



HOUSE OF LORDS

Justice and Home Affairs Committee

Corrected oral evidence: Community sentences

Tuesday 23 May 2023

10.30 am

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Members present: Baroness Hamwee (The Chair); Lord Beith; Lord Blunkett; Lord Filkin; Baroness Henig; Lord McInnes of Kilwinning; Baroness Meacher; Baroness Prashar; Baroness Sanderson of Welton; Lord Sandhurst; Baroness Shackleton of Belgravia.

Evidence Session No. 3

Heard in Public

Questions 31 - 41

Witness

I: Tom Franklin, Chief Executive, Magistrates' Association.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witness

Tom Franklin.

Q31 The Chair: Good morning, everyone, and welcome to the House of Lords Justice and Home Affairs Committee and one of our sessions on community sentences. We are very pleased to welcome Tom Franklin, who is the Chief Executive of the Magistrates' Association. We have apologies from Baroness Chakrabarti. Baroness Shackleton and Lord Filkin are with us online but very much part of the meeting, I know.

We have heard from witnesses that community sentences are versatile. They have described them to us as "uniquely flexible". Do you agree with that? Can you talk to us about the value they add to the range of sentences that are available?

Tom Franklin: We would totally agree that they are uniquely flexible. Community sentences are at the absolute core of the work of magistrates. Without community sentences, magistrates would be left with only three other options: fines, custody or discharge. For different reasons, each of those may be highly unsuitable for many cases: fines, because in many cases the offender simply could not afford to pay; custody, because short sentences rarely tackle the underlying causes of offending and often will exacerbate them.

There are five purposes of sentencing: the punishment of offenders; the reduction of crime; the reform and rehabilitation of offenders; the protection of the public; and/or offenders making reparation to the persons affected by their offences. The thing about community orders is that they can fulfil all those purposes when an offence is serious enough to warrant custody.

Many offenders have highly complex needs. There may be mental health, addiction or behavioural issues that are driving the individual's offending behaviour. Some elements of community sentences, particularly rehabilitation activity, are especially tailored to help to deal with those underlying individual offenders' needs.

Community sentences can provide the most suitable form of punishment, and punishment must be an element in every sentence, but they can also help stop the cycle of offending by providing help that the offender needs.

Yesterday, I was proofreading the latest edition of the magazine that goes to our members. There is an article in there by Revolving Doors, a charity that helps to break the cycle of reoffending. It was an interview with three of its members who have had recent contact with the justice system. It was interesting that when each of the three were asked what finally broke that cycle, they said that community sentences had a role to play.

In one case, they identified particularly the intervention of one of the magistrates. They felt that they were really heard and their needs were understood. In the second, it was the work of the probation officer, who stayed with the offender through their programme of rehabilitation. In the third, it was a mixture of rehab

and restorative justice. This is something that goes to all our members. The importance that came through of the role of community sentences really struck me.

Magistrates are unpaid volunteers. In survey after survey, when we ask them why they volunteered to be magistrates, the prime reason that always comes through is to support their communities. They know that community sentences, when they are working well and are tailored to the individual needs of offenders, can make a massive difference both to the people who are impacted by the crimes and to those who have committed the crimes. That is why magistrates are passionate about the importance of getting community sentences right.

As to whether magistrates currently have confidence in what is available, that is a different story. It looks like I may be jumping ahead.

Chair: Yes, do not answer all our questions at once. We will want to ask you to expand on quite a few of the things that you said.

Q32 **Baroness Prashar:** Good morning. You said, quite rightly, that it is the core of your work, but the evidence is that community sentences seem to be increasingly unpopular among sentencers. The proportion of community sentences has been steadily declining. Why is that?

Tom Franklin: I would disagree that they are unpopular with sentencers. That is certainly not the message that comes through from our members. I would turn that round and say that they are as popular as ever. I hear that in my daily interactions with magistrates across the country, but they do not always particularly feel that their use has been effective. They have issues to do with their confidence in the options available to them. I do not think it is that they are unpopular. I take the point about the overall figures, but many magistrates do not particularly feel that there has been a significant reduction.

Baroness Prashar: The figures show that there has been a steady decline compared with the other forms of sentencing. Why is that the case if the magistrates like them, they are popular and it is a question of confidence? They are not using them.

Tom Franklin: Magistrates follow very strict sentencing guidelines. I have a copy here. They have to go through a very strict process and there are flowcharts in the guidelines on how to make the appropriate decisions. That is to do with the seriousness of the offence, whether there are culpability issues, the level of harm, whether there are mitigation issues or aggravating issues, and so on. That will then produce a range for what the sentence will be. They go through a very clear structure for deciding what is right. A custodial sentence is almost the option of last resort. Where it is possible to divert that to a community sentence, it will be diverted. The problem comes if the magistrates do not feel that there are appropriate community sentence options available.

We did a survey of our members in advance of today and we had responses from 500 members to that. We asked, "Do you think that community sentences are consistently available in your local area?" A majority did, at 59%, but that shows

that quite a high portion do not feel that and have concerns about the availability. That is concerning.

We looked at some of the unstructured answers they gave to that. There was a difference between what was available in theory and what was available in practice. Sometimes unpaid work, for example, was considered inappropriate in the pre-sentence report. It might be because of the vulnerability of the offender. Sometimes there were no women-only sessions available. Sometimes it did not fit people's shift work and that sort of thing.

Similarly, there could be a reluctance to explore the viability of unpaid work for offenders with multiple complex needs. Curfews might have been available in theory, but then safeguarding checks were not done, or were not done speedily enough for those to be an option. Sometimes there would be backlogs or waiting lists for rehabilitative programmes. When you take all those things into account, what is then available is sometimes a lot less than what is desired and would make it easier for magistrates to use community sentences.

That is one example. Another is information on outcomes and confidence in the effectiveness of community sentences. It is something that our members have long called for. What is crucial for them is making sure that they are making appropriate sentences. The more information they have about the efficacy of the programmes that are available, the more confidence they can have that it is appropriate for the offender in front of them. That information is not available at the level that magistrates need at the moment.

Baroness Prashar: You said that they do not have the confidence. Is that what affects the confidence?

Tom Franklin: These things affect magistrates' confidence when it comes to deciding on a sentence. They have to make sure that the sentence is appropriate to the person in front of them, and that it meets the sentencing requirements and the purpose of sentencing. If they do not believe that the community sentence options can do that, they have to look elsewhere. That is when it gets to fines, custody or discharge.

Baroness Prashar: You mentioned pre-sentencing reports. Are they always written or are they given orally? When they are given to you in a written form, do they take into account what is available in the local area?

Tom Franklin: Of all the factors that would make a difference, the quality of pre-sentence reports probably comes out top when we ask our members what is most important. They are sometimes oral and sometimes written. We found that there is a great deal of inconsistency in them across the country as a whole. That concerns us.

They set out the options that are available, but this comes back to my point that sometimes the magistrates do not consider the options in the report to be suitable.

In the great majority of cases the options are considered suitable, and that is why they are used, but making sure that magistrates feel that they are suitable would be the biggest way to overcome that hurdle.

The Chair: There is no disputing that the number of community sentences imposed has reduced very dramatically. I would have thought that a number of the factors you have mentioned had not changed very much between the beginning and the end of that graph. Has the Magistrates' Association tried to disaggregate the factors to see whether anything has changed? I do not want you to repeat everything you have just said, but has any work on that gone on?

Tom Franklin: I can say what we have heard from our members. We have done a couple of focus groups in advance of today to discuss this. The changes in the Probation Service over the last decade have certainly not helped at all. With the way the service was broken up, there is a feeling that a lot of the expertise in the Probation Service was lost as a result. So much of it is based on the relationship and the trust between the two, and that has made a big difference. The level of confidence has taken a knock over the last few years.

The Chair: On that basis, it should be increasing now, given that we have changed back.

Q33 **Lord Beith:** You have given us quite a list of things that I imagine you think, if changed, might increase the confidence of magistrates in using community sentences. We will use that list. You also mentioned outcomes. Magistrates, as far as I can see, have one main source of information on outcomes, and that is when the same offender comes back because of repeat offences. Beyond that, do magistrates have any source of information, beyond general statistics, about what their sentences have meant in terms of rehabilitation and changed lives?

Tom Franklin: No, they do not. We have discussed this. In the past they would have been more likely to find out, not in a systematic way but because relationships were stronger between magistrates and probation officers. They would very often see the same people again and again in court. It was much more of a regular relationship. They would very often find out what is happening to such and such: "Remember the young man who came in. What happened with him?" There were many of more of those sorts of conversations.

From what we hear, because it is much less likely these days that there are going to be the same people in court, and the relationships are not as strong as they were, there is less of that feedback loop that magistrates used to have. There are attempts at local level, through the various liaison committees, newsletters and this sort of thing, to make sure that information flows.

We have to bear in mind that magistrates are volunteers. They are not full time. They do it on a voluntary, part-time basis. With the throughput of cases, it is very unlikely that they will be able to get detailed information on what has happened

with the cases they have done. Also, with all the newsletters and that sort of thing, it is a lot of information to absorb.

The thing we would like to see more than anything in the pre-sentence reports is that when these options are considered there is also information about their effectiveness, their efficacy and why, from the evidence, they are considered appropriate for the sentence going forward. There are things that can be done, but at the moment that feedback loop is not there.

Lord Beith: Has the problem you described been made worse by magistrates' courts being much less local? The likelihood of the same magistrate from the same community seeing in front of him or her the offender who has been before is presumably much less. Would it be advantageous if there was clear information about the outcome of sentences passed by that court on offenders who have passed through that court?

Tom Franklin: Yes, it would. You are right about the impact of local court closures and the way that has fractured the relationships. This is one reason why we argue so strongly about the importance of local justice. It is not just about efficiency, but about that sense of localness. That has been impacted.

The other impact it has had is that, with court space reducing, there is less space in courts for the probation officers, literally, in their offices and that sort of thing. Some of the conversations that would have been had are much harder these days, because the space in courthouses is so much tighter. It is all those sorts of factors that have broken some of those bonds. We are where we are on the change to the courts and the number of courts, but somehow or other we need to rebuild in some of those factors that worked so well in the past.

Lord Sandhurst: I want you to clarify something, if you could. In the context of pre-sentence reports, you said that some are oral and some written. Then you said that there was a difficulty with inconsistency or inconsistent responses across the country. I was not clear whether you were saying that this is because some parts of the country have many more oral ones or whether some just have different approaches to what they recommend. What was the inconsistency?

Tom Franklin: It is all of it: the mix between oral and written; the mix between on-the-day reports and reports where people have gone away, considered them and brought them back; and the quality of the reports and the information they contain. I have articulated why it is important that the options in the report are properly explained and that the ones that have been ruled out are also in there. I know that happens in some places, and yet in other places it does not. Across the board, we think there needs to be a greater consistency in the quality of the reports.

Lord Sandhurst: Would we benefit from more written reports, and should there be perhaps more of a template for recommendations?

Tom Franklin: There certainly need to be very clear guidelines about when the different types of report are needed and what should be in them. Sometimes oral reports might be appropriate. If it is something that can be dealt with very quickly on the day, magistrates would welcome that. Timeliness is important for justice. If it is possible to deal with an issue on the day and it is fairly straightforward, that should be done. If that can be done orally because the probation officer is sitting there in court and can have a chat with the offender and give a very quick answer, that makes sense. There just needs to be that consistency of standards.

Q34 **Baroness Henig:** I have forgotten this. I used to know it. What percentage of magistrates are in the Magistrates' Association? Is it all of them?

Tom Franklin: It is not. It is just over half.

Baroness Henig: Half of magistrates will not be aware of whatever messages you are putting out, then.

Tom Franklin: That is true. There are obviously other sources of information. We try to help beyond our members. Obviously our focus is our members and we say to all magistrates, "Please join us because of the importance of the information that we provide through the magazine and other sources".

Baroness Henig: That is one reason I asked. I have been a magistrate for a long time, but I have never actually seen the magazine. That, of course, is because more or less 50% of magistrates are not members and therefore probably will not see it.

Tom Franklin: I think I have a membership form.

Baroness Henig: You have already said that relationships with the Probation Service are not as strong as they were, presumably because of all the changes that have taken place. Can you tell us how effective the national liaison forum and local liaison committees are in the case?

Tom Franklin: The national liaison forum is good and works well. There is the commitment to taking part. Locally, where they work well, they work very well, but it comes back to the C word—consistency. It very much depends on local initiative and the people involved to make sure that it is working and that that information is disseminated. There does not seem to be that consistency. We would like to see clearer, consistent guidelines for what should be happening with that.

One thing that came through in our survey was the high level of confidence that magistrates have in their probation officers. These critiques are not critiques of the professionalism and work of the probation officers. They are very highly regarded, and magistrates see the relationship between themselves and the probation officers as entirely symbiotic. They need each other to do their role well. It is not a criticism of that. There is that high degree of confidence and their role in court is highly appreciated.

The issue comes with the incredible pressures, which magistrates recognise, that the Probation Service is under. It is not saying that magistrates want something different. They need more of what is good. Local co-ordination is something that we ask for and want to see. We want to see the best applied everywhere.

Baroness Henig: Presumably nobody has done research to see whether there is a correlation between the areas where the co-operation is not good and where they are turning away from the community sentences.

Tom Franklin: As far as I know they have not, but it is a good idea.

Baroness Henig: If you wanted to see guidelines, where would they come from?

Tom Franklin: It would probably be from the leadership of the Probation Service together with the leadership of the magistracy. I would hope that we would be involved with that. The Magistrates' Leadership Executive and the senior judiciary are probably where it would be. We would probably also need the involvement of HM Courts & Tribunals Service.

Baroness Henig: That may be something you could do at the national liaison forum, then.

Tom Franklin: Yes.

Q35 **Baroness Sanderson of Welton:** Thank you for coming today. I would like to talk about the Rehabilitation Activity Requirement—the RAR. Previously the nature of the activity and the number of days would be specified. Under the RAR, that does not happen. Only a maximum number of days is recommended. How much awareness do sentencers have of what will be undertaken when they use a RAR, which is the most commonly used of the requirements? Is that system working?

Tom Franklin: No. There is a gap in that knowledge. It comes back to the court reports and making sure that there is as much detail as possible in them. That comes back to the time and the resource available for the probation officers to make sure that that is all included. At the moment, very often it will state a certain number of RAR days. Actually, it may not be days; it might just be a meeting.

Baroness Sanderson of Welton: Yes, or a couple of hours.

Tom Franklin: Yes, exactly. It is almost like they are saying, "Yes, we'll go away and sort this out. Leave it to us". That creates a gap for the sentencers in what they know about whether this is really tailored to the needs. It comes back to the question about the feedback loop.

Baroness Sanderson of Welton: Yes. How do you know whether it has worked when you do not know what they will be doing and there is no feedback loop there to find that out?

Tom Franklin: Yes, exactly.

Baroness Sanderson of Welton: If that is the case, why are they the most commonly used requirements? Is it just because they are the most suitable for the time? They just seem to be inherently a bit woolly.

Tom Franklin: Yes, I can see that, but the advantage of RARs is that they can be very tailored to the individual needs of the offender. That is really important too. One of the advantages of them is that it is about sitting down and working out what is particularly needed and tailoring that programme to meet the specific needs. Do they need to attend a course on relationships? Do they need help with their thinking and how they make decisions? It can be tailored to that individual. That is to be welcomed.

It is important that probation officers have some flexibility there. The circumstances of the offender may change during the programme, so they can tweak that if needed without always having to come back to court. What is lacking is making sure that the magistrates are fully aware of what is on offer.

Baroness Sanderson of Welton: You need that mechanism with the research done to show how that has worked.

Tom Franklin: That is right.

Baroness Sanderson of Welton: That is missing; that would be helpful. You have partly answered this question. To what extent do sentencers take into account the availability of activities? You have said that that is one of the problems more generally with a community sentence. Is that the same? Do those same percentages apply to the RARs and how that affects decision-making?

Tom Franklin: Yes, it does. In a sense, magistrates very often do not know what is not available. They can work only on the information that they have. There may be a fantastic course that would suit a particular offender, but the waiting list for that course is a year, so it is not put down as an option and the magistrates do not know about that. They can work only on what is given to them, which is one reason why it would be helpful if the court reports also detailed what might be suitable but is not available, so magistrates were aware of that. It is another piece of the jigsaw that magistrates would see and understand.

Baroness Sanderson of Welton: You have mentioned the workload of the probation officers. In the article you mentioned, one success story was dependent on the fact that the probation officer was able to be there from beginning to end. As sentencers, do you take into account the workload of the probation officer in relation to RARs? They will then have to work quite closely to make sure that this RAR works.

Tom Franklin: It is not a factor that is taken into account, but there are circumstances, in the aftermath of Covid for instance, where magistrates will know that unpaid work is not a realistic option: that because there is such a high backlog, it will not work. It comes into that to a certain extent. Some of it will be behind the

scenes, so magistrates will not know about what is not being recommended because it is not a viable option since there is not the resource—staff time or whatever—to do that.

Baroness Sanderson of Welton: That is very helpful. Thank you.

The Chair: To take that a little further upstream, knowing that the Probation Service and individual probation officers are under a huge amount of pressure and are very overloaded, do you get any sense that magistrates are reluctant to press probation officers to come up with more appropriate proposals or suggestions? It is a difficult thing to quantify maybe, which is why I ask whether you have any sense.

Tom Franklin: It is very difficult to quantify, and magistrates are acutely aware of the pressures they are under. Probably the key way is when a probation officer is not in court, which used to be more standard and now there are gaps with that. They will also be aware of the long delays in getting court reports. We have no way of quantifying how that might impact, but it is clear from our survey that broadly half the people who responded felt that there were the options available and that they were good options in their local area. The other half were not so sure. That must be influenced by that factor.

It is really good to see, in the blueprint for the reconstruction of the Probation Service, that that presence of probation officers in court and their court role is put very strongly. We really welcome that. Obviously they have a mountain to climb to get to that point.

Q36 **Baroness Meacher:** Certain rehabilitative activities—in particular, onerous and lengthy addiction and mental health treatment programmes—are regarded as inappropriate for low-level offences. As you know, magistrates work to low, medium and high level and the seriousness of the offence is key in determining what that sentence should be. This seems to neglect the needs of these prolific low-level offenders. How do magistrates navigate that tension?

Tom Franklin: We would agree that there is that gap in provision. Very often, it comes down to the entry requirements for the particular programmes. In particular, there could be low-level but prolific offenders who live very chaotic lifestyles, find it very difficult to turn up regularly to things and really struggle with that. That would nullify their involvement in particular schemes. Sometimes it is almost like, if they did them, they would be set up to fail because they would find themselves in breach, have to come back and end up in that cycle back into court.

That is why, when designing the range of programmes that are available, that cohort of offenders needs to be catered for in that provision. We would like to see almost a national map of what is available. We get the impression, and I think this also came through from all the changes and the break-up of the national probation services that were there before, that there is a plethora of pilot schemes all over the place.

There is a feeling that these schemes never really go anywhere. They can individually be very good—they are often set up because of the initiative of an individual and this sort of thing—but they are rarely scaled up. There is rarely a proper, thought-through pattern for where they are and what is happening to them. That feels like a very large amount of wasted effort. We would like to see a proper mapping of what is available so that we can see where the gaps are, where the hotspots are and where there are innovative schemes that could be rolled out elsewhere to try to fill those gaps.

Baroness Meacher: You rightly said that these addicted people or people with mental health problems may well be rather poor attenders at these very challenging treatments. What incentives do you think they could be given to make these treatment programmes more attractive so that they would therefore be more willing to attend them?

Tom Franklin: I am not sure and, in a way, I do not know that magistrates are the best people to advise on that. There are people who are far more expert in designing those courses. It is fair to say, “We think there’s a gap here that needs to be addressed”.

We also hear from members that, in different parts of the country, there are different approaches and attitudes to the number of breaches before it comes back to court and this sort of thing. We would like to see more consistency there. That would be a better way of monitoring what is going on with some of these cases.

Baroness Meacher: The Chief Inspector of Probation was very concerned about this gap in the market, as he calls it, when it comes to supporting these low-level prolific offenders. He suggested, and I wonder what you feel about this, that it would be helpful to pay for the accommodation for these people through this treatment programme, instead of people going off to a short prison term, for example, and then having their accommodation paid for afterwards. He would say that it is much better to pay for it. What is your view of the idea of paying for accommodation, with this being such an important issue with regard to repeat offences and so on?

Tom Franklin: It sounds like a good idea, but I do not think I am the expert to ask. There would be additional costs, but we all know how expensive and ineffective short-term prison sentences are. Therefore, we would be very much in favour of more resources being spent up front in trying to stop these cycles, rather than dealing with the damage later on.

Q37 **Baroness Meacher:** That is very helpful. You agree, I think. I was going to ask you whether you agree with Mr Russell that significantly increasing the number of offenders committing low-level crime who receive six-month residential mental health or addiction treatment would be a highly effective way of reducing crime. Do you agree with Mr Russell about that?

Tom Franklin: As I say, I do not think that I am the expert to ask on that, but that approach very much fits with the messages from magistrates as to the importance

of getting community sentences right and why they feel so passionately about having them in place.

Baroness Meacher: Do you think it would make community sentences more attractive to magistrates, for example, if they felt that this sort of approach would be used for these prolific offenders?

Tom Franklin: It sounds like those sorts of things could fill some of the gaps that may lead magistrates to go, “We haven’t got any other option and we need to look elsewhere other than community sentences”. If everything in the court report could be backed up by data and information about the effectiveness of these approaches, that would give magistrates the confidence to know that, for this type of offender, this is the sort of success rate that happens with this sort of intervention. Magistrates will then go, “There we go. That’s very clear”.

The Chair: How much of a role do magistrates have in explaining that the requirements we have been talking about—treatment, broadly—are designed as treatment? It is not meant to be as punitive as some offenders seem to regard it. Is that really a matter for probation?

Tom Franklin: It is a matter for magistrates too. We hear examples. There is the one I read out earlier from Revolving Doors of the ex-offender who had that direct input from the magistrate in court. That can have a life-changing impact for offenders.

The Chair: How much do they do it, or is it variable?

Tom Franklin: It happens. We work to help with magistrate awareness of these things. Through our learning programmes, we try to encourage best practice. There is always more that could be done with that. That is why we have the magazine; it is why we have so many learning and development courses and that sort of thing.

It is all about helping magistrates to see the importance of that communication and the difference that can make to the individual, so that the individuals do not feel that they are just another case going through but feel heard and seen, and that their problems are understood. That is not just by the Probation Service; it is also by magistrates.

Lord Blunkett: I may have misunderstood the interchange with Baroness Henig, but, if I have understood you right, there are a large number of magistrates who are not part of the association and cannot access the development courses, communication and information. Would it help if magistrates were able to claim membership of the association as a legitimate expense, or is it already the case?

Tom Franklin: Yes, it would help. We rely on our members to pay to join us and that allows us to do what we do. Magistrates are volunteers. We currently have all sorts of issues with the expenses system not covering all their costs. We have raised that, and this is another area like that.

Lord Blunkett: It would provide them with the independence and choice as to

whether they joined, provide the association with the independence it needs, but ensure that magistrates who are volunteers could actually afford to do it.

Q38 Lord Sandhurst: I want to ask you about out-of-court disposals. For those watching and for the record, these are things such as conditional cautions, fixed penalty notices and community resolutions, I believe. They are imposed by the police. It means that someone does not come before the court at all. That is right, is it not?

Tom Franklin: Yes.

Lord Sandhurst: We understand that these are seen as a way of helping with court backlogs, overcrowded prisons and a Probation Service under pressure. How do the magistrates feel about these? It means that these people are not even coming before them and being offered prison, a community sentence or whatever.

Tom Franklin: We have concerns about what we see as almost an unregulated increase over the past few years. Again, I use the word “consistency” in the way they are applied. With magistrates and sentencing, there are very clear guidelines laid down. I have talked about the work that the Sentencing Council does there and how it is consulted. Magistrates have to follow a set procedure in deciding what is suitable, in liaison with the Probation Service.

When it comes to out-of-court disposals, it is more like the wild west of the justice system with the rules and regulations that are in place. It is not clear whether the programmes that are used are accredited. It is not clear who is responsible for assessing offenders’ needs and ability to benefit from them. The relationship between what police can do and what the courts can do is not clear either. We would like to see a more linear approach between the two. It does not help offenders and repeat offenders if there is not that consistency.

I am not saying that there should be no out-of-court disposals, but they need to be properly regulated. We would like to see a list of offences that they should apply to and not go beyond without agreement. There should be a national audit of how they are used and a framework for how out-of-court disposals and police powers are used for those, as well as for how courts and sentencing powers are used.

Lord Sandhurst: You can help us with this. In the light of what you have said, are there regular monthly or quarterly liaison meetings between, for example, the police and crime commissioner, the chief constable and senior magistrates in a given area or constabulary to discuss these out-of-court disposals?

Tom Franklin: It is patchy. We did a survey for the report that we wrote on these last year and there are some areas where there are no scrutiny panels. In the best areas, there are scrutiny panels.

Lord Sandhurst: There should be.

Tom Franklin: There should be, absolutely. They should be in each of the local police areas as well as at a national level. There are clear gaps and different approaches that are taken in different areas.

Lord Sandhurst: I have always been a supporter of the lay magistracy as an idea, connection with the community and everything else. There are many more stipendiary magistrates sitting for five days a week, week in, week out. The picture you have painted is of a rather haphazard system around the country. In the bigger centres, where you have a stipendiary or several stipendiaries sitting, do we get a more consistent picture, or is it just the same haphazard mix?

Tom Franklin: We find that the relationship between the lay magistracy and the stipendiary magistrates, and the district judges, is generally very good as well. There is good co-ordination at a national level and that generally flows through to local. If there are any issues, they are dealt with very quickly. That partnership works well.

Lord Sandhurst: That was not what I was looking at. I was looking at how the thing operates on the ground. You described lay magistrates not necessarily having a big enough picture to know whether what they are doing is effective. I wondered whether stipendiary magistrates, who are sitting there day in, day out, are inevitably better informed because they see people coming back before them and so forth.

Tom Franklin: I get you. I cannot really answer that as far as stipendiary magistrates are concerned.

Lord Sandhurst: It is just a thought that struck me listening to your evidence.

Q39 **The Chair:** On liaison, in this case with the Sentencing Council, and guidelines for imposition of community and custodial sentences, have you raised with the Sentencing Council that the magistrates are concerned that sentences are based on evidence? Do you have any comments that you would like to share with us on the imposition guidelines?

Tom Franklin: We think they are good, are fit for purpose and work well. They have been in place for a while. It encourages that consistency of approach right the way across the country and they are simple to follow. We would commend the Sentencing Council for these, but also its consultation. It works very closely to make sure that magistrates are informed, involved and consulted. That is an example of a good flow of information.

The Chair: I will tell our next witness that you gave them a gold star.

Q40 **Baroness Shackleton of Belgravia:** I am concerned that some of the information is available only to people who have to pay for it. I welcome Lord Blunkett's question about whether it would be easier if the registration was paid for out of the public purse. Surely, all this information should be available for free and to all magistrates on a website or something that they could consult. It makes little sense that only the paying members are privy to the information that everybody requires in order

for there to be consistency throughout the country.

Tom Franklin: To be clear, there is a huge amount of training for all magistrates. It is not just those who are in the Magistrates' Association who benefit from the information, guidance and training that is available. There is the Judicial College and a whole programme of training available there. One of the roles of the Magistrates' Association is to input into that training programme. All magistrates get that and there are information flows. There is a website called "Magistrate Matters" and there is information on that.

We see our role as helping magistrates to be the best they can be for the good of all of society. We do not provide the official training for magistrates, but we provide the context and information on issues, helping to keep them informed about what is going on and that sort of thing so that they can be the best magistrates. You do not need to be a member to be a magistrate. We just think that it enhances how you are as a magistrate if you are.

Q41 **Baroness Shackleton of Belgravia:** I have a further question about information sharing. You say that magistrates are not always up to speed, so you might recommend a course that is defunct or has ceased operating. Is there no central information package so that, when they look on their recipe chart as to what they are going to cook, they know what is available, rather than recommend something and find it is not available afterwards, when it is too late and has wasted time?

Tom Franklin: That largely will not happen. They are guided by the pre-sentence report, and it is in the pre-sentence report that the probation officer will write what is available. What will not be in there is what is not available.

On the point about whether there should be a map of what is available across the country, where the gaps are and that sort of thing, we would very much support that. That is not so much for the individual magistrates because they need everything in that pre-sentence report. In effect, they should not have to go anywhere else. It should all be in that report that is in front of them when they are dealing with a particular case. That sort of map is to make sure that there is proper co-ordination, that gaps are filled and so on. It is more for the policymakers and policy-setters, rather than for the individual magistrate.

Baroness Shackleton of Belgravia: You would welcome something such as that.

Tom Franklin: Yes, we would.

The Chair: Thank you, Mr Franklin. If there is anything that you feel you would like to follow up with, please get in touch with us after today. We are very grateful.