

Justice Committee

Oral evidence: [The Future of Legal Aid](#), HC 665

Tuesday 17 January 2023

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Members present: Sir Robert Neill (Chair); Janet Daby; Maria Eagle; Edward Timpson.

Questions 100 - 253

Witnesses

[I](#): Lubna Shuja, President of the Law Society.

[II](#): Mike Freer, Parliamentary Under Secretary of State, the Ministry of Justice; Daniel Flury, Director of Access to Justice Policy.



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Examination of witness

Witness: Lubna Shuja.

Q100 **Chair:** Welcome to this session of the Justice Committee following up on our previous work on the future of legal aid. Our first witness is the new President of the Law Society, Lubna Shuja. Congratulations on your appointment.

Lubna Shuja: Thank you very much.

Chair: We must now deal with declarations of interest from members of the Committee. I am a non-practising barrister, and a former consultant to a law firm.

Maria Eagle: I am a non-practising solicitor.

Edward Timpson: I am a former Solicitor General with a practising certificate but I am not currently engaged in any court work.

Q101 **Chair:** Mr Daly will join us later. He is a practising solicitor and a partner in a firm of solicitors.

We are interested in particular in criminal legal aid. The Government eventually published their full response to the Bellamy report. We heard evidence from your predecessor and from Mr Miller and others from the Law Society about its view in general.

What is the Law Society's current position on the Government's response?

Lubna Shuja: Thank you for inviting me to give evidence today.

Our response is: very disappointed. I am sure you will appreciate that. Lord Bellamy produced his review over a year ago, in December 2021. You will be aware that at that time he described the situation for criminal legal aid solicitors and firms as "parlous".

He recommended—over a year ago—that as an absolute minimum legal aid rates needed to be increased by 15%. As you indicated, recently, in December 2022—it has taken the Government a year to respond—we found out that the Government are willing to look at only 9%.

Lord Bellamy did his review a year ago, but now we are in the middle of a cost of living crisis. Inflation, I understand, is running at around 9.3%. That 9% that the Government have decided to implement is not an increase at all; they cancel each other out. Inflation is 9.3% and the Government have said that they will give 9%, so they cancel each other out.

Criminal legal aid firms are right back where they were when Lord Bellamy produced his report. He said at that time that the justice system is in crisis.



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It is still in crisis. It is still in a parlous state.

We are seriously concerned about that. You have probably read about firms looking at taking action themselves and thinking about what they can do.

The Law Society is so seriously concerned. The bottom line is that the Government have ignored their own report. They commissioned Lord Bellamy to review criminal legal aid. Lord Bellamy said in December 2021, "You need an immediate injection now to increase legal aid rates by 15%."

The Government have ignored that, so you may have read already in the press that we have sent a pre-action protocol letter to the Government. We believe that their decision is unlawful: they have not followed their own report that they commissioned.

We have been given no reason why that minimum of 15% has not been implemented. We do not understand.

Q102 **Chair:** May I press you a little on that? I have seen the letter that your predecessor wrote to Brandon Lewis, the former Lord Chancellor, in September. The Criminal Law Solicitors Association—I think that the Law Society did not disagree with it—broke it down in this way: 15% increase for advocacy, which is mostly done by barristers but some solicitor-advocates will get that; and 15% on police stations and magistrates courts. The problem, I understand, is the 4% increase in preparation for litigation in the Crown court.

Lubna Shuja: Absolutely right.

Q103 **Chair:** And that is the area of contention.

Lubna Shuja: Yes, you are absolutely right. The problem is with the LGFS—the litigators graduated fee scheme. That is where solicitors do most of their work—in the preparation for hearings: the gathering of evidence, interviewing witnesses and preparing briefs for counsel. It is all the work that needs to be done before you get to hearing.

For that area, they have only a 4% increase.

Q104 **Chair:** Overall, it comes to 9%.

Lubna Shuja: Yes, and that is why we have a gap between 15%, which was the minimum—forgive me, but I would really like to stress, and I am sure you are aware of it because you have heard evidence from various other people—

Q105 **Chair:** Lord Bellamy gave evidence to us.

Lubna Shuja: Absolutely.



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That was the minimum; it wasn't, "That's the end of it." It was, "We need this now to keep the system sustainable while we look at what more needs to be implemented.

Q106 **Chair:** I get it. We shall look later in the inquiry at the sustainability point.

Numerically, it does not give full effect, for the reasons you have set out. What engagement have you had with Ministers since you took over?

Lubna Shuja: We have had lots of engagement over the last 12 months. I took office in October. I have had a meeting with the Lord Chancellor. I have also had a couple of meetings with Minister Freer, whom I believe you will speak to after me.

They have been interesting meetings, but unfortunately the conclusion we had to come away with was that we don't think Ministers are taking this seriously. They don't understand how serious the crisis is.

I shall give you some examples. Twelve years ago, the number of criminal legal aid firms was 1,861. The figure for January 2023—a very up-to-date figure—is 1,038. The figure has plummeted by almost a half.

We know that 20% of solicitors dealing with criminal legal aid work have left in the last five years, so we know that people are leaving the profession in droves.

Q107 **Chair:** I wonder whether you can help me. You have given us the number of firms, but I am more interested in the number of practitioners, because you can get mergers of firms and so on. Do you have figures for practitioners?

Lubna Shuja: I do have the figure for you. We know that in 2018 the figure for criminal legal aid practitioners was 5,131 and it is currently 4,063. We have lost—

Q108 **Chair:** Twenty per cent.

Lubna Shuja: Yes. That is the figure.

Q109 **Chair:** That is very helpful.

Have you suggested to Ministers any way in which the gap might be breached?

Lubna Shuja: We need them to meet Lord Bellamy's recommendation.

Q110 **Chair:** Have they said that there is money available to do it?

Lubna Shuja: Well, they can find money if they want to.

Q111 **Chair:** Bellamy is costed at £135 million as a total package. We have heard evidence previously from the Law Society that there was £20 million or so that wasn't used. Have you had discussions about how that might be applied?



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Lubna Shuja: We have explained that the amount we believe we need to fill the gap between 9% and 15% amounts to a ballpark £30 million. That's what it needs. I have explained that to the Lord Chancellor and to Minister Freer.

Q112 **Chair:** Do you suggest that they go to the Treasury for that, or are there underspends in other areas?

Lubna Shuja: My understanding is that there has been underspend in some areas. We have suggested that they look at the areas where there is underspend and use that money.

Q113 **Chair:** As well as your pre-action protocol you made some suggestions.

Lubna Shuja: Yes.

Q114 **Chair:** Can you help us on the areas where you made those suggestions—if not now, perhaps later?

Lubna Shuja: I am sure we could provide you with the information later.

Q115 **Chair:** That would be very helpful.

I am surprised: from some of your comments, some might think that you are almost trying to turn people off doing criminal work. Is that a responsible thing for the Law Society to be doing?

Lubna Shuja: We have got to remember that a lot of these are small businesses—high street practices. They have a business model that functions on the basis of projected income. Not only that, they have a duty—members of the Committee who are solicitors will know this—and the SRA, the Solicitors Regulation Authority, has a code of conduct in place that requires firms to manage their financial viability. It requires them to look at risk assessment.

Lord Bellamy identified over a year ago that this was not a commercially viable proposition, which is why he recommended putting a minimum of 15% in now.

Without that, we have to give firms a warning: "This isn't a sustainable area for you to carry on working in. Think very carefully about your business model. Think very carefully."

Some firms are doing the work, but they cross-subsidise it with other areas of work. That is not right. That is not the way to deal with things.

We have given a warning. We have asked firms to look very carefully at their business models.

This is going to have a long-term impact. The high street practices employ people. There are jobs at risk. I have already given you the figures on the number of individual criminal duty solicitors who are leaving. Those people's jobs are at risk.



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There are issues around access to justice. With firms and solicitors leaving, there is one criminal duty solicitor who has to cover 24/7. There was one duty solicitor in a court in Wales. The court had to pause a hearing because the solicitor had to go to see somebody in a police station. That is wasting public money. It is causing delays in the system. Victims are not getting justice quickly. Defendants are in limbo. It is contributing to the backlogs.

There are all sorts of issues.

Q116 **Chair:** Cross-subsidy is not necessarily a new thing, is it?

Lubna Shuja: No.

Q117 **Chair:** It has been around for some time, with firms cross-subsidising criminal work. It is not a recent phenomenon. It does not make it right, necessarily, but it has been a fact, has it not?

Lubna Shuja: Yes, to some extent. The issue here is that the statistics are telling us that firms are not willing to do that any more. They are leaving. They are stopping that work.

Chair: I get that.

Q118 **Maria Eagle:** You have talked about legal aid deserts and the duty solicitor scheme. The Government's full response appears to include a 30% increase for police station work. Will that be sufficient to ensure that duty solicitor schemes continue to operate effectively? Will it repair any of the damage that has been done? Will it ensure that we lose the legal aid deserts and start getting provision back?

Lubna Shuja: No. The difficulty is that once you lose criminal duty solicitors in a particular area the duty solicitor scheme falls apart and you have to start it all over again, and that is expensive. That costs money.

Once those solicitors have gone—have left that area of practice—they're not going to come back to it because they will have found other avenues.

We did a survey of our junior solicitors. Eighty per cent. said, "We're not willing to go into this area of practice because it isn't a good career choice for us."

I have talked to judges who are really worried about the pipeline of judges. That has been impacted. We have duty solicitors leaving the system. Those same solicitors eventually go on or apply to become judges. Senior members of the judiciary I have spoken to know that there is a problem with the pipeline.

I have spoken to senior people at the Crown Prosecution Service. They are really worried because they are finding delays in their cases because there aren't defence counsel to represent defendants.



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You are going to end up with more people dabbling around and representing themselves. That costs more money in the courts. That means more delay.

There are a lot of long-term consequences of what is going on at the moment. It isn't access to justice. That is the key thing. Frankly, it isn't taking crime seriously.

Q119 **Maria Eagle:** You said that the minimum the Government have to do is the Bellamy 15% but that you are getting only 9% if you add it all up. There is the 30% increase I was suggesting for a particular aspect of work. Are you saying this won't work because people have already walked away? I am trying to understand the mechanics. There is a 30% increase for a particular area of work that can be difficult and has antisocial hours—you get called away when you're supposed to be going out for a drink or whatever and you go to the police station instead. I can see why it is generally unattractive.

Lubna Shuja: Absolutely.

Q120 **Maria Eagle:** But isn't the 30% increase enough, or is it just in the context of the work being poorly remunerated?

Lubna Shuja: When you mention 30%, do you mean the 15%?

Q121 **Maria Eagle:** The Government's final response included a 30% increase for police station work.

Lubna Shuja: I don't think that is now; that is in 2024.

Q122 **Maria Eagle:** Right. It is too far ahead.

Lubna Shuja: By then, we aren't going to have criminal duty solicitors. We have done projections. I have explained what has happened in the last 12 years.

Q123 **Maria Eagle:** I was going to ask you about your projections. How many criminal legal aid firms do you think there will be by, say, 2024, when the 30% increase is due?

Lubna Shuja: We have looked at 2025 as a figure. Between now and 2025, on our projections, we are going to lose another 16% of criminal legal aid firms. We have 1,038. We are going to lose 16% of them by 2025. On top of that we will lose another 19% of the individual criminal legal aid solicitors. Overall, we have lost 20% in the last five years. We are going to lose almost half the solicitors who deal with criminal law by 2025.

It is all well and good saying, "We are going to give you this," whenever; they're not going to be here. Quite frankly, what has happened is that criminal legal aid solicitors have seen the Government's response. They were waiting. They have seen what the Government have done. They have seen that the Government have not followed the recommendations of Lord Bellamy. The Government have not implemented the 15%



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increase that Lord Bellamy said was needed a year ago, when the situation was parlous—the system was in crisis. That was a year ago.

Those solicitors are thinking: “This Government are not taking this seriously. Why are we wasting time? We are going to move on and do something else.” They are not going to be there.

The difficulty with that is that the long-term sustainability of our criminal justice system is really seriously at threat—really seriously. We don’t think Ministers are taking that seriously enough, quite frankly.

Q124 Maria Eagle: The Government have talked about enabling CILEX lawyers to take up the role of advising at police stations. What is your approach to that? I realise you are not responsible for those practitioners, but do you think that provides any kind of answer?

Lubna Shuja: No, we don’t, quite frankly, and I will tell you why. At the moment, there are about 7,000 fully qualified CILEX. We don’t know how many, but some of them are already working in criminal legal aid firms. Those who have an interest in working in criminal legal aid are already working in criminal legal aid firms. They fall within that figure of firms that are closing.

There is not a large pool of CILEX waiting to step in. We have spoken to CILEX. We have invited them to work with us, looking at how the CILEX qualification maps against the accreditation that we do for criminal legal aid solicitors. They have not taken up that offer.

It would be a matter for the Legal Aid Agency to consider whether it wants to recognise the CILEX qualification, and it will decide whether it meets the relevant standards.

There isn’t a huge pool out there. It is not the answer, and those who are doing it are already in criminal legal aid firms.

Q125 Chair: Out of interest, how long ago did you ask to meet CILEX?

Lubna Shuja: We have a meeting coming up.

Q126 Chair: So it isn’t that it declined.

Lubna Shuja: No, it is to talk more generally; it isn’t to talk specifically about criminal legal aid. We have a meeting coming up.

Q127 Chair: How long ago did you ask it specifically about criminal legal aid?

Lubna Shuja: I am sorry, I don’t—

Q128 Chair: Do you want to take instructions, so to speak?

Lubna Shuja: Thank you.

April or May last year. That was before I took office. I’m relying on my colleague.



Q129 **Chair:** That is helpful. It has been a while without any response.

Lubna Shuja: Yes.

Q130 **Edward Timpson:** May I take you back to the litigators graduated fee scheme, which is essentially solicitors' pay for Crown court work? In his independent review Lord Bellamy criticised the scheme, particularly its over-reliance on pages of prosecution evidence. I know that in your November briefing the Law Society supported the Government's intention to reform the scheme.

Lord Bellamy recommended that the scheme in its present form be "replaced by a scheme based on lower standard fees, higher standard fees, and in exceptional cases non-standard fees, along the lines of the Magistrates' Court scheme". Do you concur, or which reform would be most effective in dealing with the current scheme's deficiencies?

Lubna Shuja: We absolutely do agree with it. We understand that the scheme needs reform. In fact, when we submitted our response to Lord Bellamy, when he was initially doing the review, we made suggestions. We talked about a fee structure similar to magistrates courts.

The litigators graduated fee scheme was introduced in 2007 and we absolutely acknowledge that way back then there was no such thing as social media evidence—not a great deal of it—there wasn't mobile phone evidence; and there wasn't as much CCTV and video evidence as there is now.

We accept that it needs to be reformed and it needs to be looked at. The problem is that the reform proposed will take two years. That's too long. If that reform is going on, we need members to receive the minimum that Lord Bellamy said: the 15%. Although Lord Bellamy made those recommendations, he said that the 15% increase in legal aid rates had to be across the board. That was December 2021.

We go back to: we support the reform, but if you want criminal legal aid firms and criminal legal aid solicitors still around when that reform finishes, you need to pay the minimum or to increase the legal aid rates by the minimum of 15%, which is what Lord Bellamy said in December 2021.

We have got to get it to that level. I keep going back to: it was in crisis then. There will be nobody left by the time this reform is finished.

Q131 **Edward Timpson:** Everyone agrees that reform is necessary. We are now talking about how that is implemented and how expeditiously that can occur, ensuring that all the necessary evidence-gathering, data analysis and the overall package of reform reflect need in the system. Do you accept the Government's position that it will take until at least early 2024, or do you think there are ways of speeding up the process to provide reassurance at an earlier date?



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Lubna Shuja: We are happy to work with the Government at whatever pace they need, but I go back to: it is on the basis that Lord Bellamy's recommendation is implemented. If that 15% increase is implemented now—it should have been implemented a year ago—we are happy to work with the Government on whatever timescale they need.

We want to do it properly. We don't want to say to the Government, "Quickly, quickly, quickly," and all of a sudden find that we missed stuff because everyone was trying to juggernaut it to get it done quickly.

The key is that we want to make sure that criminal legal aid firms and criminal duty solicitors are still in the system—are still working—and by the time that reform has gone through we have a justice system that it can apply to. There is no point in having a reform and then finding that there is nobody to implement it.

Q132 **Edward Timpson:** May I take you back to the overall Government response about the additional money being put into the system or whether they have reallocated it from other future commitments? The Government response on 30 November last year suggested £138 million per annum, of which £85 million would be for solicitors, £43 million for barristers and £11 million for experts. Do you know what the £85 million would cover?

Going back to the earlier question from the Chair, do you have other proposals on how that £138 million could be better spent to support the concerns you have for your members?

Lubna Shuja: I don't know the answer to that question, quite frankly. If you would permit it, I will ask one of my colleagues.

Q133 **Edward Timpson:** I know that Mr Miller and other colleagues dealt with a lot of this and have the facts.

Lubna Shuja: I understand from my colleagues that the money has already been allocated to the magistrates courts and is not part of the package we are talking about.

The money has been allocated but it doesn't meet the 15% minimum. The 9% that we are talking about is within that package, but it does not come up to the 15%, so that gap is not accounted for; it is not within those figures.

Q134 **Edward Timpson:** I ask because I am trying to see whether there is a staging post between your wanting the Government to go immediately to 15% and, through the funding that has been allocated, a way of reallocating it.

Lubna Shuja: That is a question for the Minister, probably. My understanding is that it has been allocated already so there is not an option. Perhaps you can ask the Minister.

Q135 **Janet Daby:** I am going to ask about outstanding cases in the Crown



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court, but before I do so I want to thank you for the clarity of the way in which you are speaking and representing your members.

How long has it been since criminal legal aid firms and solicitors have seen an increase?

Lubna Shuja: Thank you very much for asking that question; it is one of the key points I would like to make to you.

There has been no increase in the rate for criminal legal aid firms for 25 years. It has been over 25 years since they have seen any significant increase—the 1990s.

When Lord Bellamy did his review, I think he was looking at statistics from 2019. He published his review in 2021, but the stats he had been looking at were from 2019. At that time, he was saying that the system is in crisis.

Effectively, solicitors have suffered a real-terms pay cut. They have gone backwards. We have had inflation over time. I have spoken about current inflation cancelling out the 9%. It is only 9%, but it is cancelled out anyway. They have had no significant increase for 25 years. Who is going to stay in a profession if they are not keeping up with inflation, especially now that we have a cost of living crisis?

Q136 Janet Daby: When you are speaking to your members about not seeing an increase in the last year, what are your members saying to you? What are their thoughts, feelings or views about the future?

Lubna Shuja: I have already mentioned junior solicitors. We know that only 4% of criminal duty solicitors are under 35 years old. A quarter of duty solicitors are aged over 50—a quarter. I spoke to members who told me: “I am looking to retire. I am looking to close my practice. I can’t find anyone to take over.”

I gave you the stats: almost half the criminal legal aid firms have closed in the past 12 years. Where those firms are closing, nobody is stepping in; nobody is coming into that gap. We are getting huge areas around the country where there is very little provision. We have one duty solicitor in the whole of south-west England, in Barnstaple. We have one duty solicitor in Newark. In Worksop and East Retford, we have one duty solicitor. There is one solicitor in Berwick and Alnwick. We know that many others are joining that.

If you are the only one doing it, with long hours, in the middle of the night, you don’t get paid a lot of money for doing it. Why would they do it? They don’t have a work-life balance. Their families are suffering. It’s just not viable any more.

We know that our junior members are not coming into the profession. We know that that will have long-term consequences. We know that those



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who are leaving the profession are not able to find people to take over their firms. It is a real issue.

Q137 Janet Daby: There are loads of outstanding cases in the Crown court. In the light of that, what do you think the Government should be doing to reduce their number?

Lubna Shuja: There are all sorts of things. The first and most important thing is to implement the 15% and close that gap. They need to close that gap. If they do that, they will send the message to criminal legal aid solicitors: "We are taking you seriously. We understand the situation you are in. We want you to stay in the system."

We need more money for judges and staff. Judges and staff are leaving. When you have long backlogs, it is a very stressful environment. We know that at the moment cases are being adjourned to 2024. Really serious cases—rape trials—are not being dealt with until 2024. Therefore, you have witnesses and defendants in limbo.

Just last year we carried out a survey of our members—I do not know whether you picked up on it—to look at the state of the courts themselves. Sixty four per cent. of our members said that in the past 12 months they had experienced delays across the criminal and civil courts. You would smile if it wasn't so ridiculous. One member said that the air-conditioning system in a courtroom fell on his head. That has not been fixed. We have had members telling us that toilets are leaking. We have had members telling us they have been in a courtroom in January when it is freezing outside and it is 27° inside, and fans are on all round the courtroom. Other members tell us that the courts are too cold.

I am from Birmingham. A solicitor in Birmingham has told me that the fire alarm system stopped working in one of the courts. A number of courts were put out of service for months. That has not been rectified. All it needs is some money to be spent on repairs.

A senior judge told me he had been sitting in a court where the shutter for the prison van to get into the court had not been serviced. There was no contract to service that shutter regularly. One morning, when he had a whole list of cases to deal with, the police van arrived with the defendants in it but they could not get the shutter up. All those cases were adjourned because they could not get the police van into the premises so that those defendants could be dealt with. That is just ridiculous. These are things that can be easily fixed. You just need to get somebody in to sort out the fire alarm or shutter. These are little things.

Q138 Janet Daby: It sounds as if there is a crisis in many areas, as you have rightly highlighted.

Lubna Shuja: It is falling apart.

Chair: We have got the message, but we need to press on.



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Q139 **Janet Daby:** The second part of this is what assessment the Law Society has made of the roll-out of the common platform to date.

Lubna Shuja: We welcome the digital case management system because it will drive efficiency and make life easier for everybody, but the difficulty is that it has been rolled out quite quickly. I understand that the project is to finish at the end of this year.

We have had feedback from our members who have had a lot of problems with the common platform. They have found that the wi-fi in the courtrooms is not very strong so they cannot log into the network; they have found that the sound quality is low so they cannot hear what is going on; screens are too small; there are technical issues in just trying to get on to the system and be able to use it. What we say is that HMCTS needs to look at that and analyse where the problems and issues are, and how we fix them. That needs to be put right before it is rolled out and finalised. At the moment I think the date is the end of this year, but it was paused during the pandemic for some time. We need to look at that properly. We are not against it, but we say that, if you are to do it, do it properly.

Q140 **Maria Eagle:** You have already mentioned the state of the courts and the survey of your members and some of their experiences. What do you think ought to be done to improve the court estate? Should there be a focus on fixing the existing court estate? Would that be your position?

Lubna Shuja: Yes. There are a couple of things. Our report has a five-point plan for what can be done. The first recommendation, obviously, is to invest in the buildings, the staff and solicitors, which was where we started this conversation.

Legal aid needs to be introduced for early advice, because a lot of the courts—this goes back to the backlogs you raised—are being clogged up because people cannot afford to get advice from solicitors; they do not get legal aid. If we had legal aid for early advice, people would be able to go to a solicitor at the beginning and find out whether they had a case and what they needed to do, or the solicitor might be able to guide them.

What happens now is that the first point of call for most people who do not have access to face-to-face legal advice is the issuing of proceedings. You find that the courts are being filled up with more and more litigants in person. Judges have to manage these litigants in person. One judge told me that when he is sitting on cases it is not unusual for a litigant in person to have googled what they think their case is about. They will google every possible thing, print it, turn up in court with a wad of paper this big and say to the judge, "There you are; that's my case." The judge has to deal with that and figure out where he goes with it.

Q141 **Maria Eagle:** You are talking about the civil side now, are you not?

Lubna Shuja: Yes. We say that if we get legal aid for early legal advice that will cut out a lot of the issues that are clogging up the courts at the



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moment. It will also allow for signposting. Many cases are suitable for mediation and alternative disposal.

Q142 **Chair:** We are talking now about civil rather than criminal. We have slightly strayed off the topic.

Lubna Shuja: Yes.

Q143 **Chair:** We will come to that, as it happens.

Lubna Shuja: On criminal, it gets back to the 15% minimum recommended by Lord Bellamy. We need to get that.

Q144 **Maria Eagle:** Given it has now been a year and, as you have illustrated, people are walking away, do you think that if the Minister was on the road to Damascus—we will ask him when he gets here later—saw the light, found the money and said, “We’ve got it wrong and we’ll do the 15% from now,” that would make all the difference?

Lubna Shuja: It would be a first step because it would tell the firms doing it at the moment that they are being taken seriously and their work is valuable. It will also show that the criminal justice system is valuable.

Q145 **Maria Eagle:** Will it be enough to stop the decline you have been describing?

Lubna Shuja: Lord Bellamy said that was the minimum needed just to sustain the system.

Q146 **Maria Eagle:** Given that a year has passed and it has not been done—

Lubna Shuja: That is why people are leaving.

Q147 **Maria Eagle:** If it was done suddenly, even a year late, it would make a material difference.

Lubna Shuja: It would make a huge difference. We have made projections to show that firms are continuing to leave. At least it will tell those firms, “The Government are taking this seriously. You will get what Lord Bellamy recommended because we understand your situation is parlous. We understand that you are in a crisis and we do not want to lose you.” I think it will give a message that they are taking it seriously and they accept the recommendations of their own independent expert.

Q148 **Maria Eagle:** Who is now a Minister.

Lubna Shuja: He is now a Lord.

Q149 **Maria Eagle:** To what extent do you think that the current condition of the court estate, which, as you have described, can be fairly grotty at times, is a contributing factor to people leaving? This kind of thing can be done—improving conditions like that—but not overnight. To what extent is that having an impact on whether people walk away and firms close?



Lubna Shuja: I think it is having an impact because people do consider the environment in which they need to work. If you are going to court regularly and it is freezing cold, too hot or you cannot use the toilets, or you have constant delays in courts, you are the one who has to explain to clients why their cases have been delayed for two years and why the court is shut.

Why would you want to be in that stressful situation? Solicitors want to do a good job. Most of us joined this profession because we are committed to our clients having access to justice. We want to see that happen. We do not want to be the people who say, "It's not happening and this is why. It is not my fault and I cannot do anything about it."

Q150 **Chair:** You mentioned some of the civil changes. I think that earlier this month the Government announced a review of the civil legal aid market. I imagine that you welcome that.

Lubna Shuja: Yes, absolutely, but the difficulty again is that it is taking too long. I am sorry I sound like a broken record. It is great to see a review starting, but I understand it will take two years to conclude. I go back in a circle with some of the arguments I have already made. Over the past five years over half of civil legal aid firms have left the profession, so it is a similar picture to criminal legal aid. Those who are doing civil legal aid are leaving as well. There is a real concern. We need to see money going into those firms as well.

Q151 **Chair:** Have you made that concern about the timeframe clear to Government yet?

Lubna Shuja: Yes, absolutely.

Q152 **Chair:** I imagine that you will be presenting evidence to that review as soon as it gets under way.

Lubna Shuja: If they ask me, I will be very happy to do so.

Q153 **Chair:** Thank you very much for your time and for your evidence. I am sure we will see you again during the course of your term of office.

Lubna Shuja: I hope so. Thank you for listening.

Examination of witnesses

Witnesses: Mike Freer and Daniel Flury.

Q154 **Chair:** The next panel comprises the Minister and Mr Flury. Minister, I know that as well as being Under-Secretary you are responsible for courts, legal aid and all related matters.

Mike Freer: Yes, Chair. Thank you for the invitation. In previous roles, I have taken appearances before Select Committees seriously. I know that Ministers do not always like appearing before Select Committees, but it is part of our role.



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I took on the additional responsibility on 23 September, so I am still relatively new and am trying to get to grips with all the intricacies of the criminal justice system and covering for Lord Bellamy. I apologise if I am not entirely over the brief for anything to do with Lord Bellamy's portfolio, but I have taken some time to try to get to grips with the Bellamy review and understand some of the strains and pressures, particularly on the criminal legal aid system.

As you know, I am also responsible for the courts estate, coroners' inquests, inquiries, the Probate Office and the Office of the Public Guardian. It is quite a broad portfolio, but obviously today you wish to focus on criminal legal aid.

My position is that I recognise the strains and tensions in the system and that the stakeholders are, shall we say, less than happy with the settlement, but, having spent some time on the Bellamy review I feel that we have delivered the quantum and beyond. While I realise that the Law Society argues we should be implementing the 15%, what we have been able to deliver is an immediate 15% uplift in many areas that Lord Bellamy agreed, with two notable exceptions: one is on prison law and the other is on PPE.

If I may be very direct, having spent some time reading the chapter on the LGFS, I cannot in all honesty as a Minister recommend that we continue to put more money into a part of the payment scheme that incentivises perverse outcomes in, effectively, payment for paper, when there is little substantial evidence that all the evidence is always being used. I think all parts of the system recognise that PPE needs to be reformed.

Q155 Chair: May I stop you for one second? You have Mr Flury with you. You have not introduced him yet.

Mike Freer: I apologise.

Daniel Flury: I am director of access to justice in the Ministry of Justice. My portfolio covers legal aid, legal support, coroners, tribunals and civil justice.

Mike Freer: The other point about PPE and having to grapple with the complexities of the LGFS is that, if we were to put more money into PPE, which I think all sides recognise needs reform, it would make ripping off the plaster when reform is implemented even more painful.

My personal priority—this is where I think we have some of the investment right—in this part of the portfolio is to try to get the front end of the criminal justice system more efficient and effective. If we can make what happens in police stations and how the CPS handles it and then hands over to the initial stages of the defence more efficient and effective, I think that will improve the outcomes of justice and make the process move more swiftly and effectively.



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I am quite comfortable with the investment we have made, particularly at the police station and youth court end, but I would be quite robust in defending no further investment in PPE.

Q156 **Chair:** Lord Bellamy's recommendation was very clear: 15% was the absolute minimum, with no qualifications.

Mike Freer: I am a little surprised about the overarching 15%, come what may. I read the chapter on LGFS: he eviscerated PPE. I took quite some time on that particular chapter on the LGFS. He was absolutely scathing about the inefficiencies and inequities of the PPE payment system.

Q157 **Chair:** He also goes on to say, when talking about legal aid providers, that the situation on the solicitors' side of the profession is very serious. He recognised in his report, as you fairly observed, Minister, concerns about the LGFS, but none the less he recommended a 15% increase, which you have not delivered. Why? Do you know better than Lord Bellamy?

Mike Freer: No, but, as my predecessor in Finchley once said, advisers advise and Ministers decide. Within the financial envelope that we have available, we have delivered. Lord Bellamy recommended £135 million and we delivered well above that—investment of the £138 million-plus additional funds, which Mr Flury will be able to go into in more detail.

In terms of the fundamental sustainability of the system, in my view, the investment at the front end is more than justifiable. I am certainly aware of the stresses and strains on the availability of advice, particularly duty solicitors and practitioners. Since we implemented the new contract in October of last year, post CLAR, we have started to see an increase in both practitioners and duty solicitor provision.

I do not think we should trumpet from the hilltops that we have reversed the tide, but I think it is a good sign that what we have implemented—I repeat that the quantum is there, even if we have not ticked every single box—has made an impact on the availability of legal aid provision.

Q158 **Chair:** Understanding that there is concern about the LGFS and the need to reform it, which, as you say, is pretty much broadly accepted, you will be aware that Lord Bellamy, while recognising that, pointed out in recommending the 15% that, in addition to the situation being very serious for solicitors—he uses the word “parlous”, which to me sounds like hanging on by one’s fingertips—fees had remained unchanged for 14 years. Against that background, would it not have been a reasonable and balanced approach to have said, “We must reform the LGFS, but we will increase it by 15% and do the reform at the same time,” rather than in effect to pause the increase for what is a major part of the work of solicitors, because the preparation of Crown court trials is quite a major chunk of the income?



Mike Freer: I understand that point, but the investment is particularly to ensure that police station work, youth work and the legal aid side is more sustainable without embedding further the inefficiencies and inequities of the PPE system.

Q159 **Chair:** But is not the problem that it is all one system? The people who do the police station work and the other things you rightly refer to are the same people who depend upon the LGFS, in whatever form—perhaps in a revised form—for their income. Therefore, if you do not get the increase to make the LGFS attractive, they will not be around to do the police station work and give advice anyway.

Mike Freer: I accept the model of pursuing paper-heavy or long cases to cross-subsidise other parts of your practice. I am not a lawyer, but I understand that is not unknown. I am not sure that is necessarily the right thing to do, not only in the investment we have made—the 15% uplift in the front-end fees—but in reform of PPE, which has to be the most appropriate way forward, rather than simply embedding that inefficiency and inequity with further increases.

That is why I am comfortable with the £138 million-plus that we have invested in the legal aid scheme, particularly in the front end of the system, but still very robust and not yet convinced that providing more money for PPE is the right thing to do, accepting all the strains.

As for the fundamental issue about the stability of the practitioner ecosystem, the first data we have seen since awarding the contract under CLAR last October suggests we have seen an increase in duty solicitors—both firms and practitioners. Therefore, while it is too early to say it is a major success, we see some signs of stability back in the system.

Q160 **Chair:** What does that data say?

Mike Freer: In terms of the latest data on providers, it is up to 1,130, compared with 1,051 in April. In December 2022, the number of offices operating was 1,716, compared with 1,570 in April. In terms of duty solicitors, as of January this year it stands at 4,023. If I compare that with, say, October 2022, that is up from 3,113.

There are some good increases. I do not want to over-egg them, but it suggests that since the new contract came into play we have seen some people coming back into the market and we have been able to stabilise it while we get some of the other parts of the system reformed.

Q161 **Chair:** I do not know whether you or Mr Flury have any figures about the number of criminal practitioners. I assume that duty solicitors would be the bulk of criminal practitioners; most of them go on the scheme. The Law Society gave me some figures about the number of practitioners who do crime. I do not know whether you have those.



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Daniel Flury: We do not. To be clear, these are the numbers who have signed the new 2022 standard crime contract. We do not have overall numbers for practitioners in criminal law.

Q162 **Chair:** Mr Flury, you were involved in the earlier negotiations before the Minister was appointed. Was there any discussion about other areas where, for example, solicitors' fees might be increased within the envelope to compensate for the pause in fee increases on the LGFS pending its reform? Was that examined?

Daniel Flury: Not necessarily. As the Minister said, we always knew we wanted to have a specific focus on the police station and the early stages of the case. You will have seen from the consultation published in November that we have done just that.

On LGFS, much of this is framed as a rejection of what Bellamy proposed. I would like the Committee to know that LGFS reform is under way now and is being undertaken in conjunction with the new Criminal Legal Aid Advisory Board. We are looking at a number of options, but the principal one is how to get LGFS to 15% overall. That would be our guiding star in reform. We are looking at a number of ways in which that could be done, whether it is through standard fees, as Bellamy recommended, for magistrates courts, whether it is tapers, a threshold or a PPE band. There is quite a bit of work undertaken to establish the policy and then collect data on it, but I do want the Committee to know that this work is under way. As the consultation said, we will have something concrete on which we will consult in 2024, which will indicate how that gap will be closed.

Chair: We may come back to that. That is very helpful.

Q163 **Edward Timpson:** Minister, you said that you were first appointed back in the heady days of September 2022, since when we have had the Government's response to the Bellamy review. I think it was on 30 November. It has been under your tenure that the Government have produced that report, although I accept that some of the additional work will have happened before you took office. Nevertheless, it is something that you sign off.

The 15% fees for solicitors in the Crown court remains contentious and there is an impasse, which we heard more about earlier today in evidence we took from Lubna Shuja, President of the Law Society. In the time you have had in the Ministry of Justice what contact have you had with the Law Society to talk through its concerns, and what are your future plans to try to ameliorate some of the issues that are still very alive and pertinent?

Mike Freer: I have met Lubna twice. One was a slightly more in-depth conversation about the Bellamy review, the implementation of it and the settlement. Moving forward on that, I have indicated that I am always happy to meet and look at options. While I cannot guarantee to deliver more money because I have to live within the financial envelope that has been decided, I am very willing to look at how we can make the system



release money and spend it differently. The practitioners know the system better than I do. If we can sit around a table and find a way of squeezing the system differently to release money, I am open to suggestions.

Beyond that, I am not sure the Law Society would believe there is money in the system to be squeezed and reallocated. That is obviously a fair point. What I am keen to do is work with stakeholders, especially the Law Society, to find out how we can make the remuneration scheme more effective and fairer so it is attractive to work in and it is efficient.

I am not a lawyer so I am not attached to any particular model. I am more than happy to look at any model that people think would work, so the door is open and I have a blank piece of paper on how the reform might take shape. Other people may have firm views; I do not.

Q164 Edward Timpson: That is in relation to reform in the future. The concerns of the Law Society and many other solicitors working in the Crown court at present are about the interim period between now and when those reforms come into being, which, on the current trajectory, will not be before this time next year. How will you try to resolve this situation, bearing in mind that we also have the Criminal Law Solicitors Association announcing that it is considering unionisation in response to the approach you have taken?

Mike Freer: All I can say is that my intention is to continue to implement those parts of the Bellamy review that we have agreed. Beyond that, I cannot give any further commitments because I do not have any further money to put on the table, so within the financial envelope I have and the commitments already given I do not have any wiggle room.

Q165 Edward Timpson: But is your door as open to the CLSA as it is to the Law Society?

Mike Freer: Always.

Q166 Chair: It will be six years from the commissioning of the Bellamy review until you get your proposals to reform the LGFS. That is ridiculous, is it not? On what basis is that length of time justified? Is it some terribly complex operation, or is it that Ministers were not prepared to give you and your colleagues the support and bandwidth to do the work?

Daniel Flury: If I can sketch out the complexities of fee scheme reform, the last major one was for the advocates graduated fee scheme in 2018. That took 18 months to two years. Just to give you some of the stages that we will have to go through for LGFS, the first thing is what the policy should look like. Then we will have a consultation on the policy. Prior to that, we would also need to collect data.

For example, one of the issues we face at the moment is that we have been reliant on PPE for so long there is lack of clarity as to how much work is actually associated with PPE and how many hours go into 5,000



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pages of prosecution evidence. There will need to be a period of data collection.

Once the policy is settled, there will be an implementation period. For something of this magnitude, that will require essentially a rebuild of the Legal Aid Agency's IT system.

All in all, these fee scheme reforms, rightly or wrongly, cannot be undertaken overnight. If we set the fee too low, we will jeopardise the market even further; if we set the fee too high, we run into affordability problems. It does take time to get these fee scheme reforms right.

Q167 **Chair:** Who owns the time delay? Is it the Ministry or Legal Aid Agency that needs so much time to make these changes?

Daniel Flury: It is all of us in collecting the data and revising the IT. It is a joint endeavour right across the Ministry of Justice and the Legal Aid Agency.

Q168 **Chair:** I suppose the problem is this: with the best will in the world, after six years the value of any uplift that is eventually done will be significantly eroded by inflation. What can be done to compensate for that?

Mike Freer: That is certainly a fair challenge and I am more than happy to discuss with stakeholders how they think we can address the interim period. I want to make sure that we do not embed inefficiencies.

If I may be indulged for just one more minute, for however long I am in post I want to do quite a lot of work with my colleagues in the Home Office and the Law Officers to try to ensure that those early stages are reformed and remunerated properly, because I think that if we get the start right the rest will flow.

Q169 **Janet Daby:** According to the President of the Law Society, it has been 25 years since criminal solicitors have seen an increase in their fees. According to Bellamy's review, it is 14 years; I have read elsewhere that it is 30 years. What you have here is that over one, two or three decades there have been no increases in their fees. The data is that since 2018 over 1,000 solicitors have left criminal law, so there is a decline. I have some other figures. Between 2010 and March 2022, over 800 firms closed. Do you share the Law Society's view that criminal legal aid is no longer a viable career choice?

Mike Freer: I am not quite sure I share the rather dystopian description that the President of the Law Society paints. I accept that there are stresses and strains in the system. Yes, there has been a reduction in practitioners, but with the new contract coming into force in October we are certainly starting to see some evidence of practitioners returning to the sector. While it is still early days, I think it is a good sign that we are putting some sustainability back into the system.



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As for why there may be changes in firms, across a variety of sectors there can be a variety of reasons why there are fewer practices. Many of them could have merged; some may have left the market. There can be a variety of reasons. I do not want to hang on one particular reason why there are fewer firms, but I go back to the point that since the new contract post CLAR the early indications are that we are starting to see people returning to the sector.

As for historical pay, you are going back well before my time, long before I was even a Member of Parliament. I might let Mr Flury deal with that because he was here even 25 years ago.

Daniel Flury: Almost. Your point is correct. There was what we call accelerated measures reform in 2020, which injected a further £24 million into the solicitor profession, the majority of which has reached solicitors now.

Your assessment is correct. Prior to that, there had been little reform of both the LGFS and the police station fees. In the interests of transparency, there was also an 8.75% cut in 2014. When I look at the money through the accelerated measures and the £85 million that will get to the solicitor profession by 2024-25, or when the money gets into steady state, as well as the £13 million that came through the backdating of LGFS fees as part of the agreement with the Bar in November, in the past two years there has been a significant investment in both solicitors and the Bar. At the same time, I recognise the point that that there is still more reform to undertake, whether it is LGFS, PPE or police stations.

Q170 **Janet Daby:** One point to emerge from the Bellamy review is that the 15% was the minimum that needed to be implemented as soon as possible. Obviously, with the review that you are conducting it is to take two years.

Daniel Flury: Yes. As I said at the beginning, we have now embarked upon LGFS reform and are looking at a number of scenarios, but the principal one is how we increase fees so there is parity between solicitors and the Bar, but the nature of fee scheme reform means that this takes some time. Even if we had a magic wand and the money was there tomorrow, it would still take quite a lengthy period to implement it given the nature of the systems we are operating.

Q171 **Maria Eagle:** The concern is that your laggardness in implementing Bellamy, as set out in his report, which was taken by the solicitor side of the profession as being a bare minimum—that was what he said—is doing nothing to prevent the accelerating flight from the solicitor side of the profession when it comes to handling criminal legal aid work. That is their position. They have said to us that in 2010 there were 1,861 criminal legal aid firms. By 2019, that had fallen to 1,271. By June 2020 that had fallen to 1,147. We have been given the latest figure today of 1,038.

What you have said about mergers is true; it is not just about the



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numbers of firms, but they told us that the number of practitioners doing criminal legal aid had fallen from 5,131 in 2018 to 4,063 now, which is a 20% reduction. Their analysis suggests that the number of duty solicitors will decrease by another 19% by 2025, which means 687 fewer, and the number of firms doing criminal legal aid work will decrease by 16% and there will be 150 fewer firms. This is an ongoing trend of decline that, according to their suggestion, has not been stopped by what you have done on Bellamy. What are the Government's current projections on the number of criminal legal aid firms that will be operating in 2024 and the number of practitioners who will be undertaking criminal legal aid work?

Mike Freer: The latter point is for the LAA. Mr Flury may have the projections, but I do not. What I can say is that—

Q172 **Maria Eagle:** You must have them in the Department.

Mike Freer: If they are available, I will write to the Committee with them. The number of providers and offices operating has increased since the new contract came into force post CLAR, so I do not think it is true to say that the trend is just going to keep going down and down and down, because the early indications of the latest statistics are that that has been reversed. Whether that is sustainable is yet to be seen, of course, but the early indications are that the number of providers and offices is up and the number of duty solicitors is up. Those three proxies in themselves would suggest that stability and sustainability have been brought back into the system. It is also important to put into context—

Q173 **Maria Eagle:** Your 4% increase has reversed the trend that the Law Society set out.

Mike Freer: We can dance on the head of a pin.

Q174 **Maria Eagle:** I am just asking you; do you think that the 4%—

Mike Freer: Any increase is obviously a reversal. The point I am making is that the early indications are, with the new contract post CLAR, more providers, more firms and more duty solicitors. Whether that continues in upward growth or stays static, we will have to wait and see. I am trying to say that I do not share the dystopian view that it is just on a downward spiral. The early indications are that we have brought some stability and sustainability into it. That, in my view—

Q175 **Maria Eagle:** So you know better than the Law Society.

Mike Freer: I did not say I knew better than the Law Society, but my interpretation of the statistics in front of me is that it is not unreasonable to draw a conclusion that an increase in firms, providers and duty solicitors would suggest sustainability has been re-established.

Q176 **Maria Eagle:** How often would you collect those statistics that you quoted about the number of firms that have signed up since October and the number of practitioners who have signed up to the duty solicitor scheme?



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Daniel Flury: The Legal Aid Agency collects them every month.

Q177 **Maria Eagle:** Every month.

Daniel Flury: Yes.

Q178 **Maria Eagle:** So, you can provide some trend over time to the Committee.

Daniel Flury: We can do. The point the Minister is making is that, since the commencement of the new contract, this is the first time for some time that we have seen a growth in firms and duty solicitors. It is far too early to say whether that will continue, but there has been some growth.

Q179 **Maria Eagle:** I am probably not the only member of the Committee who would be interested in seeing some of those figures going forward because they are quite different from the ones that have been given to us by the Law Society, and, frankly, they cannot both be correct. It will be interesting to see what numbers you can provide over a little time as we are looking at this.

You have this initial increase, which you are optimistic about. Have you modelled the effect of the increase on police station fees on the viability of the duty solicitor scheme? One problem has been the increasingly very small number of people undertaking the duty solicitor scheme in particular areas such that you have ended up, in some places, with almost no capacity to advise at the police station.

Daniel Flury: As part of the new Criminal Legal Aid Advisory Board, in conjunction with the professions, we will consider sustainability, monitor these numbers every time we meet, and we will take action accordingly.

The principal way in which we have sought to support these schemes is through fee increases. At the risk of repeating myself, we have seen some initial growth, but it is still too early to say whether that will be sustained. We do not have formal projections.

Q180 **Maria Eagle:** You do not.

Daniel Flury: No.

Q181 **Maria Eagle:** Right, okay. So you are just going to see what happens in real time and react to that.

Daniel Flury: We work closely with solicitors on the ground. It is quite a mixed picture across England and Wales. In London, the schemes are very well subscribed. There are seven areas across England and Wales where there are fewer than four duty solicitors, and the Legal Aid Agency's attention is focused on supporting those schemes where there are fewer duty solicitors, ensuring there is sufficient capacity and support to make sure the schemes remain viable.

Q182 **Maria Eagle:** Are you doing anything in particular apart from the general increase in fees to try to make sure that, in areas where there has been a



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precipitate fall and where there is a potential desert of advice, something is put in place to make sure that the schemes do not collapse?

Daniel Flury: Our principal route is through merging certain schemes with other areas to increase the pool of duty solicitors. We have done that successfully in places like Skegness, but, overall, we would like more than four solicitors on these duty solicitor schemes. We hope that the new fees will make these schemes more attractive, and, as the CLAR response said, we are undertaking a review of the standard crime contract to look at ways in which we can reduce the burdens, reduce bureaucracy and reduce the cost of entry for duty solicitors, and taken together we are hopeful that that will increase the viability of some of the schemes.

Q183 **Maria Eagle:** Does the Department have any contingency plans where there is an insufficient number of legal aid providers to do the criminal defence work that is required in a particular area?

Mike Freer: My understanding—Mr Flury will correct me—is that the Legal Aid Agency will always have contingencies in place so that they are able to draft in people from neighbouring areas to provide support as required.

Q184 **Maria Eagle:** Are you satisfied that that is working well and is adequate?

Mike Freer: I am satisfied it is adequate. It is not ideal. As I repeated a couple of times, one of the things I am quite keen to do is ensure that we get the front end better funded and more efficient. If we can do that, it will in itself mean addressing the availability of people like duty solicitors in police stations. I accept that the provision can be patchy in places, but, hopefully, the fees, as we have said, will start to see some reversal.

Reform of the police station fees will, I think, be overdue and make sure it is lucrative for people to do that work. That is a slightly wider piece of work, not just about how the LGFS works. Working alongside Minister Philp and the Solicitor General, I have created an inter-ministerial group so we can really try to get to grips with what is happening in police stations from police and charging to defence and the CPS.

For a layman coming in only two and a half months ago, it seems to me that that is the bit where we should be putting increasing resources in because it will flow through to the rest. That will, I hope, then mean that all those issues you have addressed of a shortage of cover, or paucity of cover, will be addressed.

Q185 **Maria Eagle:** You are able to assure the Committee today that there is no situation in which there could be an insufficient number of practitioners to do the available criminal defence work that is required in any particular area under your jurisdiction.

Mike Freer: Certainly, the Legal Aid Agency has contingency plans available to ensure that there is cover.



Daniel Flury: The Public Defender Service can operate temporarily as a solicitor of last resort, but, clearly, we want to ensure that is avoided and that we have vibrant, sustainable duty solicitor schemes.

Q186 **Maria Eagle:** Can you tell me, Minister, what role the Government envisage for Chartered Institute for Legal Executives lawyers in criminal legal aid?

Mike Freer: My view is that it is quite an exciting opportunity in the ability to provide a new source of practitioners—there is obviously work to be done, as you will probably know more than I do, on the rights of audience—as well as providing a fresh intake of people to provide the defence work. It also provides us with an opportunity to change the diversity profile of the profession, because if you look at the profile of CILEX it tends to be more diverse than other parts of the criminal defence fraternity. There are numerous benefits to being able to provide new blood and new practitioners as well as a more diverse cohort.

Q187 **Maria Eagle:** Is it your position that there is a load of CILEX lawyers out there just waiting to be given this opportunity and that they will flood into this area of work?

Mike Freer: I would not want to over-egg the pudding and say that there are thousands of CILEX practitioners beating a door down and saying, “Let me in,” but I would say that if you can improve the prospects of people to progress and do other parts of the criminal work, that will provide a more attractive career. I think it will be a positive benefit to the availability of practitioners.

Q188 **Chair:** How many lawyers are there in the Public Defender Service?

Daniel Flury: I think there are about 20 in the advocacy unit and about 35 solicitors, although I would quite like to write to the Committee just confirming that.

Q189 **Chair:** It is not going to go very far in terms of contingency given the volume of cases.

Daniel Flury: No.

Chair: Thank you. If you can write to us with the exact figure, that would be helpful.

Q190 **Edward Timpson:** Can I take you on, I suspect, to one of the banes of your ministerial existence—the backlog in the Crown court—which continues to be an ongoing and difficult problem to solve, not least with the difficulty in trying to recruit prosecutors for some of the many trials that are being delayed far beyond what any of us would find acceptable?

Bearing in mind that the stated policy position of the Ministry of Justice and the Government as a whole is to reduce that backlog from about 60,000, which is the last figure I saw for August of last year, to 53,000 by March 2025—there is a question about the ambition of that—with the



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resolution of the defence graduated fee scheme, which is welcome on many fronts, we now have this disparity between defence advocates and prosecuting advocates. As Max Hill KC, the Director of Public Prosecutions, said, there is now more money in defending than in prosecuting.

We have heard evidence from the Crown Prosecution Service that it is desperately trying to find prosecutors for cases listed for trial, casting a wide net across an area where they are just not able to do so, meaning that there are even more delays to more trials. What impact is this having on the backlog that you want to see reduced rather than grow as a consequence of the delays?

Mike Freer: The non-availability of prosecutors—I do not know if Mr Flury has that.

Daniel Flury: If you look at our recently published criminal justice statistics, there has been an uptick in the numbers of ineffective trials due to the absence of prosecution advocates. It is a concern given that we are striving to sit at maximum capacity in the Crown court. The statistics speak for themselves.

Q191 **Edward Timpson:** Do you have any statistics? In the last three months, how many trials have been postponed due to a lack of prosecutor compared with the equivalent three months of the previous year?

Daniel Flury: I do not have them to hand.

Q192 **Edward Timpson:** If I were to suggest—I am sure you would want to go away and clarify this—that over the past year 500 trials have not been able to go ahead because of a lack of a prosecutor compared with 151 in the previous year, is that in the range of figures that would equate with the position that you are finding?

Mike Freer: I am told the latest data will be available this Thursday, so we can ensure that is provided. My monitoring of ineffective trials does not show that specific reason; it shows statistics on things like prosecution not ready. Let us come back to you specifically on the latest data we have.

Q193 **Edward Timpson:** But you accept there is a problem with a lack of prosecutors. This is something that the Crown Prosecution Service, I am sure, has shared with the Department. Essentially, it does not pay compared with defence work, and many counsel just are not prepared to take it on. What are you doing to try to resolve this problem?

Mike Freer: I can only say that, certainly, in my brief time covering this part of the portfolio, that specific issue has not been brought to my attention.

Q194 **Chair:** It is on Twitter and social media daily.

Mike Freer: I am not on Twitter, and I do not regard Twitter as the source of all truth.



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Q195 **Chair:** Minister, you are the Minister for courts. Do you not know that there are cases being taken out daily because prosecution advocates are not there?

Mike Freer: I monitor ineffective trials, but the prosecution is a matter for the CPS, and that particular issue has not been brought to my attention. I focus on other parts of ineffective trials. I am very happy to get the data to you and suggest that the Solicitor General makes contact because, clearly, he has the day-to-day responsibility for the CPS.

Q196 **Edward Timpson:** Just to be clear, the Director of Public Prosecutions, Mr Hill, has not raised this with you or your Department as an issue.

Mike Freer: He certainly has not raised it with me.

Q197 **Chair:** You would agree that it is important that everything is done to reduce the backlog—

Mike Freer: Of course.

Q198 **Chair:**—and it would be perverse if, having settled the defence side, we then had a problem on the prosecution side.

Mike Freer: I monitor very closely on a very regular basis the reasons why the criminal justice system has problems, so I will always look at availability and all the reasons behind ineffective trials. I look at the availability of sitting days. I look at the number of sitting hours within the courtroom, not just the availability of a sitting judge. I look at the number of ineffective trials because of people like defendants not being transported, and the defence and prosecution not being ready. I look at the statistics to try to find out those that are within my control, or where I have influence—few are actually under my direct control—so that we start to unpick them and try to put some remedial action in place.

Q199 **Edward Timpson:** Having looked more closely at this and considered some of the evidence about the lack of prosecutors, the reasons behind it and the delays that is causing to trials across Crown courts in England and Wales—the driving reason was the disparity between defence and prosecution fees—will you look again at whether prosecution fees should keep pace with the changes to legal aid rates that we have seen for defence lawyers?

Mike Freer: Obviously, whenever we have evidence, it is important that we look at it and see what can be done, with the overriding caveat that it always has to be within the financial envelope that I am given.

Q200 **Edward Timpson:** This is probably a question for both of you. Do you know how much additional funding the Crown Prosecution Service would require to ensure that prosecution fees keep up with the changes agreed with the CBA?

Daniel Flury: I understand it is in the region of £30 million a year. I would just like to add that the criminal Bar has made representations to the Deputy Prime Minister a number of times, but, as the Minister said, it



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is principally an issue for the Crown Prosecution Service and the Treasury. I know they are in discussions, or have been in discussions, but, obviously, there is no sign of a resolution yet.

Q201 **Chair:** It would not do any harm if Ministers in the MOJ were able to say, "It makes sense to us. It is not our direct responsibility, but it makes common sense for the Treasury to look sympathetically at what the law officers are asking for."

Mike Freer: I am sure the Treasury would have heard that loud and clear.

Q202 **Chair:** It would be helpful if they heard it perhaps from you and from the Deputy Prime Minister.

Mike Freer: Indeed.

Q203 **Chair:** I have a final point, Mr Flury. I am conscious that the Minister is keen to increase the amount of statistics and data that are analysed. Do we have an idea of the estimate of the costs thrown away by trials that are being stood out at the last minute because the prosecution are not ready and so on? Is that broken down? Is it an increase from 150 to 500 or whatever?

Daniel Flury: There is certainly a cost of a lack of productivity in a trial. Perhaps we can write to the Committee on those points.

Q204 **Chair:** Thank you, that would be helpful.

I turn to another fees issue, Minister, that the CBA has raised. I think they may have been in touch with you about it. It is the question of fees for section 28, pre-recorded cross-examinations. Have you been seized of that since you took over this part of the portfolio?

Mike Freer: I will let Mr Flury deal with this. I think this was largely dealt with before I took up the portfolio.

Q205 **Chair:** Mr Flury, the issue is this, is it not? It is a Government policy that we should introduce and roll out pre-recorded cross-examinations under section 28 in serious sexual offence cases, for understandable public policy reasons. You will be aware, will you not, that there is a concern among practitioners—particularly barristers—that, if you have a long gap between the pre-recorded cross-examination and the rest of the trial, either of the barristers who did the pre-recorded cross-examination will not be available because their diary clashes or so long has gone by that you have to re-prepare anyway because other things have happened in between? It has advantages for the witnesses, of course, but it can produce extra work for advocates. What is being done to reflect that in the level of remuneration for section 28 fees?

Daniel Flury: As part of the agreement with the Criminal Bar Association, the then Lord Chancellor agreed to put a further £4 million into section 28 remuneration over the spending review period. There has been a recent roll-out of the section 28 further offences, and, at present,



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volumes are unclear. We are still in discussions with the Criminal Bar Association and other representatives and attendees of the Criminal Legal Aid Advisory Board. We expect shortly to introduce a new, what we call, bolt-on fee for section 28 hearings. This will supplement the existing fees they get.

You will be aware that the proposed level of £670 per case is considered to be inadequate by the CBA, and it has asked for, essentially, a second brief fee, which is close to £2,000. What we have agreed with the CBA is that we will introduce a new fee and review it once data on new volumes come to light.

I want to assure the Committee that there is a process to increase payment remuneration for these cases and then to review it, and, if necessary, to revise upwards. The principal point is that the then Lord Chancellor made a commitment to spend £4 million over the spending review on section 28, and we are very keen to honour that.

Q206 **Chair:** It triggers a fair question, does it not, of making sure that we do not have the perverse consequence that barristers decline to take instructions in cases that will involve a section 28 cross-examination because it will not be worth their while if those issues are in it? Is that an issue that you are discussing with the CBA at the moment?

Daniel Flury: Yes, these are some of the most complex and difficult cases. Everyone wants to see a success made of the section 28 extension. We differ on the fee amounts at this stage, but, as I said, there is a process that I hope will eventually resolve some of this.

Q207 **Chair:** Minister, have you had a chance to meet the CBA yet?

Mike Freer: I have met both the outgoing Chair and the incoming Chair, and that has been quite a cordial discussion. Of course, the meetings were post the settlement, so that is probably why they were more cordial.

Q208 **Chair:** I understand. It is something you are happy to continue to discuss.

Mike Freer: Indeed. I am always happy to meet any of the stakeholders. That has always been my style. Even if we do not always agree, I think people should have the ability to be heard.

Q209 **Chair:** We do not hold it against you that you are not a lawyer, but I am sure you will appreciate that, as Mr Flury says, in some cases that involve section 28 cross-examination very often you are dealing with vulnerable witnesses. Particular care, sensitivity and skill is required on the part of counsel on both sides in handling those cases. Would the Government recognise that?

Mike Freer: Yes, Minister Argar leads on the RASSO side of the Department. It is true to say that the Department is very conscious of getting it right because of all the sensitivities. To be fair, that goes



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through to the judiciary as well in terms of prioritisation of cases because it is aware of all the complexities of delays on the victims. It is very firmly recognised. We try to reflect it in what we do.

Q210 **Chair:** I think you would recognise from your experience, Mr Flury, that it is important in these cases to have people of suitable experience to undertake them because experience brings that sensitivity in handling witness in sometimes what are quite traumatic events to have to be explored.

Daniel Flury: Absolutely. I think the Committee may know there is a formal review under way in the Ministry of Justice at the moment that we expect to be published in the spring. That will bring many of these issues to light and provide us with further advice on the likely volumes and projections in the future.

Q211 **Chair:** That is helpful, because I was going to ask about the evaluation of the roll-out. You anticipate having that in the spring.

Daniel Flury: That is right, yes.

Q212 **Chair:** Okay. Will that include looking at whether the use of section 28 is affecting both prosecution rates and conviction and acquittal rates?

Daniel Flury: It will do, yes.

Chair: Thank you. That is very helpful.

Q213 **Janet Daby:** Minister, I am not a lawyer, either, but we still have a lot to bring to this discussion.

Mike Freer: You ask awkward questions.

Q214 **Janet Daby:** That does happen at these Committees.

We heard that there are many issues with the current condition of the court estate. Are you aware of some of those conditions and that they are actually causing delay to many of the cases being heard?

Mike Freer: Although I am not a lawyer, I am a bit of a process geek. Since I took the portfolio, I have been trying to map out the various processes and get to grips with all the numerous moving parts.

Particularly on the estate, my understanding of the latest data I have seen is that less than 1% of sitting days are lost due to estate problems, either planned or unplanned maintenance. That is not to minimise some of the challenges facing the estate.

There are probably three things I would say. One is that £175 million has already been spent between last year and this year. One of the things I am quite keen on is that it is not just about the air-conditioning and the fire alarm systems—the big-ticket stuff. Some of it is also about ensuring that the working environment, whether it is for the judiciary, the clerks or the ushers, is equally as pleasant as possible. That is why there is now



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£20 million available—it is probably the wrong term—for the more cosmetic work on the working environment for the staff inside the system. I am quite keen to ensure that is happening.

Alongside that, I have been getting to grips with the capital disposal programme, which is what helps to fund the reinvestment into the estate. I have been trying to dig and find out where we are on releasing capital so that it can be spent on the estate.

Q215 Janet Daby: Will the Government be able to meet their target of reducing the number of cases to 53,000 by March 2025?

Mike Freer: It is certainly a very firm aspiration. I am always wary about putting a stake in the ground so far ahead because there are numerous factors. The modelling is not complete.

One of the questions I have asked is not just about the disposals. We have had a flurry of disposals. What is left in the system tends to be the more complex cases, and they can take time. The modelling has to reflect not just the pure volume coming into the system but how long they will take to come out because of the complexity.

The other part of the modelling, which is still under way, is what is likely to drive cases into the funnel. As parliamentarians, we rush to make a criminal offence at the first opportunity, thinking it will solve everything, and, of course, that drives throughput. In the same way, if you recruit 20,000 new police officers, they have a habit of arresting people, and that in itself leads to more throughput.

There is a variety of modelling that needs to be completed before I will want to put a stake in the sand and say 53,000, but it certainly remains a very strong aspiration.

Q216 Janet Daby: That is what you are working towards. Is that right?

Mike Freer: Yes.

Q217 Janet Daby: What is the current number of outstanding cases?

Mike Freer: The current number off the top of my head is about 60,400 in the criminal.

Q218 Janet Daby: Can you repeat that, please?

Mike Freer: In the criminal. In the magistrates, it is about 345,000.

Q219 Chair: In the Crown court, it is 60,000-odd.

Mike Freer: I have not quite got my head around the lingo yet.

Q220 Maria Eagle: I want to come back to the court estate. What effect does the current acknowledged poor condition of the court estate have on the capacity of the courts to get the cases through that the Minister is trying to aspire to?



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Mike Freer: I do not think it is right to say that the whole estate is in a state of disarray. That would not be true. I recently visited our two Crown courts in Manchester. The Minshull Street court has just been refurbished. Although it is a rather clunky Victorian building, it has had a lot of money spent on its refurbishment. The Crown Square court, a slightly more modern 1970s building, has also had quite a lot of money spent on it, but parts of it need more work.

I do not think it is true to say that the whole estate is in a state of disarray. It is true to say that the estate needs investment. Some of it will be major overhauls and some of it will be minor work. Some of it will be cosmetic work. On top of that is the expansion of the estate: a new court in Blackpool and two new court complexes in central London.

Q221 **Maria Eagle:** Minister, I asked you what effect the current condition of the court estate has on court capacity.

Mike Freer: My understanding is that only 1% of sitting days have been lost due to planned or unplanned maintenance.

Q222 **Maria Eagle:** Okay. The Lord Chief Justice's annual report made the point that many court and tribunal buildings remain in a poor state caused by long-term failures to maintain them properly. He said: "The allocation of funds for maintenance and repairs has continued to be well below what is needed to maintain the estate in a decent condition. This does more than increase future costs. It results in hundreds of lost sitting days each year." He went on to say that, welcome as steps are to have some maintenance being done, the scale of the problem is such that these steps amount to no more than a sticking plaster on a significant wound. What plans do you have to do better on court estate maintenance?

Mike Freer: There is a capital programme. As I said, between last year and this year, we will have spent £175 million just on the main projects as well as the £20 million on the slightly more, for want of a better term, cosmetic.

In terms of more money than that, that will obviously depend on the settlement and capital disposals.

Then there is the balance, which you alluded to. If you close down too many courts to refurbish them, you lose sitting days. It is about getting that balance between remedying the most pressing issues, making the estate fit for the future, and ensuring that the court can continue to operate.

Q223 **Maria Eagle:** How many courts are going to see their facilities upgraded in 2023?

Mike Freer: I will have to write to you.

Maria Eagle: That would be fine.



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Mike Freer: I do not have the exact programme by court apart from the three new ones, but, broadly speaking, I can get you the details.

Maria Eagle: At the same time will you send us the figures on sitting days lost due to maintenance problems? Sometimes, what happens is water suddenly starts pouring through the ceiling, the court has to be adjourned and you have lost sitting days, and perhaps trials have not been conducted that could have been. I would quite like to see your numbers in respect of that.

Q224 **Chair:** Minister, have you had a chance to look at the report that the Law Society did at the end of the year called "Justice delayed: 5 steps to resolve the backlogs in our courts"?

Mike Freer: I have looked at it, but you are going to test my memory in terms of its contents.

Q225 **Chair:** Have you had a chance to look at the survey?

Mike Freer: No.

Q226 **Chair:** Might I commend that to you because that is where some 64% of solicitors who responded said that they had experienced delays in cases being heard within the last 12 months due to the state of the courts?

Mike Freer: Okay.

Q227 **Chair:** It also lists a number of courts—Snaresbrook, Birmingham, Isleworth, High Wycombe and the Central Family Court—as being ones that figure particularly high in that. It might be helpful in terms of your visit, which I know you are keen to do.

Mike Freer: I have quite a full schedule, but I am sure we can squeeze some of those in.

Q228 **Maria Eagle:** Yes, do not just go and see the nice-looking ones.

Mike Freer: Trust me, I am not falling into the trap of the fresh paint visits.

Q229 **Edward Timpson:** Can I ask you about the lack of judicial capacity in the Crown court, otherwise known as the shortage of judges? We have already talked about the shortage of advocates, but the Lord Chief Justice has been very busy and helpful to this Committee because he came to give evidence and told us that in the most recent recruitment round for salaried Crown court judges the numbers that they were aiming to recruit fell short by 16 judges, who on average would have then sat 200 sitting days. If my maths is correct, that is 3,200 sitting days that were not filled, which is not helping with the backlog.

What analysis has the Ministry of Justice done to try to understand why we are failing to recruit the number of judges that we need, and what plans do you have in conjunction with other bodies like the Judicial Appointments Commission to try to help improve that situation?



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Mike Freer: I would have to defer that to the Lord Chancellor. I have no involvement in the judicial appointments process. I am aware of the broad thrust of recruiting up to 1,000 people to join the judiciary across all areas. There are two parts to it: one is the capacity in terms of unrestricted sitting days, and another is more use of fee-based judges, which in itself, I understand, makes going into the judiciary attractive.

I think there is a broader question, from my limited and layman's insight, into why the judiciary may or may not be as attractive as it was a few years ago. There is a genuine debate to look at the status in which we hold our judges. It is also true to say that not many people would go into becoming a judge purely for financial benefit. It is often seen as part of putting something back into the system after you have had a successful career. I would not want to see that being overplayed and taking advantage of people's good will.

It is a fair challenge to say, "Is the pay still relevant and attractive?" I understand one of the barriers is the protocol that, having been a judge, you cannot go back into practice. Whether that is enforceable or not, I understand that happens from time to time. That is worth looking at. I cannot say I can give you a specific analysis of the barriers specifically at the top end, but all those influences should be looked at by the commission.

I did actually question why it takes so long to appoint a judge. From the outside, it looks like we can elect a pope faster than we can choose a judge. I am also aware that there are moves to ensure that the qualification periods, particularly dependent on the types of court you are working in, are much more variable. There is some debate to be had about whether the selection process favours certain types of candidates, because I look after cross-cutting work on diversity.

Although I cannot really interfere in judicial appointments, it is a question I am asking about whether the way we recruit favours particular types of applicants. All those things, I think, are fair challenges to address the issue of recruitment.

Q230 **Edward Timpson:** Would you accept that for some who are considering sitting on the bench the experiences of those who are already there in terms of workload and working conditions may be putting them off?

Mike Freer: In any role, that is a fair challenge. Is the working environment conducive to a work-life balance? Is it a nice environment? Is it rewarding? Are the hours too long? I think those are all fair challenges. I would probably have to engage with the Lord Chief Justice to get more insight into his view on what the barriers are because he is closer to the judiciary than I am.

Q231 **Edward Timpson:** Finally, I know from the evidence that he has given this Committee that he is under the distinct impression that pretty much every trick in the book has been tried to increase capacity within the



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current ability that the rules allow, so perhaps some of the ideas that you have floated to the Committee today would be helpful to share with him and perhaps with the Lord Chancellor.

Mike Freer: I am happy to opine on my views, but, of course, I am very conscious I cannot stray over the line in telling the judiciary or the Lord Chancellor what to do on appointments.

Q232 **Edward Timpson:** It is just one interesting conversation you had with the Committee today.

Mike Freer: Yes.

Q233 **Chair:** Have you met the Lord Chief Justice?

Mike Freer: I have indeed.

Q234 **Chair:** Is that going to be a regular programme?

Mike Freer: Yes. In terms of him, the SPJ and the Master of the Rolls, I see it as a regular dialogue.

Q235 **Chair:** Have you managed to meet the new Chair of the Judicial Appointments Commission?

Mike Freer: I have not, but I can do.

Q236 **Chair:** Obviously, it is an independent process, but you might be interested in having their take on some of those issues.

Mike Freer: Looking in from the outside, I am always quite keen to see behind the curtain.

Q237 **Chair:** There are a couple of other issues. We talked about the court estate and working practices. There is still an issue around the common platform. Much has been invested in this. When the Lord Chief Justice gave evidence to us in November, he said that, basically, it has run into a lot of technical problems—more than it should have, frankly. Resulting, in particular, which he referred to, has created problems.

There was an industrial dispute with the PCS. There has been an attempt to pause it. What is the position now, both with the dispute with the PCS and with the cloud platform?

Mike Freer: I cannot comment on the dispute. I am not involved in that side of it. My view on the common platform is very robust. We really do not have an alternative. The legacy systems that the common platform is seeking to replace are simply not sustainable. Of course, you could have an argument and you could take the decision to pause the common platform and simply rely on the legacy systems.

The danger with the legacy systems is not just that they are no longer fit for purpose, but quite often with these systems the support from the supplier becomes unavailable. If they then fall over, you really are back



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to pen and ink. I appreciate this is a massive IT programme and there have been, as with many IT programmes, some teething problems.

My role in this now is in a variety of ways. First, I am now tracking the key issues flagged by the user groups to see what the key issues being raised by staff are and what the resolutions are. Some of them will be long-term issues because they are a fundamental rewiring. Others will be more of a nice-to-have that makes life easier. I do track that now.

When I went to Manchester, I spent time talking to listing clerks. Every time I do the court visits—I have six court visits in the next month—I sit down and talk to users to find out what the practical problems are and how we can resolve them.

On top of that, I have put myself up as the ministerial piñata, if you like. I am going to go out and sit in webinars or go out into staff groups and let people vent.

One of the issues, fundamentally, is that the staff need to feel they are being heard. We cannot fix everything. Some of the asks will simply not be possible, but I think, first, people need to know that they are being listened to, that their concerns are being dealt with seriously, and, importantly, if we cannot resolve it, go back to say, “No, we cannot do this because,” rather than people just throwing jelly at the wall and hoping some will stick.

I genuinely do not think we have an alternative but to press ahead. I think that we can do some better work on the implementation and particularly on staff engagement.

Q238 **Chair:** Okay, that is helpful. Are there negotiations going on with the union to resolve those disputes?

Mike Freer: I am not sure.

Daniel Flury: There are discussions with the PCS. There have been throughout this process, and they continue in terms of how we can resolve the differences between HMCTS and the PCS.

Q239 **Chair:** Have you been notified of any further industrial action?

Daniel Flury: Not as far as I am aware, no.

Q240 **Chair:** A resolution has not been arrived at as yet, then. Has the specific issue that the Lord Chief Justice referred to in relation to resulting been sorted out?

Daniel Flury: No.

Mike Freer: I would have to double-check. I thought it had, but I will have to double-check.

Q241 **Chair:** You can take that away and check it out for us. It is something



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that he referred to in some detail in evidence.

Mike Freer: I do not think it is on my top 10 of issues that I get, but I will double-check and get back to you.

Q242 **Chair:** That would be helpful. Thanks very much.

The final thing that relates to this was that the common platform was part of a broader aspect of court reform and the court reform programme. We were told by the Government previously that the court reform programme is on track to be completed by December 2023. Is that still the case?

Daniel Flury: I do not know. We will ask HMCTS colleagues to write to the Committee on that point.

Q243 **Chair:** They have not said to you whether it is on track or not. I imagine you probably asked them, Minister, when you came in.

Mike Freer: Certainly, I intend to deliver the bits of the reform I am paying attention to. The reform programme, of course, is large and varied, but if there are specific areas of the reform programme you would like reassurance on regarding timescales, do let me know and I will make sure you get a full brief.

Q244 **Chair:** We certainly will. I was quoting the Ministry's response to us before your time, so I was just checking whether there had been any drift from that.

Mike Freer: Not that I am aware of.

Q245 **Chair:** If there is, perhaps we can correspond on that.

The final thing is that something called the Criminal Justice Board was set up by Mr Buckland—Sir Robert as he now is—when he was Lord Chancellor, and that was regarded as a useful tool, but it has not met since July 2021.

Mike Freer: They are meeting shortly. I have reinstated it.

Q246 **Chair:** You have reinstated it. Excellent.

Mike Freer: With a slight tweak.

Q247 **Chair:** What is the slight tweak?

Mike Freer: The slight tweak is that I expect the board to be productive. Rather than a meeting of people to share opinions and views, I want the board to deliver change because I think these are some very valid experiences and inputs. The board will hopefully agree that we will have task and finish groups that will be able then to do some deep dives into parts of the criminal justice system and fix them.

Q248 **Chair:** Who will be chairing it?

Mike Freer: I will.



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Chair: On behalf of the Lord Chancellor, effectively.

Q249 **Edward Timpson:** Is the membership the same as in July 2021? Perhaps you could share that with the Committee once you have reconstituted.

Mike Freer: I know the ministerial membership, but I am not yet sighted on the full membership. We will confirm that.

Q250 **Chair:** That would be helpful. Are you going to have any further look at the Legal Aid Board itself for the future? Given the concerns we have about the clunkiness, is there anything that raises your concerns?

Mike Freer: You will have to tell me your specific concerns so I can go away and look at them.

Q251 **Chair:** From what you have seen so far—Mr Flury, you have been dealing with them a lot—are you satisfied that the Legal Aid Board is capable of delivering a decent service to practitioners, or, as well as sorting out the fee structure, which we know you are committed to try to do, does it need to go further than that? Has that been raised with you?

Mike Freer: Certainly, my view is that within the complexity of the numerous schemes it has to operate it does a good job. I have to say, when I read the chapter on LGFS, I said, “Who the hell designed this?”, because you need a degree in nuclear science to understand it. All of the schemes seem incredibly complex, grown up over many years with bolt-ons and take-offs. To be fair, given all the complexities of what it has to manage, I think it does a good job.

Q252 **Chair:** Ought we to be looking at that complexity?

Mike Freer: That is exactly what I am looking at.

Chair: Yes, okay.

Mike Freer: I am a simple soul.

Q253 **Chair:** Okay, thanks very much. We will get the chance to discuss it as we go forth.

Mike Freer: Okay. I am always happy to return.

Chair: Thank you very much for your time and your evidence, gentlemen.