year?

THE LADY CHIEF JUSTICE: Well talking about sort of shared responsibilities I think that you and I can take some joint credit for this because I think we have made some progress including on the sitting day metric. Do you remember we talked about the sitting day metric and multi-year settlements? We haven't reached an agreement this year but we certainly made real progress in looking at a better metric and getting a multi-year settlement for the reasons that we discussed last year. I said last time that I'd agree with the Lord Chancellor and we did both agree that the previous Concordat had not worked well and it did work much better in two particular respects. Firstly in terms of timeliness we agreed the Concordat in March which was tremendous, so before the year started, and the Lord Chancellor of the day, now the Home Secretary, deserves great credit for that because that's the first time in a long time and perhaps the first time ever the Concordat process was completed by the beginning of the next year.

The second area in which we have made great strides is transparency. So, under the framework agreement, actually, there's a specific Clause 7.4, I think it is, which says I am entitled to as much transparency as the Ministry of Justice is, with HMCTS working through the build-up to the Concordat process, and there was much greater transparency with the judges, with me, as to how the Concordat process was being built up and conducted, and that was extremely welcome. I don't know whether you think it went... this is it not going well or not but, as a matter of record, however, in the last Concordat process, for the first time ever, I did not reach agreement with the Lord Chancellor of the day on one discrete element of the offer, and that was the offer of Crown Court sitting days.

So, the offer under the Concordat was of 110,000 sitting days as a fixed limit. I was not prepared to accept that. Therefore, in accordance with the framework agreement under Clause 7.2 of the framework agreement, I formally recorded my concerns to the Lord Chancellor about the offer. What happens when an element is not agreed and accepted by me is that the offer is effectively imposed upon the judiciary and, of course, I made it clear that I would work with whatever we were given, and if there were any further days down the line, we would accept and work with those in the normal way to the best of our ability. But it was a matter of regret that I was unable to accept the offer on Crown Court sitting days. All other elements of the offer I did accept.

I maintained then and I maintain now that, given the current crisis in the Crown Courts, we must be allowed to sit to our maximum capacity. That can be done in a number of ways. It can be an open-ended maximum, or it can be done as has happened in previous years, which is to have a notional minimum sitting day figure, but with a commitment to fund however many extra days can be sat. So my position hasn't changed on any of that. We spent some time discussing Crown Court sitting days, I think, last year. But so the process is working much better in terms of timeliness. The current Lord Chancellor is working very hard to, again, achieve conclusion of the process by the beginning of the year. Transparency is much better. We're working on the sitting-day metric and we're working on a multi-year settlement. So we are thinking hard about the sort of issues that we're discussing in this committee and grateful for the engagement.

LINSEY FARNSWORTH MP: That's great. The Lord Chancellor has confirmed 111,250 Crown Court sitting days now?

THE LADY CHIEF JUSTICE: For this year. So we've got 110,000 and we've got another 1,250 at the beginning of the legal year.

LINSEY FARNSWORTH MP: Yes, and that still isn't the maximum capacity that you would have?

THE LADY CHIEF JUSTICE: No, no.

LINSEY FARNSWORTH MP: What would that maximum be?

THE LADY CHIEF JUSTICE: As last year, I'm being told by HMCTS 113,000.

LINSEY FARNSWORTH MP: Thank you. That brings me on to my next question, which arises from Sir Brian Leveson's review, and he recommends an allocation of sitting days of 130,000 per year. Do you agree with that recommendation?

THE LADY CHIEF JUSTICE: Is that for Magistrates or for Crown Court?

LINSEY FARNSWORTH MP: For Crown Court.

THE LADY CHIEF JUSTICE: Okay.

LINSEY FARNSWORTH MP: Do you think that that capacity could be met by the judiciary?

THE LADY CHIEF JUSTICE: Judicial capacity is not the problem. I don't feel that the Crown Court and the Magistrates' Courts... we've got a massive recruitment challenge that we may be coming on to talk about, but in the Crown Court, I do not think the lack of judges will be the problem. It's the resourcing of the... it's the opening of the court, it's the legal advisors, it's the ushers, it's the staff, it's the costs around the edges, Legal Aid for the advocates, all of that comes into it.

LINSEY FARNSWORTH MP: Where the judiciary is concerned, 130,000 would be feasible, but the other personnel—

THE LADY CHIEF JUSTICE: It's funding across the system.

LINSEY FARNSWORTH MP: Different stakeholders within the system, that might be more of a challenge?

THE LADY CHIEF JUSTICE: That's my sense. I haven't done a modelling by reference to 130, but I don't sense that we would... I don't think that would be a definite struggle.

LINSEY FARNSWORTH MP: Thank you. Thank you for getting to the heart of it so quickly. I think we can move on and not spend, as I said, quite as long. So that was a very efficient way of covering everything I wanted to ask. Thank you.

THE LADY CHIEF JUSTICE: Good. *[Laughs]* Thank you.

CHAIR: Yes, thank you. I've actually got four members who wish to come in now, which I will call them all but—

THE LADY CHIEF JUSTICE: Is that a good or a bad sign, Chair?

CHAIR: It's a bad for me.

THE LADY CHIEF JUSTICE: *[Laughs]*

CHAIR: Makes my chairing look rather...

THE LADY CHIEF JUSTICE: I've got no idea, are we doing okay for time?

CHAIR: We'll be fine.

THE LADY CHIEF JUSTICE: *[Laughs]*

CHAIR: We will get there in the end. So I will bring everyone in, but if they can be brief, that would be... so Warinder first, then Ashley.

WARINDER JUSS MP: Yes, Baroness Carr, I was just checking my notes from the Select Committee meeting that we had on the 11th of November, and I'm not going to be talking about recruitment and retention because that's something we are discussing later. But I've got a note here that says that increasing the number of sitting days is not going to help in reducing the court backlogs because we have a major problem with not having enough prosecuting and defence counsel. Do you agree with that?

THE LADY CHIEF JUSTICE: It's still a problem, yes. The other... there's no one single answer to solving the problem with the backlogs. It's everything coming together. But I think what is most striking for us at the moment is not a lack of prosecutors. We do have ineffective trials because of lack of prosecutors turning up, but what's really grabbing my attention at the moment is the rate of receipts is going up so fast. So we are running up the down escalator. We are sitting, we are doing more disposals at the moment than we've done for a very, very long time. We are sitting more hours in court than we have done for a very, very long time, but the backlogs are still going up because the level of receipts is just soaring. So... but you're right, availability of prosecuting counsel is always a consideration, has been a problem in the past, and is still responsible for some ineffective trials.

SIR ASHLEY FOX MP: Lady Carr, you said that the Lord Chancellor allocated 111,250 sitting days, but that you would have wished to have 113,000 sitting days. Have I got that correctly?

THE LADY CHIEF JUSTICE: So it was 110,000 in March.

SIR ASHLEY FOX MP: Yes.

THE LADY CHIEF JUSTICE: We got an additional 1,250 in October, making the 111,250 now, and I'm told 113, and I would like to be able to sit to maximum capacity. So if that's 113,100—

SIR ASHLEY FOX MP: Yes.

THE LADY CHIEF JUSTICE: I'd like to be able to sit to that.

SIR ASHLEY FOX MP: And are all the other elements available to sit to 113?

THE LADY CHIEF JUSTICE: No, well, it's all the moving parts. It's the prosecutors, so it's Legal Aid, it's court staff, it's the court estate, it's everything. So it's all the moving parts.

SIR ASHLEY FOX MP: Thank you.

CHAIR: Sarah?

SARAH RUSSELL MP: In most walks of life, when you have a budget for next year, a staffing capacity requirement, all of those things, I appreciate you are saying it went better in many respects this year than it ever has before, but only in so much as it was agreed before the year started. The month [inaudible]—

THE LADY CHIEF JUSTICE: You mean we're starting low? *[Laughs]*

SARAH RUSSELL MP: Well, yes, essentially. Like, this isn't like normal way of doing business in terms of how the public would plan their lives, their budgets, their staff. You know, if you were running a small business, you wouldn't make a decision about your staffing needs for April in May. That's not how it happens, and in local authorities, they usually get their funding allocation around about Christmas Eve for the next financial year. So I'm just wondering where you would see the ideal sitting here, in terms of when would you like to have reached that agreement by, to make things work as well as they could do?

THE LADY CHIEF JUSTICE: I mean, I would like... the answer is "as early as possible". So we talked about multi-year settlement, so in a way, that's a bit of what you're talking about. You're at least being able to see into year three. I think, obviously, we had the cabinet reshuffle in September, and I think the then Lord Chancellor was well on her way to making an offer. Obviously, a new Lord Chancellor arrives, there's a whole host of issues to get on top of, and this is not easy stuff. Difficult decisions to be made across the entire justice system. So, quite understandably, he has needed time to get on top of those issues and decide what he wants to do. So, what I'm trying to say is that I think if we had not had a cabinet reshuffle, I might have had the Concordat process concluded by now for the next year or three.

SARAH RUSSELL MP: And the next question, I understand, is complex, but if you had had the number of sitting days that you would have liked, as opposed to the number that you got, do you have any idea, roughly, how many more cases you could have got through? Roughly, and I appreciate that's not precise.

THE LADY CHIEF JUSTICE: No, I'm afraid I don't, and I'd rather not come up with a figure. What I can say is that I was talking about the disposal rates going up, but I think disposal rates were one point. Well, no, I'm not going to come up with a figure. Disposal rates have gone up. It doesn't sound like very much, but actually, the impact is something like 11,000 more cases being disposed of, with a disposal rate going up just a few nought percentages, anyway...

SARAH RUSSELL MP: Thank you.

CHAIR: Pam?

PAM COX MP: Yes, just on that thing about the moving parts.

THE LADY CHIEF JUSTICE: Yes.

PAM COX MP: On this same visit, I sat and watched a district judge at work in the Magistrates' Court, and she had 10 prisoners waiting to come into the court, none of whom were being transported from the police station that was sort of you know ten minutes away, and she sort of shared that this sort of ridiculous situation was really causing problems in terms of sitting days because she's not local to Poole. She'd come down, she had six hours, and at two hours into the day, she hadn't seen a single prisoner. So, I'm wondering how that can be made more efficient.

THE LADY CHIEF JUSTICE: What was the point? They were not being delivered from the police station?

PAM COX MP: They weren't being delivered from the police station and she was sat there going, "Well, I'm a very expensive resource and I can't actually do my job." So, it wasn't so much the court staff, it was the other people in the system to get to allow her—

THE LADY CHIEF JUSTICE: Well, that is exactly the point, if I may. So, this is exactly the point, which is why the Criminal Courts Improvement Group is so important, because it brings everybody together: PECS, probation, CPS, defence lawyers, bar associations, Law Society, everybody together to address these issues. Late deliveries or non-deliveries are a real problem in all courts everywhere. It's exacerbated by the prison crisis, because prisoners are being kept in prisons that are not local to the courts, so it takes longer for them to get there, or it's a more circuitous route to get them there. So, it is all joined up. It's the most important thing to understand about criminal efficiency, efficiency in the criminal justice system, is that it's all connected, and no one part can be operating at 100% and do the job.

CHAIR: I think what worries a lot of people, a lot of people in the professions, obviously, but beyond that, is that we're talking about radical steps. So, Brian Leveson's report talks about restricting trial by jury in some respects, at the same time as, for example, the PECS contract, the Serco contracts to deliver prisoners to court are performing in a way that whole days are lost of court time, and everything that goes with that. I see, I wouldn't necessarily expect you to comment on this, but as it's recently been published, The Times is reporting just now that there will be a much greater restriction on jury trials and that it will only be for cases that result in a sentence of more than five years that will be, so all but the most serious cases will be restricted to that point of view. Now, that is a leak at the moment. I would not expect you necessary to comment on that. But when we're talking about the most serious changes to the way that... constitutional changes, isn't it extraordinary that we haven't got in order the basic mechanics of how the court system works?

THE LADY CHIEF JUSTICE: I think Sir Brian, in his review, made it absolutely clear that resourcing was front and centre. And if we look at his recommendations, as I say, I don't know what the Government's position is going to be, but if you just take Sir Brian's proposals at face value, so much of it is about probation and prisons and resourcing and rehabilitation and sentencing. If that doesn't work, if that isn't properly resourced along with everything else, then the reforms will not have the desired effect, or at least the effect that Sir Brian desired. I think it's all joined up; prisons, probation, all joined up. Can I just go back, if I may, to the stats I wanted to give you? Because I mumbled, which I hope is not characteristic. So, 23-24 in the Crown Court, we were disposing at 0.98 per judge, so less than a case per day. This year, it's gone up to 1.06 per day. In fact, in August, it was 1.14, but ignore August. I don't know what happened. Everybody was... I don't know. Anyway, 1.06, I think, I'm told, is the second highest rate this decade. But the point I wanted to make was that small change has disposed of an additional 11,000 cases. Because you were asking about figures, that's not your... it wasn't the information precisely that you wanted, but it gives you a feel for something. But yes, so prisons, probation, PECS, legal aid, CPS, all joined up. All needs to work. All needs to be properly resourced.

CHAIR: Are there concerns among the... Obviously, we've heard evidence very recently from to Brian in relation to his proposals, and he makes a very strong case for why his recommendations need to be taken as a package if an appreciable inroads will be made into the backlog. But are there concerns that you have, or other members of senior judiciary, have, in relation to even the restrictions on jury trial that are proposed there, let alone ones that go beyond that?

THE LADY CHIEF JUSTICE: Chair, I mean, I just have to sort of bat back and say those are policy matters for parliament. I can simply deal with the practical consequences and, as I say, parliament, the Government will have to decide what it wants to do on these difficult and controversial issues. But I would like to just go back to the resourcing of crime, because it sort of feeds into the Concordat discussion that we were having and how are things going? We all understand, and Sir Brian has made it abundantly clear, that resourcing is absolutely key to implementation of his reforms, his

suggestions, and we all agree with that. But I hope we can also all agree that that cannot be done at the expense of, for example, civil digitisation.

You have been to the county, you've been to Central London, and you've produced your report, and I think I probably should share a pretty fundamental concern I have in the context of the current Concordat. My real concern is that civil digitisation is not funded. We have to complete civil digitisation. You've seen the reasons why. We're not going to talk about the business case, the economic growth case, and all of that, but I started by saying you made your very clear recommendations, and the Government accepted that digitisation in the County Court was a priority. The figures, I don't know whether when you wrote your report, and forgive me if it's in the body of your report, Chair, but I am told that to complete civil digitisation in the County Court would cost 15 million resource budget, 18 million, so 18 million capital resource amortised over three years. Put those figures against the fee income from civil. Do you remember, have you been told what the fee income is from civil county court work? £592 million a year. So set the cost, I would suggest, minimal, of completing digitisation in the County Court in that context.

I also am very worried in the context of the need to fund Leveson reforms, depending on what government and parliament decides to do. CE File, this is this, you know, the jewel in our crown, the Business and Property Courts, the regional Business and Property Courts in the Rolls Building and all around England and Wales. The bedrock of our international draw, economic growth, English law being the law of choice and all the rest of it.

The contract for our electronic filing system comes to an end. It needs to be replaced. It needs to be replaced with something that is state of the art. The figures again I am given to complete or bring in proper CE File, electronic filing in the Business and Property Courts is 14 million for the resource budget, 7 million for the capital budget, again over three years.

CHAIR: Some very low figures for government IT contracts.

THE LADY CHIEF JUSTICE: Well, as I say, I've been told that I can use these figures, so I'm going to put them forward as reliable and, well, this committee will understand all too well the impact of what I'm saying. These are really not large sums of money. These are discrete, critical projects, I would have thought, to the justice system as a whole, and I understand why we've spoken about crime today and, of course, you heard from the Master of the Rolls and the President of the Family Division. But really, we need to do this job. We need to do this job to keep the show on the road in terms of our international standing and our civil justice system.

CHAIR: Thank you.

THE LADY CHIEF JUSTICE: Sorry. Thank you.

CHAIR: I think that's our own.... We should learn the lesson of our own report.

THE LADY CHIEF JUSTICE: *[Laughs]*

CHAIR: Tessa Munt?

TESSA MUNT MP: Thank you. I'd like to just ask you some... a couple of questions about welfare and the security of the judiciary and the magistracy, please. The latest Judicial Attitude Survey shows that 39% of judges are worried about their safety in court, sorry, 26% are concerned about their safety outside of court, and a recent survey of the magistrates also highlighted that one in four felt unsafe carrying out their duties in court. Do you believe that the current measures are sufficient to protect the judiciary and the magistracy, and I wonder what discussions you might have had with the Ministry of Justice and HMCTS regarding greater protection for the judiciary and magistracy?

THE LADY CHIEF JUSTICE: Thank you. I think about security every single day, and sometimes all day, because we have had some truly devastating incidents, particularly in the tribunals, but by no means just in the tribunals. Security, as you pre-empt is the responsibility of HMCTS and MoJ and we are... we have worked very closely with them and I think we have made a number of improvements. Am I satisfied with where we are? No I'm not, particularly when we are talking about monitoring on social media and online abuse, which is a particularly difficult area to control. But HMCTS has done some basic physical upgrades, I don't want to go into the details but there has been work done for every court and hearing room to make it meet minimum safety security standards, and you may remember – or perhaps not because I hadn't done it this time last year, but I established a security taskforce in January of this year, led by the Deputy Senior Presiding Judge, Lady Justice Yip, and she has been doing an enormous amount of work with her very small group, refreshing a lot of work, refreshing the protocols with police, so every police station should now know exactly when we say, "Operation whatever," they know exactly what it is, we know what the escalation routes are, we have refreshed protocols, we have much better training, online training, very good training for all judges, which is mandatory. So a lot of very good work going on there, a new judicial harassment protocol and so on and so forth.

I would just pick out two points; outside court very worried about that. I don't want to go into details but a lot of car parks are open to the public and that's a source of enormous concern for me. For example, you know, ... and the other area where we need, I think, to look abroad for best practice and also learn from what has been done for MPs is to look to see what we can do about security for judges in the social media and online abuse space. Recently I'm very sorry to have to report that we've seen some very serious, well sexist but also racist abuse of judges online, and working with the providers to get comments taken down and all the rest of it is not easy, it's not always as quick as it needs to be. It goes back to my social media reach and narrative.

So these are big issues, so we need to do more, so we're not there yet. I'm doing everything that I feel I can, and putting as much pressure on as I can, in terms of also changing the attitude of judges, saying that the default position of a judge will be to get on with it, that's the way they're built, so saying to them, "Just reprogram, you don't take risks," but I'm afraid that I think there will be serious incidents down the line to come.

TESSA MUNT MP: I hear that, and thank you. I just want to skip back a little bit to the survey of magistrates, and there was a survey regarding their safety and security, and there were a set of recommendations, and I just wondered, are those being taken forward within the movement that you've described?

THE LADY CHIEF JUSTICE: Yes, so Mr Justice Martin Spencer, who's head of the Security Committee of the Judges' Council, will be looking at that report in the New Year, and actually I went to their conference on Saturday in Lancaster, I was there remotely, but we talked about their excellent reports, a lot of very sensible practical recommendations with some good ideas, so I think it's important to emphasise that security in the magistrates' court is just as important as security in any other court, so there are no different standards here, and they're entitled to be exactly the same security as we are.

TESSA MUNT MP: I just wondered, going back to your comments about online security, whether there were additional steps, you've mentioned some already, but whether there should be others that could be taken to safeguard judges from online abuse and threats, particularly on social media, and I wondered if you had a notion of what might have caused this, whether you have a comment to make on that?

THE LADY CHIEF JUSTICE: What might have caused the onset of the increase?

TESSA MUNT MP: Yes.

THE LADY CHIEF JUSTICE: I think it's multifactorial, isn't it? It's society, it's definitely social media, attitudes, comity, respect, you know, comity is what binds us all. Judges respect parliament, and parliament needs to respect judges. All of that is part, I think, of an overall picture, so I'm sure it's not just one thing, but I worry about, even if things get better, I worry if we're ever going to be able to turn the clock back completely.

TESSA MUNT MP: Thank you very much.

CHAIR: Thank you. Just a couple of questions on Baroness Harman's review.

THE LADY CHIEF JUSTICE: Yes.

CHAIR: Bullying and harassment in the Bar. It found in [inaudible] it found that there was abundant, disturbing, and compelling accounts of judicial bullying. Do you accept there is a problem, and what work are you doing to address this?

THE LADY CHIEF JUSTICE: Can I start by saying I'm on record as welcoming the Bar Council's focus on this issue. It's really important, and I think they've done some fantastic work. I think they've accepted all of the recommendations that relate to them. We've been doing work on these issues since 2020, and as I said in my formal response when Baroness Harman's report came out, there are far too many examples of judicial bullying in that report than there should be, so we absolutely need to address these problems or continue to address these problems. So, as you know, way back in 2021-22, we introduced the statement of expected behaviour. We've got mandatory inclusion training for all judges, and obviously we've got our own internal surveys which suggest that although the numbers aren't big, every one case for me is one too many. So, a lot of work going on to address this, but most, as it were, relevantly, I think, share to your question. Barbara Mills King's Counsel, and I have been together on a number of platforms talking about the work that we're doing together. She's met, I think, already at least once since the report with Lady Justice Whipple, who leads on this area of work, and we agree that there are all sorts of things that we could be doing together. I think some of it's a change of culture in terms of empowering people who feel that they have been the subject of unacceptable behaviour to come forward without fear that their prospects or that their personal position will be in any way compromised. I think we want to look hard at informal routes of complaint because I think they can be very effective, provided that we are not sweeping big problems under the carpet, but individual instances of a lapse that can be dealt with quickly overnight, Mr Vaughan may be able to agree, can be a very effective way of de-escalating issues and sorting things out in a manner that is satisfactory to both the person involved outside the judiciary and the judge.

So, just to reassure that there's a lot of work going on. If I had the resources to have a Talk to Spot for the judiciary, I would, but we're looking at Talk to Spot as the anonymous reporting tool for the bar to report judicial bullying incidents, and there's a discussion going on as to whether or not the judiciary could have access to any anonymous complaints about judges, for example. So, there's a lot of work going on, and I think no judge can be in any doubt as to my position as to the unacceptability of judicial bullying or in any doubt as to our conviction and commitment to addressing it head on. So, yes, I think...

CHAIR: Can I ask you about just two recommendations to report?

THE LADY CHIEF JUSTICE: Of course.

CHAIR: One is it recommended removing the three-month time limit for reporting bullying or misconduct. The other, is it recommended an independent element, i.e. an independent member alongside yourself and the Lord Chancellor, determining sanctions for judicial misconduct. Are you prepared to accept either of those?

THE LADY CHIEF JUSTICE: These will be recommendations for the JCIO, not the judiciary. So, this is the Independent Judicial Complaints Investigations Office. We'll have to decide how it responds to this recommendation. However, I happen to have been the judge in charge of the review of the regulations that took place in 2020-23, so I'm quite sighted on the three-month time limit. I think Baroness Harman said that we were in some way an outlier with a three-month time limit. Well, we're not, certainly not within the judicial system. Three months is the same time limit as applies to the Supreme Court, Scotland and Ireland.

CHAIR: I think she was thinking about it in relation to, say, the Bar Standards Board or the SRA or the GMC.

THE LADY CHIEF JUSTICE: Correct. But if one looks at a judicial comparator, we're not an outlier at all. The second point to make, as you know, first of all, if there's a pattern of behaviour, time runs, as it were, from the last incident. Secondly, there is always an exceptional discretion, a discretion to extend in exceptional circumstances. So, a recent example involved a disciplinary matter where there was a finding of misconduct relating to behaviour that took place 15 years ago. So, it's a question of getting the right balance. I don't know whether you have this information, Chair, it may be helpful; less than 2% of complaints last year or the year before were dismissed for being out of time. So, that does not suggest to me... I mean, of course, it may be that people look at the time limit and say, "Oh, I'm out of time, I won't complain," but of complaints made, less than 2% were dismissed for being outside the three-month time limit. So, it is a question of finding the right balance.

CHAIR: And on sanctions for judicial misconduct, I think what the report said there was that it created a perception of insufficient independence, that it was simply yourself, and the Lord Chancellor [inaudible].

THE LADY CHIEF JUSTICE: Yes. So, I don't recognise this perception and I couldn't find an evidence base in the report to sustain it. The example given, there was one example given and that actually didn't relate to a case of bullying, harassment or discrimination at all. So, there was no example given of a sentence that was deemed to be unduly lenient, and of course, for many years now, sentences have been, if that's the right word, have been public. So, I would have expected to see some individual concrete evidence underlying this perception. Obviously, sanction is a matter for the Lord Chancellor of the day and me, and I can tell you that if you were in the room, I don't think anybody would suggest for a moment that we were anything other than robust, fair and consistent in the application of sanctions. So, I think there might be constitutional objections as well, but I hope that's insight. But as I say, ultimately, it will be for the independent JCIO to respond to those recommendations.

CHAIR: Yes, thank you. Back to Tessa Munt.

TESSA MUNT MP: Can I pick you up on some of the things you've just said? I'm quite surprised by the three-month time limit, and the reason for that is you've already referred to the fact that society is changing, if you take the Me Too movement and goodness knows what else. I think people have become aware of the fact that they are able to report, and certainly, if we're looking at the Judicial Attitude Survey, it... what was it? Yes, 14% of all salaried judges, 7% of fee paid, 13% of coroners experiencing bullying in the last two years. There's the whole thing about whether people are going... If they feel they're being bullied, they might feel that they are unable to speak out because they don't report it because they feel it would make no difference whatsoever and might actually adversely affect their future careers, which is a very real concern, is it not? So, you said talk to?

THE LADY CHIEF JUSTICE: Talk to Spot.

TESSA MUNT MP: What is Spot?

THE LADY CHIEF JUSTICE: I think it's... You have to ask the Bar. Is it a... I don't know. I don't know why they chose Spot.

TESSA MUNT MP: It does sound like it. Yes, I'm old enough to remember Spotty Dog.

THE LADY CHIEF JUSTICE: I know, but I then I... Yes, but it doesn't work, does it?

TESSA MUNT MP: No.

THE LADY CHIEF JUSTICE: So, I don't know.

TESSA MUNT MP: Clearly—

THE LADY CHIEF JUSTICE: So, I don't know. So, I think—

TESSA MUNT MP: I'm really concerned about that time limit because—

THE LADY CHIEF JUSTICE: No, but the time limit doesn't apply to internal complaints. So, those... The Judicial Attitude Survey was talking about internal bullying, discrimination and harassment.

TESSA MUNT MP: Yes.

THE LADY CHIEF JUSTICE: The three-month time limit applies to complaints by court users or... Actually, you're right. No, I suppose it could apply to a judge making a complaint against another judge. Yes.

TESSA MUNT MP: Might I just suggest to you that if I'm going to make a complaint about something that is about the language, the way I've been treated as a court user and it takes me £7,000 to get hold of a transcript, or it might actually take me a year or whatever to get this stuff together, it is utterly unreasonable to suggest that people should be able to whistle-blow on a very serious matter within a period of three months. That's just not real.

THE LADY CHIEF JUSTICE: So, that's very helpful and I'm sure that the JCIO will... I'll make sure that they are aware of your comments, and obviously, you come from a background of great expertise here. I would emphasise you do not need a transcript to make a complaint.

TESSA MUNT MP: No, but you might feel you have to if you wish to explain clearly what the language was, because I certainly experienced within the court system but also within the tribunal, the employment tribunal situation where all sorts of things are said about witnesses and what have you, which are completely out of order in the view of the people who are going through the tribunal, and if you have... I mean, trying to get recordings of that is just...

THE LADY CHIEF JUSTICE: So, the JCIO has access, has independent access to all court transcripts.

TESSA MUNT MP: Yes, but the humans don't.

THE LADY CHIEF JUSTICE: That's right, but just to emph... and I understand completely why you would say they might want it before they make a complaint.

TESSA MUNT MP: Of course, you have to be accurate.

THE LADY CHIEF JUSTICE: Yes, absolutely. But just to emphasise, just I don't want anybody to mislead, you don't need one. I understand you might want one, definitely want one, but just to be clear that there's no perception out there that you can't make a complaint without a transcript, you can. But I understand your point, which is, you'd want to see the transcript before you make the complaint.

TESSA MUNT MP: Indeed, I'd want to clarify my...

THE LADY CHIEF JUSTICE: I do understand that. That's very helpful and you put the case very forcefully.

TESSA MUNT MP: Thank you.

CHAIR: Who's next?

TESSA MUNT MP: May I? Sorry. Yes. May I? So, what I'm really meant to be asking you about is recruitment and retention, but actually this all leads into this anyway.

THE LADY CHIEF JUSTICE: Oh yes.

TESSA MUNT MP: So, if adopted, the recommendations of Sir Brian Leveson's review of criminal courts would require the immediate expansion of judicial capacity, and yet the Judicial Attitude Survey flags the number of salaried judges intended to leave the profession in the next five years, which outstrips the number of fee-paid judges considering applying for salary posts. So, is there a risk that judiciary just won't be able to meet... they're not going to be able to meet their capacity requirements, and I wonder what discussions you might have had about increasing judicial capacity beyond the previously agreed vacancy levels.

THE LADY CHIEF JUSTICE: So, I think we're looking at magistrates in the context of Leveson. Is that right?

TESSA MUNT MP: Both. It's the whole judicial capacity. We're talking also, aren't we, about salaried judges. The whole thing seems to be in scope.

THE LADY CHIEF JUSTICE: Yes. So, just in dealing with magistrates. So, the recruitment of magistrates is the responsibility of the Ministry of Justice, and I think they are absolutely acutely aware of the... I mean, we're under-magistrated already. We're short of the number of magistrates we need now by a couple of thousand. If the Leveson reforms go through or something like it, then we're going to need a huge number of additional magistrates, and I know the Ministry of Justice is very well cited on this and aware of the magnitude of the challenge, as is, for example, the Magistrates Leadership Executive, which is the organisation supporting the senior presiding judge on recruitment. We're looking at... There's going to be an expenses review by the MoJ, and we're looking at all sorts of incentives and a way of meeting what is undoubtedly a huge challenge, if the numbers I'm hearing are right in terms of the number of magistrates we might need. Valuing magistrates, valuing employers, recognising employers' contributions in releasing their employees to become magistrates, all that sort of thing.

On the wider platform, obviously there are some areas where there is no shortage in recruitment. There are some areas where there is a shortage. We've talked in the past about district judges and some other areas, and the problems there will normally be jurisdiction-specific or location-specific. So we know with district judges and, for example, employment tribunal judges in particular, in London and the Southeast, we have a problem, and the single factor that stands out all the time is the cost of living. So that's normally the explanation. I am very worried about magistrates'

recruitment in answer to your question. I am concerned about other areas where we are under recruiting and where we need to think about what more we can do. But overall, outside the magistracy and district judges perhaps in particular, I'm not presently in a sort of complete despair, which is the sort of tone of the question. I'm not there, at least not yet.

TESSA MUNT MP: Down about it is what we say.

THE LADY CHIEF JUSTICE: *[Laughs]*

TESSA MUNT MP: Thank you. So what consideration has been given to Sir Brian's recommendation for greater use of flexible judicial deployment, so using district and deputy judges in the Crown Court?

THE LADY CHIEF JUSTICE: Obviously, we don't know what the government's response is going to be to Leveson and all the rest of it. Flexible deployment, I think as everybody in the room knows, is something that I'm generally very much in favour of. I think it's a good thing on a number of different levels. But at the moment, again, it's a bit difficult to answer the question when I don't know what the post-Leveson world is going to look like. But in the criminal justice sphere, we've got only 30, I think 39 DJMCs, that's district judges who sit in the magistrate's court. I would imagine that they are going to be quite busy in the magistrate's court post-Leveson, so I don't see that much immediate scope for bringing them into the Crown Court. Deputy High Court judges, very many of them are already sitting in the Crown Court because they're Recorders. So I can't, I don't see this as being a silver bullet is what I'm saying or some great big moment to increase capacity or change the trajectory or direction of travel and cross-deployment, as you know, we'll always have to make sure that whoever is being cross-deployed is properly trained. So there needs to be resources for that and all the rest of it. So in principle yes, but it's not leaping out at me at the moment when I look at the number of judges that there is a... at the moment that we're not cross-deploying or flexibly deploying enough in a way that is damaging the system.

TESSA MUNT MP: Thank you, and just finally you've already referred to the shortage of district judges, the Head of the Family Justice suggested to the Committee that judicial pensions?

THE LADY CHIEF JUSTICE: Yes, I've read that and looked at it, it doesn't stand out to me as being a major contributing factor. There is some... I mean I commend to you if you have time to read the submissions of the Council of Circuit Judges, Association of District Judges, and the High Court Judges Association have put in brilliant responses to the major salary review from the SSRB and you will see in particular from the Council of Circuit Judges' submission some really good numbers work done on pensions, but I think it is... I don't see it as being a major factor. I've got no evidence to suggest it's the major factor behind London and South East.

TESSA MUNT MP: Thank you very much.

CHAIR: Tony Vaughan?

TONY VAUGHAN KC MP: Thank you, Chair. Thank you, Baroness Cough, for your answers so far. I'm going to ask about diversity of the bench, which I know is something that you've made a priority and something that is very important to you. I want to start where you left last year, although I wasn't here, but my briefing note says in your evidence before the Committee last year, you acknowledged the lack of progress with increasing the numbers of black judges, which still, as we know, persists and you referenced the pipeline as the problem, which I understand refers to the problems with the lack of diversity in the pipeline of candidates applying. So I wanted to ask, is improving the pipeline still the strategy, and if so, do you think that that's enough, particularly given that the diversity of the pipeline is improving very slowly? So, for example, this year in the 2025 KC appointments, I think there were ten applications and zero black people.

THE LADY CHIEF JUSTICE: Zero. Zero black. So in answer to your question, clearly, it can't be just about the pipeline, I do think it's the starting point, just logically, it's the starting point, and that's why we work very closely with the professions, including the Law Society, to work on diversity within the pipeline, but I wouldn't, for a moment, suggest that's the beginning and the end of it. I think, as you know, I've been focusing in particular on the lack of black judges that we have and it was wonderful to swear Mrs Justice Obi in as this year's second black High Court Judge ever, which is wonderful in a way, but awful in another, isn't it, when you say it out loud, but it was a wonderful occasion. But we are, for our part, in answer to your question, really, there's a lot of work going on here and in the new diversity strategy, improving the number of black judges is going to remain my focus for the next year, but I have got quite an impressive list of work that we have been doing in this space, and I am going to share it, actually.

Just on outreach, our review last year showed very strong participation by black legal professionals, 5 to 7%, compared to a 2 to 3% eligibility. You've always got to look at eligibility of the pool as a starting point. So really great that we're getting the black lawyers into our outreach schemes. We are building good relationships with a black solicitors network, law centres to improve engagement. We've relaunched our scheme for underrepresented groups using a cohort model with 11.8% of mentees identifying as black. We've got Bridging the Bar. This week is Bridging the Bar, so we've got in the High Court and the Court of Appeal, people from underrepresented cohorts shadowing us. Obviously, the wonderful news of the establishment of the UK Association of Black Judges in the Supreme Court this summer. That is going to be a very powerful organisation and we need to listen to what they're telling us. There is a race working group led by Lady Justice Whipple, which is looking to address differential outcomes for black applicants working with the JAC in particular. We've got the JDF, the Judicial Diversity Forum Working Group, investigating the reasons for underrepresentation. We are having a forum, a roundtable forum, next month with black lawyers to inform our future work, and as I said, a priority for next year in our new diversity strategy, we'll be looking at why we have so few black judges in there. I think we have to recognise it's going to be slow, it's frustrating, but we're not going to give up, and I think it is a combination of the pipeline and all of the work that we're doing that we need to keep focused on.

TONY VAUGHAN KC MP: Thank you. So just coming, looking at higher court appointments specifically, because as we know, diversity in the wider court system is different to diversity in the High Court, Court of Appeal and the Supreme Court. In their 2017 report on judicial diversity, JUSTICE identified the importance of having proper career progression pathways into the High Court bench from the County Court and the Crown Courts and the Tribunals Judiciary as well. One way to aid that progression is for judges in those courts to be ticketed to sit in the High Court, which has been under Section 9(1) of the Senior Courts Act, which enables those judges to have relevant experience that may assist them in an application to the High Court bench in the future, and in the same way you have practicing lawyers who can sit under Section 9(4). So I wanted to ask, first of all, do you agree that that Section 9(1) pathway should be expanded so that judges from courts, tribunals can access that complex work and essentially have that as an aid to any application that they may make in future?

THE LADY CHIEF JUSTICE: I don't agree, actually. I think Section 9(1) is very much a business need model. All judges who are Section 9(1) ticketed can apply to be Section 9(4) ticketed, I think that's right, I'll be corrected if I'm wrong, but I do think career progression is extremely important. I don't want you to leave with any other impression. But Section 9(1) is a business need driven model, and I think that's the right way around. Obviously, there's been litigation involving it as well. In terms of career progression, I think it's worth pausing to remember, I think we've just had three appointments to the High Court from the County Court. We've had Mark Cawson into the Chancery Division, Heather Norton and Margaret Obi. Sorry, no, Heather Norton and somebody else, I've just gone blank, promoted into the High Court. So there is a pathway, and it's wonderful

when it happens, and I do think it's important at all levels that we do look as part of our offering the proper career progression opportunities, that is important. I would agree with that very much.

TONY VAUGHAN KC MP: So what are the mechanisms if it's not then, for example, 9(1), so for judges in those courts, and if it is an access point for, say, KCs or barristers who are in private practice?

THE LADY CHIEF JUSTICE: I think, as I say, I think that a circuit judge can apply for Section 9(4) authorisation as well as 9(1), but I think also you will find that 50% of circuit appointments recently were made up of district judges. So there is a clear pathway. It may get more complicated towards the upper echelons, but I think you'll find more than ever that there is career progression between the district bench and the circuit bench, and there's a path from the circuit bench to the High Court bench.

TONY VAUGHAN KC MP: There was a suggestion, it was reported, around comments that Lord Justice Vos had made in an employment tribunal case last year about a sort of perception that coming from the sort of lower courts was less preferable from the judiciary or the JAC's perspective than if you were coming through a practitioner route, for example. Do you agree with that, or do you think that each route should be equivalent?

THE LADY CHIEF JUSTICE: No, I think it's just got to be merit-based. It's just got to be merit-based. I think, you know, it's career progression obviously, you know, not all judges, some judges are ambitious, and career progression is important if that's what you want. I think it's also really important to remember some of the best judges have no ambition to do anything other than the job that they're doing. I sat with District Judge Terry Phillips in Newcastle. He I would have thought has every potential to move on if he wanted to. He doesn't want to do any other job. He thinks it's the most important job. He's making more difference to more people every day than any other jurisdiction. So eyes ahead sometime is a very good message. Obviously, career progression is important, but I don't think we, for example, operate a model as happens in other countries in Europe, where it's a career from the beginning to the end, and you work your way up through the judiciary. It is a different model here.

TONY VAUGHAN KC MP: Do you think that if we get better at allowing judges to sort of grow up through the system as happened in other civil law countries in Europe, for example, that that would be one way to improve diversity in the higher courts, given this kind of diversity disparity between the lower courts, so to speak, and the senior courts?

THE LADY CHIEF JUSTICE: Yes, it might be, but I am firmly wedded to merit, merit, merit, that promotion has to be on merit, and it's important nothing gets in the way of that, but it's an interesting point, so your suggestion or your thinking is we might have better diversity in the senior judiciary if we had more judges coming through the district judge [inaudible].

TONY VAUGHAN KC MP: It's a thought, because we do have this disparity between the two levels in terms of diversity and in circumstances where we're seeing these very persistently low levels of, you know, essentially groups that are not men, if we work from the Supreme Court downwards, two women in the Supreme Court, one minority ethnic person in the Court of Appeal, I think two black people in the High Court, I might be wrong about that, that is not the reflection of modern Britain that we can sustainably accept.

THE LADY CHIEF JUSTICE: But I have remembered the third judge, Sonia Harris, who was a district judge to start with as well. So that's a particularly good story. She was an academic, then a district judge, then a circuit judge, and now she's a high court judge. So that is a good story, good news story.

TONY VAUGHAN KC MP: Thank you.

CHAIR: [Inaudible]... We've heard pipeline arguments for a long time. There are no ethnic minority judges in the Supreme Court, I think, as Mr Vaughan just alluded to, while Lord Justice Singh in the Court of Appeal. That's not... something is wrong there, isn't it?

THE LADY CHIEF JUSTICE: Yes, it's not what we want to see, I couldn't agree more. We're doing better with women, and overall better, but I agree, but I don't think that, as I may have said it here, if it wasn't here, I would say if there's something that we're not doing that we should be doing, we're open to all suggestions. Well, there's been a suggestion, something to think about, and I don't know how much that's been thought about before, but these are serious endeavours, and there's a serious commitment. It's not an easy issue. So, it is, and the pipeline argument also isn't a fig leaf. We can only recruit from the pool available to us. So it's a real, very substantial point. So yes, we would obviously like the figures to be better.

CHAIR: Thank you, Warinder [inaudible]?

WARINDER JUSS MP: Yes, thank you, Baroness Carr. When I was practicing, it did always concern me that considering the number of black and Asian lawyers that we have, it's just not represented amongst the judiciary, but I thank you for the initiatives that you've mentioned that you are taking. You mentioned the chair of the Bar Council, Barbara Mills KC, earlier. I've met her a couple of times, and I had a meeting with her as well. She has warned that overt racism may be preventing the appointment of black judges. What would be your response to that, and what would you say to anyone who is considering applying for judicial appointment, and secondly, could you give some facts about what proportion of the senior judiciary are actually from black or ethnic minority backgrounds?

THE LADY CHIEF JUSTICE: The answer to the second question is 7%, if we're taking High Court and above. Ethnic minorities and black people, 7%. The answer to your question, what's my reaction, is I'm shocked that Barbara would think that. It's not something she said to me, but she's obviously said it to you. I think the JAC should be told if that's what she thinks, and there's an evidence base for it, because it's in the appointments process that the racism will be expressing itself and it's obviously to be condemned, and it's utterly unacceptable. So I think if that is what she thinks, she must have evidence for it, and she should present the evidence. She's obviously at the Judicial Diversity Forum, so the Bar Council has a voice there. So I mean, I know, obviously, the JAC is independent. I know that in terms of proportion of black candidates not getting through some of the online tests, the JAC will have to speak for itself, but I understand they've done deep dives into all of the tests to look as whether or not there is any subliminal discrimination, if the questions are somehow phrased wrong, or the topics are wrong, and my understanding is that nothing has emerged from that to suggest that. I think possibly early on, potential candidates were not being given the best advice as to either when to apply or what to apply for. That may be a factor in it, but I just don't know.

WARINDER JUSS MP: If we are talking about diversity, we also need to be talking about how the judiciary should represent the whole legal profession. So in recent legal recruitment exercises, solicitors made up a larger share of the applicants than barristers, but it was barristers who were more likely to be recommended for appointment.

THE LADY CHIEF JUSTICE: This was the section 9(4), was it? Which competition was this?

WARINDER JUSS MP: I'm not sure exactly.

THE LADY CHIEF JUSTICE: No, all right, okay.

WARINDER JUSS MP: Yes, but it was relatively recent, and the Law Society's president has actually raised concerns that there is a perception that entry to the judiciary for solicitors is not a level playing field. So how would you respond to that?

THE LADY CHIEF JUSTICE: Well, I'm obviously disappointed that that's his view. It doesn't tally, for example, in the tribunals, I think we've got more solicitors than barristers sitting in the tribunals. So I think you need to look carefully at what jurisdictions you're talking about. We've got, I think, a third of the High Court bench in the Chancery Division is made up of former solicitors. So we're working, or I've been working very hard with the Law Society to not only deal with solicitors coming in at a lower level, but also into the senior judiciary and encouraging that very much. So I will take that up with the new president of the Law Society and see if he has some new information, but actually, we're going in the right way with solicitors, there are more solicitors than ever within all levels of the judiciary, including in the Court of Appeal.

WARINDER JUSS MP: Okay, thank you, and another aspect of diversity is the background, the socio-economic diversity of the judiciary. So again, a recent survey found that 62% of the senior judiciary attended an independent school, considering that I think the figure is that only 7% of pupils, and students generally, attend an independent school, that's a very high proportion of senior judiciary who are going to independent schools. So what do you think we should be doing more there?

THE LADY CHIEF JUSTICE: As much as we can. So we are doing a lot, but we need to do much more than we can. Gathering socio-economic data is quite difficult. You may have picked up for the first time this year we got enough answers on disability to start looking at some meaningful statistics. We still haven't got there with socio-economic data. We do things like the Judicial Reverse Mentoring Scheme, which is where judges are mentored by people from outside. 44 % of our mentors come from non-privates, from state school sectors, working class backgrounds. There's an awful lot, and we haven't got time to go through the individual projects and programmes that are going on. I was up in the North East, the North Eastern Circuit Scholarship Scheme is self-funded by the Bar and the judges. They've put together £15,000 a year to sponsor students from deprived backgrounds. It's all about extracting talent. It's very frustrating. We want to get as much socio-economic diversity in as possible and we just need to keep working with these projects, I think, and continue to be creative.

WARINDER JUSS MP: On that same issue, Baroness Carr, we've been talking about Sir Brian Leveson's review of the criminal courts. If his recommendations are implemented, then magistrates are going to perform a much greater role in criminal justice but we have a situation where, because the role is unpaid and largely accessible only to those who can afford to volunteer, how are we going to, again, increase the diversity of the magistrates who would be able to basically afford to become magistrates?

THE LADY CHIEF JUSTICE: Look, I agree. So we've got to look, we, I say it's the Ministry of Justice's responsibility, to recruit magistrates, look very hard at getting the right... as much diversity in the available cohort as possible. Just on magistrates, I've got 14% were from an ethnic minority, that's an increase from 11% in 2017. We've got 57% are female, that's up from 54 in 2017. 45% under 60 years of age, and that, again, is a small increase, but there is a real challenge, a real challenge, in getting particularly younger magistrates to come into the system, because if magistrates are doing longer cases, then that's much more of an ask if you're already working or you've got heavy family commitments or other commitments. It's going to be... it's going to be a real challenge. So, we recognise the challenge. We need to do everything we can to make the situation as healthy as it can be. But it's going to be very, very difficult.

WARINDER JUSS MP: What... do you have any different solution in mind?

THE LADY CHIEF JUSTICE: Well, it'll be making magistrates value... It's going to be outreach, information, public understanding. Some thank yous to magistrates will be pretty welcome. Some politicians being nice about judges and the magistracy. Looking at employers' awards, I do my certificates, all this sort of thing, trying to make it as attractive as possible. But there's no silver bullet that I've got.

WARINDER JUSS MP: Thank you.

CHAIR: Thank you very much, madam. Just a quick question from Tony Vaughan.

TONY VAUGHAN KC MP: Just a quick follow-up if I may, Baroness Carr, just following up on Mr Juss' question. So, can I clarify: is the judiciary and/or the JAC collecting data about socio-economic class-based metrics, for example, like whether your parents were the first to go to university or things like that, parental occupation at 14? Because a lot of large employers do do that.

THE LADY CHIEF JUSTICE: Yes, look, I think we are, but I will need to confirm that. It's certainly something I'd be very interested in. I'm pretty sure we are, but I don't want to give a categoric yes or no and get it wrong. I'll come back to you on that.

CHAIR: Can you indulge for one more topic?

THE LADY CHIEF JUSTICE: I've got no idea what time it is.

CHAIR: We're just on the half hour.

THE LADY CHIEF JUSTICE: Okay, I've got... Am I okay until five? I mean, yes, if I have one more question.

CHAIR: Thank you very much, from Pam Cox.

PAM COX MP: I'd better make it a good one then. Thank you very much. *[Laughs]* I want to take you back to your opening remarks where you updated us on AI and digitisation. It's very encouraging to hear all that work that's been going on, especially around transcripts.

THE LADY CHIEF JUSTICE: Yes.

PAM COX MP: Is that work directly connecting and shaping the government's AI action plan for justice from the MoJ?

THE LADY CHIEF JUSTICE: I would hope so. We're doing this with MoJ, but actually not aware. Is there a written action plan?

PAM COX MP: I believe so, yes.

THE LADY CHIEF JUSTICE: Yes, well, you and I are looking at each other.

PAM COX MP: Okay.

THE LADY CHIEF JUSTICE: I mean, I'd be amazed if it wasn't. They know what's going on.

PAM COX MP: Okay.

THE LADY CHIEF JUSTICE: So I'm assuming the answer is yes. But actually, thank you. We've got to make sure that it is, yes. *[Laughs]*

PAM COX MP: Yes. Yes, good to be clear, and has the work on AI and digitisation made a difference on data collection, data analysis, data processing? Because in your previous appearance, you were suggested that there were some issues still there, with the courts?

THE LADY CHIEF JUSTICE: Yes, I'm not being told at the moment that it is, but I am being told that it will make a difference. It ought to make things a lot easier.

PAM COX MP: And we know technology is a great enabler, but it's also... it can be problematic, particularly in terms of things like cyber security.

THE LADY CHIEF JUSTICE: Yes.

PAM COX MP: So, was the recent hacking of the Legal Aid agency, how was that dealt with, and what impact has that had on court proceedings?

THE LADY CHIEF JUSTICE: So, it obviously had a massive impact, has had a massive impact in particular in family, you've probably heard about that before, legally aided lawyers not being able to attend court, and so adjournments being granted, and so on and so forth, and I think we were principled but sympathetic, as sympathetic as we could be. The hack did not affect HMCTS in any way. I think cybersecurity risks are at the uppermost of everybody's minds all the time. I certainly know that HMCTS is acutely conscious of it, but we ourselves have not taken any additional steps in response to that hack. It did affect the working of the courts, and obviously, it affected massively the lives of those lawyers who depend on Legal Aid for payment.

PAM COX MP: The final one for me: last year, you were kind enough to facilitate an invitation to me and I believe to *[inaudible]*—

THE LADY CHIEF JUSTICE: Did you take it up?

PAM COX MP: We did take it up.

THE LADY CHIEF JUSTICE: Good.

PAM COX MP: To the Crown Court Improvement Group.

THE LADY CHIEF JUSTICE: Yes.

PAM COX MP: So, we're at... that was in May, I believe, that we attended that. It would be, I think, really helpful if that group could give an update to the Committee on progress made since then.

THE LADY CHIEF JUSTICE: Absolutely. So, the six work streams are up and running that you... better case management, AI, listing, domestic abuse listing, remote hearings, all of that is up and running, and I think we're about to hit a real doing phase. So, very happy to provide you with that update. They'll be delighted to give you an update.

PAM COX MP: Well, I think we'd really welcome that. So, thank you very much.

THE LADY CHIEF JUSTICE: Yes, and do we send that to you, Chair?

CHAIR: Yes, please. That would be extremely helpful. You've been very generous with your time, as always. I hope we haven't abused that. We have completed our business a little over time, but thank you so much again.

THE LADY CHIEF JUSTICE: Thank you for having me. Thank you all very much indeed.

CHAIR: Thank you, I'll end the proceedings there. Order order.

[Ends]