

Justice Committee

Oral evidence: [The work of the Director of Public Prosecutions](#), HC 662

Monday 3 July 2023

Ordered by the House of Commons to be published on 3 July 2023.

[Watch the meeting](#)

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

Questions 78-114

Witnesses

[I](#): Max Hill KC, Director of Public Prosecutions.

Examination of witness

Witness: Max Hill KC.

Chair: Good afternoon. Welcome to this session of the Justice Committee, where we are looking at the work of the Director of Public Prosecutions. We welcome the director, Max Hill KC—good to see you again. You are probably familiar with this by now, director, but we will do our formal declarations of interest first. I am a non-practising barrister and former consultant to a law firm. I should also say that I have known Mr Hill as a friend and colleague professionally for many years now.

Maria Eagle: I am a non-practising solicitor.

Edward Timpson: I am a barrister with a current practising certificate, a former Solicitor General, and a former chair of the National Child Safeguarding Practice review panel. My brother is chair of the Prison Reform Trust.

Q78 **Chair:** Thanks for coming to see us. I want to start with some of the nuts and bolts of the work; towards the end in particular, we will be looking at lessons to be learned, perhaps during your tenure, and some of the thoughts that you might have. In all our recent discussions, one of the topics has been the size of the backlog in the Crown court. When you gave evidence to us in November, you helpfully indicated that the North London division of the Crown Prosecution Service in particular had a significant backlog—about 10,000 or so as of November '22. Has that improved since then? What is the overall view of backlogs?

Max Hill: Going from national to local, the national picture of the current Crown court backlog of individuals awaiting a hearing in the Crown court, either because they have been committed for sentence or because they are there for trial, is a figure of 74,300. That is a small variation on where we were last year, so it has not substantially gone up, but nor is it coming down fast. In many of those cases, multiple defendants are on one indictment, so to avoid any confusion, if you were to take cases the figure is more likely in the mid-60,000s. I prefer to count individuals, however, because it is individuals who are pending determination of their case, perhaps in custody with an individual time limit on their custody. They have to be treated with care, as individual cases—so about 74,000 in the Crown court.

In North London, I can subdivide the figure. Snaresbrook Crown court, which is the biggest by the number of courts, had a backlog in November '21, so just post covid, of 4,200; by November '22, that had risen to 4,500; and it has been holding at about 4,500. For the Old Bailey—the most famous court, albeit it has one court fewer than Snaresbrook—the figure there is about 650, and that has been consistent. By the time you add in the other North London courts, you do come up to something approaching 10,000.



HOUSE OF COMMONS

Funnily enough, nationally—if I can go back to national statistics—the number of custody time limit cases, with individuals in custody pre-trial, has been hovering just below 10,000. In April 2020, if we take that as a pre-covid baseline, it was 7,500. It had risen to 9,600 by last month, June 2023, so there is considerable pressure on the courts.

Q79 Chair: You talked last time, I think, about the resolution of the Criminal Bar Association action having led to a plateauing in the number of cases to which CTLs applied. Has that shifted at all or is it equally static?

Max Hill: I think it has led to a levelling off. We all understood that while action was being taken, the inevitable consequence would be an increase in numbers. It has levelled off, but I still think that it is a real challenge for the entire system to reduce that overall volume.

At the Crown Prosecution Service, we take a zero-tolerance approach to things such as custody time limit failures, so there is a lot of effort going in case by case. In my view, that means that we should be as creative as possible—although there are limits on that—in how we progress cases. I have been talking for some months now about prioritisation within the caseload, as opposed to a general approach to try to suppress overall caseload. The latter is the ultimate aim, but to get there I think we now need to prioritise those cases, which I am happy to identify, that we think need to be brought forward.

Q80 Chair: Perhaps you could help us with that. How does this prioritisation actually work in practice?

Max Hill: One of the many lessons learned through the covid period is that the criminal justice system works better when we talk to each other, and it works better when we recognise each other's independence. Judges, of course, are independent of anybody else, but the Crown Prosecution Service is also independent by statute. Whether you are talking about the Ministry of Justice, the court service, the Home Office on behalf of policing, or the Crown Prosecution Service in the Attorney General's Office, we learned to come together of necessity in 2020 to restart the justice system, which had had to close, albeit for a very short period of three or four months.

Since then, we have had structures in place that allow us to keep talking. That has fostered much more of a dialogue about how, together, we can grip cases and move them forward. To take an obvious example, I am very keen that the entire system prioritises rape and sexual violence, which I am sure we will come on to. That is a matter of prioritisation, because there are lots of species of criminal offence to which you would attach priority, and in an ideal world we would like all these cases to progress to trial quickly, but we now have to make important choices, particularly in the bail estate, with cases that do not require remand into custody before trial. At the top of the list for me is adult rape cases.

We work through effective communication. It is absolutely not for us or the police to tell the courts what to do, but in my world that means senior leaders and managers in the CPS sitting down in any of the courts that we



HOUSE OF COMMONS

serve. There are just over 500 criminal courts across England and Wales, if you include magistrates courts. We have effective relationships with listing officers. We try to help in terms of what to bring forward into the trial list to ensure that that list is effective; that trials are listed first time and are effective; and that with victims' interests at heart, which is so important, we ensure that people wait for as little time as possible before their case is called. I am afraid that the waits are too long at the moment.

- Q81 Chair:** Engagement with listing officers is obviously useful. We are told frequently—and correctly—that listing is ultimately a judicial function. Is it possible, without prejudicing the independence of that judicial function, to engage with the resident judges, for example, in the various court services to get a sense or an understanding of the pressures? How does that work?

Max Hill: Yes, I believe it is. I do not think that we are in any way interfering with the independence of the judicial function by having constructive conversation. To give you an example, I know that the resident judge at Snaresbrook Crown court, Her Honour Judge Dean, is prioritising rape cases. She said as much at the London victims summit, where she and I spoke. Her intention in Snaresbrook is to ensure that rape trials are listed as effective trials at the first time of asking. I simply support that; it is a judicial initiative, but I support it. Whether it is on that or any other aspect of listing, local CPS teams are on hand to speak, not always to the judiciary but to their court management teams, to their listing officers, to say, "These are cases that are ready for trial and we just encourage you to fix them, wherever possible, rather than having them in warned lists or as floating cases." That is because certainty about when the case is going to be brought forward brings a number of other benefits, and certainty about who the prosecution advocate is going to be is in our self-interest; that flows from more effective listing practices.

- Q82 Chair:** We are going to come back to prosecution advocates in a minute, but I have a question about the big picture. We have the Government target to reduce the number of outstanding cases in the Crown court to 53,000 by the end of 2025. I think you said last time, "Yes, it's achievable, but it requires a number of things to come together effectively to do that." Has your assessment changed or is it still achievable? Has it become harder or is it getting nearer?

Max Hill: Well, the end of 2025 is two and a half years away. I still think it is achievable, but the levers that the system will need to pull to achieve it are different—more mixed. During the period when we were coming out of covid, it was all about an increase in sitting days, an increase in the number of permanent judiciary, and almost the block listing of cases. That worked in the magistrates court estate with greater success than in the Crown court: we saw rapid listing of trials, which did reduce the outstanding volume of cases. But Crown court trials are more complex; there are more players involved, including juries, who are fundamentally important. I do not think that a one-size approach fits all, hence what I am saying about prioritisation of certain types of offence, which we need to pull through with more speed.



HOUSE OF COMMONS

If we do that in the Crown court, if we continue to work on efficiency in the magistrates court system, including the flow of cases from magistrates to Crown court, and, more important than that, if we continue to work on guilty pleas and extracting guilty pleas from the trial waiting list, we will make progress. There is at the moment a great initiative spearheaded by senior presiding judge Lord Justice Edis, through the Crown Court Improvement Group, to front-load the service of all of the prosecution case, all of the material that supports or requires to be disclosed alongside the prosecution case. That is something that we are trying to deliver at pace. It involves a lot of working together with our colleagues in police forces, but it is designed to demonstrate to those who have been charged why they need to plead guilty at an earlier stage and to recognise the strength of the case against them. If that is effective, that will reduce, perhaps quite sharply, the number of cases in the waiting list for trials. If you put all those things together, I would say yes, 53,000 in another two and a half years is achievable, but only if the entire system continues to really focus will we be able to do that.

Q83 Chair: One thing that has happened and may have an impact—although I would be interested in your view on how great that impact is—is the change made in reversing the increase in the sentencing powers of magistrates courts. Whatever the rights and wrongs of that, I imagine that it feeds through into probably a greater number of committals for sentence, and maybe other things. Have you any estimate, from the CPS perspective, of what difference that makes to waiting lists and backlogs in the Crown court?

Max Hill: It is a comparatively recent move, so I don't have a statistical background yet; I think we will in another half a year, so by the end of the calendar year we should have one. What I would say in terms of giving you a narrative answer to that, is that this is not a matter of complaint, but the CPS was not consulted before the change was made; it was simply a change that was made. I have no doubt that the prison population issue was part of the background, but that is not a matter directly for me. My concern is that it is likely to increase the volume of individuals on remand pending committal for sentence. As I said, that is part of the 74,000 outstanding individual cases. We need to watch that closely because it could only increase the backlog.

I'm afraid it is a case of trying to use the levers you have as best you can, wherever you are in the system, but there is often a consequence. If you pull at one end of the thread, there will be a consequence at the other, and I do have a concern about volumes. I should add that I am not aware of any evidence suggesting that magistrates courts were improperly using their temporarily extended sentencing powers, but it is not a matter for me.

Q84 Chair: I don't think we have seen any such evidence. Anyway, had you been asked, you would have expressed the concerns that you have expressed to us.



HOUSE OF COMMONS

Max Hill: I would have done what the Crown Prosecution Service is here to do, which is to say, "It's not for us to legislate and we wouldn't dream of doing so, but we will point out the operational consequences of the moves that you make." That is what I would have pointed out in relation to magistrates court sentencing powers.

Q85 **Maria Eagle:** The latest MoJ data covering the last quarter of 2022, from October to December, shows that over a quarter of outstanding cases in the Crown court have been open for a year or more. That is almost 17,500 cases—29% of the outstanding caseload. If we look a bit further, just over 5,500 cases have been outstanding for more than two years, which is 9% of the outstanding caseload. Those are large percentages. What measures are being taken to ensure that victims, witnesses and defendants know about these extended waiting periods, which can be very distressing for all concerned, and to ensure that they are adequately briefed, supported and informed throughout? What are you doing to try to ensure that you don't lose all your witnesses or your complainants?

Max Hill: There is a distinction between the general volume of all crime cases and specific areas, so I will answer that question in two parts. In relation to general volume, because of the sheer scale—we just looked at the statistics—the ongoing delay before cases are listed for trial places pressure on the witness care units in all police forces up and down the country. They are not my responsibility, but I would say that that is where ongoing support is needed to ensure that the WCUs can keep witnesses, including victims, apprised of what is happening.

At a more detailed level, we have a victim transformation programme at the Crown Prosecution Service which we have been working on for the last 18 months. It is designed to deal with how you communicate with victims in a way that they will understand, appreciate and welcome at the right points in the process. Because of volume, and because one can be a victim of fraud and also rape, we have, I hope understandably, prioritised rape. The victim transformation programme is focusing very heavily on victims of adult rape. Perhaps I will come on to this later, but we want to provide an enhanced service for those people as they go through the system. You are absolutely right; it is a fear that individuals who are victims of such serious crimes will, very understandably, say that they cannot put their life on hold for another year or two years.

There are other aspects to the conversation, including the ways in which we can support people to give evidence. We may come on to technical ways of supporting evidence—for example, through pre-recording—but I will leave that for the moment. Alongside that enhanced offer, what we are developing, which is now featuring in CPS areas all around the country, is a better universal service to victims. It is more about communication in writing and online as opposed to in-person meetings, but it is guided by CPS inspectorate reports. Right back when I started in 2018, we knew that our letter-writing service wasn't good enough. I hasten to add that was not because of the people working in the victim liaison units, but because of the scale of what they were trying to do and the fact that they needed more support. That needed to be improved, but



HOUSE OF COMMONS

alongside that we have created digital tools so that victims of crime and witnesses can go online and learn information about the system that will better inform them. That then needs to be backed up in partnership with witness care units with specific information about an individual case, so that people know how it is getting on.

It is a huge issue, and one that I have done my best to grapple with in all of my time. I will not claim victory on that issue as I leave later this year. This work needs to go on. It is a continuing issue for as long as there is a backlog and for as long as we are trying to improve the service that the whole criminal justice system provides to victims of all crimes, but starting with the most serious—and, again, I'd put rape at the top of that list.

Q86 Maria Eagle: Do you have any idea about the attrition rate that results from these extended periods of time? Is there any way in which you can get a handle on whether these extended waits are causing higher levels of attrition among victims and witnesses?

Max Hill: As part of the victim transformation programme, because we are prioritising adult rape we do now keep a very close eye on attrition post charge and pre trial. It has been hovering around 20%, which I think is too high. It does vary, actually, from quarter to quarter, but in the period of the joint national action plan for rape—so in the past two or three years—it has hovered between about 12% and 20%, and there are times when it continues to creep up. That is an issue, but one that I completely understand, because people are entitled to their day in court—I mean, defendants are entitled, but victims most definitely are—so we need to do better at providing support.

Going back to what I said a few minutes ago, though, we need better certainty on how a case will be brought forward so that all the participants in those proceedings will be constant and will have a goal date in mind. Even if you provide a date that may be a year off, or, to take a very pessimistic example, 15 or 18 months off, if at least we had certainty that it would be reached on that date—no excuses; the trial will take place—then I hope that, with the means of support that I have been mentioning, in partnership with the police, we could say to victims in particular, “Can you please stay with the system? We will keep you informed. That will be the end date of your case.”

I think that the most corrosive thing, which you have mentioned in your question, is when cases are listed two, three or even four times without being reached and without becoming effective. We need to improve on that.

Q87 Maria Eagle: I was going to ask you about prioritisation as perhaps a way of tackling some of this. You did mention it in one of your replies to the Chair's earlier questions, and you have just mentioned it again. Of course, prioritisation did happen during the pandemic, particularly in higher-risk cases—domestic violence cases—as an emergency measure. You have now mentioned it with favourability; is there going to be some prioritisation, and will it be a formal or informal thing?



HOUSE OF COMMONS

Max Hill: When it comes to domestic abuse, we definitely need prioritisation, but I think that the starting point for that will come from the lessons that we have learned in relation to adult rape. I will come on, perhaps, to talk about Operation Soteria, which has really generated a new model, particularly of early communication between investigators and prosecutors. That is the model that clearly works, because we have seen how the figures have moved in relation to the rape statistics.

For me, on that matter, and in relation to victim communication, domestic abuse cases come next after sexual offences. By volume, the number of domestic abuse cases in the system is far greater than rape and serious sexual offences, so it is a challenge for any overstretched part of the system to provide exactly the same service to victims of domestic abuse, by way of communication, as we do for adult rape. That is why I think that we need to be sensible about this.

There is a spectrum of offending within what we call domestic abuse-flagged cases. There are cases at the top end of that spectrum that represent high threat risk or harm—that is the phrase that I often use—where you have a victim at significant risk of harm. That is where we should prioritise first on all matters, including charging, but there are other high volume cases within that overarching bracket of domestic abuse, which might amount to a broken window or an argument that leads to the police being called, but which is not going to escalate into something else. It is easy for me to say that. It is very difficult sometimes to assess what the harm or threat picture is. We need to work on that together with the police, because there is a level of prioritisation that I think could be really effective.

How are we going to do it? Through the joint justice plan for domestic abuse, which is in construction right now. It is in many ways following the Operation Soteria model, but that domestic abuse joint justice plan will come into action towards the end of this year. It is designed to foster joint working between the police and the CPS, which has been effective for rape, although on a continuing journey, and I think will be effective for domestic abuse. That is what comes next.

Q88 Maria Eagle: To what extent do the Government's current measures aimed at tackling the Crown court backlog, such as increasing the number of sitting days and judicial capacity, adequately address the scale of the issue? The backlog still seems to be pretty large and not reducing in the way in which you would want to see the trend reducing if you were going to meet the target by April 2025. Getting back down to 53,000 is still higher than it was before covid, but none the less you seem to be in a bit of a fight to get it down. To what extent is what the Government are doing likely to be effective?

Max Hill: There are measures that have helped, without question. Keeping Nightingale courts alive, certainly throughout this calendar year, even though they are expensive and were generated as an immediate reaction to covid, is a good thing. We support Nightingale courts. If they can carry through till next year, I would certainly support that.



HOUSE OF COMMONS

Increasing sitting days is obviously a good thing. The expansion in the size of the CPS as a result of the spending review settlement means that we are better equipped to cope with an expansion in the number of court sitting days. But I am aware that there are finite human resources. My observation is that we can all set expectations of the volume we are going to get to by a certain point in time, but that can be hard to achieve.

Let me take an example from the CPS rather than from the judiciary. We have been recruiting for all we are worth for the last financial year, with the spending review 2021 settlement. We have almost achieved the targets that we set for ourselves, whether you are talking across the piece or in bespoke areas such as the rape and serious sexual offence units, but we have not quite achieved them. I have looked hard at that to ask myself why, if we set a target, can we not just get to it?

The answer, I am sure, is because you have to have the right people to do these difficult jobs. That applies whether you are talking about the judiciary or advocacy, whether advocates are in-house or from the self-employed Bar. You cannot lower the quality threshold just to tick the box in terms of numbers. My belief is that that has been an issue in increasing the capacity of the courts through judicial services, because it is definitely an issue for us.

That then leads to the question of whether there are other structural changes you could make. I am always happy to consider changes to the system to introduce further streamlining, but, for now, what I would say is that we must not throw out the quality of justice that we are all achieving, even in the interests of quick and necessary progress. It is a very difficult balance to perform, but, yes, you could take from that.

I had thought that the judiciary might grow more than it has; I had thought that sitting days might increase more than they have, but actually I have found that it is quite difficult to recruit in the CPS, so I have to understand that it is difficult elsewhere too.

Q89 Maria Eagle: Finally from me, what specific steps have the CPS themselves managed to take to tackle the backlog?

Max Hill: There are several answers to that. The CPS is a digital, nation-wide service. That was the proud boast when we went into covid. We had to test it literally overnight by sending more than 5,000 staff home with their laptops, none of whom had worked from home before, and lo and behold they logged on the next morning and the work continued.

I can say—and it is a measure of pride—that we are a digital service. The benefit of that is that we are now able to send work around the country digitally without our staff having to travel. Because backlog does vary from area to area, that means that we can support a surge in backlog in a particular geographical location or a court location by having the lawyers work on those cases as a matter of need.

We created a central prosecution team of prosecutors who are deployed wherever they may be in the CPS, but who are available at short notice to



HOUSE OF COMMONS

help with casework surges in some other part of the country. They do it all across their laptop. I know that that central prosecution team have been engaged in more than 3,000 individual cases in the few months that they have been in existence, and I know that that is helping.

We are also able to support some of the creative ideas that individual courts or the judiciary have—for example, to help their backlog in one part of the country by sending cases for sentence in another part of the country. I was in Swansea recently; there is a remote sentencing court in Swansea, which means that without individuals having to get on the train and travel there, a case can be listed and the hearing can be dealt with online. That means that the prosecutor has to support it and the CPS have to support it, so we are doing that as well. I would like to see more of that.

Moving cases around without people having to get in a car and drive hundreds of miles should be used wherever you can. We just have to keep going on that and meanwhile, to go back to what I said to the Chair earlier, build the relationship with legal advisers and list staff and management staff in all the 511 courts around the country so that we really understand each other when it comes to bringing cases forward and listing them so that a court list is effective—fully stocked but not over-stocked—and everything is reached within time.

Our people, and I have seen them do this countless times when I accompany them to see judges or court staff, introduce—if I dare put it this way—an element of reality into listing: “Do not be over-optimistic. It is not a virtue to list a case; it is a virtue to have it heard and try to be as effective as possible on that.” That is what we are doing. Where there are other initiatives coming from the judiciary, we will do our best to help. The Crown Court Improvement Group frontloading of service of cases is a really significant piece of work. It is not easy to put into effect, but we are doing everything we can to support that. It is literally rolling round the country now.

Q90 Edward Timpson: You just described a range of measures that you have taken to try to tackle the backlog of cases in the criminal justice system—digitisation, creative solutions, driving efficiencies, building relationships and the rest. Of course, that all comes at a cost. I will ask you a few questions about funding and resources. You nibbled away at some of it earlier when talking about some of the CPS challenges on recruitment, but I will look at your recent settlement—the funding for the CPS for 2024-25—of £728 million.

When you first took office, it was £508 million, but of course if we go back to 2009 it was £887 million, so there has been a bit of a rollercoaster to navigate there. Taking into account those backlog pressures as well as your core objectives as a CPS, where does that leave your funding settlement in being able to meet the needs that you see in front of you?



HOUSE OF COMMONS

Max Hill: The short answer is that I think it is really good progress, but it is vital that it is maintained. I am saying that because it will not be for me to carry on with the argument once I leave at the end of October this year; it will be for my successor and for the CPS. We must keep up the focus right across criminal justice to ensure that it is effectively resourced. Having said that, I am obviously deeply grateful that arguments we were raising in 2019 and 2020 were listened to and that there has been a return in direction back towards the funding level that the CPS previously enjoyed. As a matter of fact, I have never said that the CPS needs to replace every penny that was being spent in 2010 in 2021-22. That would be a crude approach.

As I have just said, the CPS has become digitised over the period. It is on us, and we accept the burden, to be as efficient as possible with, after all, public money to ensure that we streamline our processes. This is not a simple plea to get back to where we were in terms of money, but in terms of people it is crucial that the CPS has the right number of excellent staff. The shift there has been quite dramatic because at the same time that the operating budget was £500 million or just above, as you said, the number of staff in the CPS fell alarmingly close to 5,000 as well. I recollect it being 5,600 when I joined in November 2018.

As I speak, we are nearing the 7,500 headcount aspiration that I set out in the spending round settlement for using that money from 2021. We are above 7,000; we are at around 7,200 as I speak. We have used as much of the money that has been given to us to invest in people as much as we possibly can. That is having a good effect.

I was sitting with casework teams last week in London. The question I have always asked them is, "How many live cases do you have on your laptop?" It is still too high, but it is getting a little better. To give you some flavour on that, a busy prosecutor in a Crown court team in any of our geographical areas is holding 100 to 110 cases live—some pre-charged, but mostly charged cases. Some of them will be multi-handed, multi-defendant cases. That is an awful lot. They are not having to be the advocate in those cases, because that is outsourced, but they are having to manage those cases. For me, that is too high. There were areas and times in the last four or five years when it got as high as 130, 140 cases. For me, it should be a two-figure sum, not three. We need to get it below 100.

The pressure on prosecutors, particularly in a time of such a high backlog, to be super-efficient, to always be ready to deal with judicial orders on time and to bring cases forward, when effective listening allows, means that there just have to be more people in the team. I think it has been a very good direction of travel, but that must be maintained, and that must be maintained not just when it comes to spending on human resource, but on the other tools that a modern prosecution service needs. I am talking here, in essence, about digital capability.

We have been given a limited amount of funding to expand our digital capability. We used that for all it is worth, but my prediction in terms of



HOUSE OF COMMONS

the service that we provide and the operating model that the CPS will move to is that it will be enhanced by careful, judicious expenditure on digital tools in the wider sense—AI is one end of that spectrum, but other things that will make prosecutors' and operational delivery staff's lives a little more streamlined. There needs to be investment there, too.

I am grateful for where we have gotten to. That, if I am frank, was a central mission for me: to see recognition that the CPS had been stripped back too far. We are in a very good direction of travel now, but I would like to see it maintained.

Just on numbers, in the financial year 2022-23, we were able to welcome 1,083 new members of staff, against a total headcount that has now risen above 7,000. That is very considerable.

It is unprecedented actually, but we certainly needed it and we need to do it against a background in which we cannot and will not just take anyone, because prosecuting is a complex job and the skills that we need—not just from our lawyers, but from our paralegal staff and the operational delivery staff—are such that we can take only the best people. I am very pleased to say that we have found 1,100 of the best in the last financial year.

- Q91 **Edward Timpson:** I think when you last spoke to the Committee back in November, just before I became a member, you had 562 new starters, so it sounds like the momentum level is staying about the same. Since the beginning of this financial year, has there been a similar picture?

Max Hill: Yes, we have brought about 200 new staff on board since the beginning of April—moving into the new financial year. That will slow, though, and I should say that a phase of really concentrated recruitment such as we have just had for the past, let's say, 14 or 15 months, needs to be followed by really concentrated retention. In terms of human resources, the CPS will move now into a retention phase, because it is all for nothing if we take staff on board and the pressures are such that they then leave.

Fortunately, the CPS takes the wellbeing of its people very, very seriously, but I think a job for the near future is to ensure that we recruit for the long term and, linked to that, that we bring our own talent through the organisation.

I am happy to talk about that at more length, but I would just say to you that at whatever level people come into the CPS, we now have really creative and constructive career pathways. For example, people can translate across from non-legal staff to legal staff; it is a hard journey with a lot of study, but we will support that. Whether it is that or any other species, the CPS is now recruiting talent and nurturing that from within. As I look forward to the next decade, let's say towards 2030, provided staff can be retained, I think you will see an ever-stronger CPS, and that is what I want.

- Q92 **Edward Timpson:** I have a couple of brief questions on recruitment and retention before we move on to another topic. The first is on the



HOUSE OF COMMONS

importance of expertise and growing it within the CPS, and recognising that in the past there has been that expertise gap. For instance, look at the east midlands, where 25% of legal staff have less than two years of experience according to the last figures I have seen. You have set out how you are seeking to address that through the way that you are recruiting and trying to look after your colleagues so that they stay and grow within the organisation, but does that expertise gap look like it is narrowing during your tenure as DPP?

Max Hill: There have been two phenomena during my time. The first is the loss of the original generation of CPS staff, and that is just an impact of the passing of years. People who joined the CPS in their 20s, by definition, are now in their 60s, so I have had to say farewell to some really excellent, dedicated CPS leaders, as well as people at all levels. Our own interim chief executive officer, Sue Hemming, retired two months ago having spent 34 years at the CPS. There are lots more like her, and they undoubtably leave an expertise gap when they go. But there are lots of others coming up behind them. It is a feature of the CPS that, in many ways, and for many reasons, people do tend to have long careers with us, not short.

In terms of gaps, if I was to look nationally at the end of May, the vacancy rate was about 1.4%. As ever, that is masking some areas where it is higher. I regularly visit teams and ask them, "Are you fully resourced?", and they say, "Yes, we are". There are blips that you might, for example, find in quite a small unit within a geographical area because three or four out of 10 in that unit have been there for a very long period of time. If they all hit retirement, that will leave what appears to be a high percentage vacancy rate in that unit with a need to replace. That is a concern. You always have to keep your eye on that.

One of the ways, though, that I am encouraged about our recruitment is that my observation is that historically a career at the CPS has been quite linear and in incremental steps, and a period of time—probably years—would be spent at one level, before moving on to another. You could say that about many of the professions under our roof.

To take lawyers first, that means going from a magistrates court unit to a complex casework team or to the rape and serious sexual offence unit. That had many intervening steps and could take a long time. We are now taking able, new—whether young or not—senior Crown prosecutors who may have been with the CPS for 18 months and putting them into the most complex units. We are not saying, "You can take over where someone of 35 years' experience has just left," but we are building resilience in that team and working on the retention of staff, which I mentioned a moment ago.

You have to allow people to see the possibilities in the organisation, and those on the receiving end of that—that is, the more experienced people in these higher-complexity units—need the time to onboard, train and mentor people coming up. I often say to them, "I know that's an extra burden on you, but it is worth it if you can, please, because you will add to



HOUSE OF COMMONS

the strength of your team and you will benefit yourself because you will reach a stage where you are able to spread the load between everyone in the team.”

So these are not overnight solutions; it is gradual. I should say that the national resourcing mechanism, which is the tool that we use to dictate how many vacancies there are and who goes where, has been more creatively used since the money flow increased. It was very hard to have flexibility on a resourcing mechanism when the budget was going down every year. Now that it is going up, we can do more with it. It is always subject to fine tuning, but I think the picture is very encouraging as long as we keep going.

- Q93 **Edward Timpson:** Has that helped in recruitment in areas such as Thames and Chiltern, and Wessex, where it has been harder to make it attractive to potential employees, as we have seen from inspection reports? Is the money now starting to address that issue?

Max Hill: Undoubtedly it is. Let me be honest: there are some areas such as Thames and Chiltern, and Wessex—the south-west comes to mind—where there can still be a point of sensitivity if you have a small, highly experienced team with a very low number of people who hit retirement. That will continue happening.

But that again brings me back to the central prosecution team, which I mentioned. Take an example away from the areas that you mentioned, the south-east, which bears the brunt of immigration cases and the whole small boats phenomenon. We have used that central team to add capacity to the south-east team on an as-needed basis. If this had happened a decade or even half a decade ago, with the loss of expertise at the top, it would have been very difficult for the CPS to cope with it because experienced staff would be forced to move across the country to take up a role physically elsewhere. Although people still move physically from area to area, we are doing that much less now, because we can support the work virtually right across the CPS.

Let me take the opportunity to mention that five years ago, at a leadership level, most chief Crown prosecutors—the most senior lawyer in any area—were not working where they lived. They were travelling across the country. They are not doing that now. I have been very keen to have as many as possible living and working in the same county or the same part of the country, because the work is hard on them just as it is on anybody else. I think you should be living at home and working from home to be as effective as possible.

- Q94 **Edward Timpson:** I have two more issues if I may, Chair. The first is about the “journey,” I think we would call it these days, on fees and the recent increase in prosecution fees to bring them broadly in line with defence fees. Having gone through that exercise—we can maybe say that it was painful on the one hand and that it is pleasing to have reached this point on the other—do you think that it will be enough to address the shortage of prosecution counsel? Last time, you told us that that was



HOUSE OF COMMONS

reaching the point where you were literally having to do a phone around.

Max Hill: The answer is that I hope so but it is too soon to be absolutely sure. Let me be clear that I am very grateful, again, that we were provided the wherewithal to reintroduce parity between defence and prosecution fees. It had always been very clear to me that, as a result of the Bellamy review, the increase in the defence graduated fee scheme had to be matched by an increase in the prosecution graduated fee scheme. That was achieved through the announcement I was able to make after consultation with the Treasury and other parts of Government on 3 February. As of 2 May, that money has arrived and has been introduced to the prosecution fee scheme. It is a 15% increase across the board for existing cases, as well as for new cases, with some individual bolt-ons—for example, section 28 pre-recorded cross-examination fees have gone up in line with where they have now reached in the defence scheme. All of that is there.

I have been saying to the Bar leadership, “I now want to see how you react to that, please,” because I have been aware, as all the Bar leaders have been telling us for the last two or three years, of people moving away from crime, and we have seen the impact of that on the CPS panels. We still have 2,800 independent barristers—they are barristers, in the main—on the CPS panels and therefore nominally available for work. But you are absolutely right: as we have gone through, frankly, every month this year, we have found it difficult, and on occasions impossible, to identify a prosecution advocate.

Our internal teams will sometimes call sets of chambers not just in their own town or circuit, but much more broadly—almost to the other ends of the country—to try to find a prosecution advocate who is available. That is not the fault of the barristers who do prosecute; it is the fact that they are all fully engaged—they have too much work, which is a good problem to have. But looking across the whole system, I am concerned that, unless we see people flowing back to publicly funded crime, as opposed to choosing other areas of practice, we will have an ongoing problem. So I would very much like, as soon as possible, to ensure that we can produce a prosecution advocate every day in every court when listed.

By the way, the internal advocacy cadre—our Crown advocates—are also fully engaged. People sometimes think that, because we have internal advocates, any problem in identifying a member of the external Bar can easily be cured—we will just instruct an internal advocate. Not so! They are already instructed, and they are already out at court.

That is a slightly long way of saying that I think we should allow the Bar some time. It is literally eight weeks, I think almost to the day, that the new fee scheme landed. At the end of this financial quarter, and certainly by the end of the next financial quarter, I would want to see a flow back towards our work.

I do have a level of concern about what we have lost. I have another level of concern about the lowest tier of the prosecution panel—panel 1—and



HOUSE OF COMMONS

the reduction in numbers. We have seen a slowing down in the more junior barristers applying to join the panel. It is not affecting overall panel numbers dramatically at the moment, but if it was to continue, to be very transparent about it, I think we would then need to consider the mix between internal and external advocacy.

The Bar have been through a difficult year. The money has just arrived in their fee schemes. I am waiting to see how they respond to that, but I am alarmed, still, by the number of cases—sometimes listed for trial—where, despite huge effort, we cannot find an advocate. So we need more volume in the system.

Q95 Chair: Just to interject, what sort of cases would the tier 1 panel be doing?

Max Hill: They are generally magistrates court, and then there is an aspiration to get into the Crown court.

Q96 Chair: So it is set very low.

Max Hill: Yes. The career path at the Bar, of course, will start in the lower court but move into non-trial hearings in the Crown court as soon as possible—committals for sentence and that sort of thing. But whereas the overall panel size is pretty much holding, we have seen panel level 1 drop off by quite a significant percentage. If that is not addressed, then over time—certainly over five years, but not more than that—I would predict a drop at panel level 2, and possibly panel level 3, which are the levels at which advocates are dealing with increasingly complex jury trials, where we need them.

Q97 Chair: Broadly speaking, you promote them up through the panels.

Max Hill: Yes.

Q98 Edward Timpson: Finally, are you able to say whether the additional 20,000 police officers recruited through the police uplift programme in recent years are having an impact on your workload pressures? Are you able to disaggregate that out from other issues that are putting pressure on the system?

Max Hill: Obviously, that expansion in police numbers is heavily linked to everything that we have achieved. I am the first person to applaud the expansion of the volume of police officers by 20,000, because apart from anything else, it has made the case for an expansion in the number of prosecutors. That is the first thing to say.

However, that does mean that if you talk to any chief constable—and I talk to all of them—they will tell you that something like 40% of their warranted police officers have less than five years' experience. In some force areas it will be even more dramatic than that—less than two or three years' experience. That puts a great pressure on policing when it comes to the quality of the product that we receive in good time to decide charging, and to take cases through to the rigorous scrutiny that happens in every court—magistrates and Crown included.



HOUSE OF COMMONS

For me, the expansion in numbers on the frontline needs to be accompanied by training, obviously, supervision, and a review of investigation files, so that the quality of what we see comes through and is compliant with the various measures that have been set by the Attorney General and others so that we can then pick those cases and run them, we hope, at greater speed. That is what we are looking for now.

There are areas of casework where that is important. I will give one example that we were talking about earlier, which is domestic abuse. The difference between a simple domestic abuse incident, which might result in a summary-only charge of common assault, and a case that is the tip of an iceberg because the call-out to the police is actually a glimpse of a toxic relationship—in legal language, one of coercion and control—means that the first response by the police needs to look beyond what is evident at the scene of the call-out. The phrase I use to prosecutors, which I think applies to police as well, is that, particularly in the area of domestic abuse, if you are going to charge and prosecute, you must charge the relationship, not just one external manifestation. That is the only way we will get to grips with cases that have a really high risk of threat and harm.

We have made good strides there. Non-fatal strangulation and suffocation is a serious assault that can lead to homicide—to death—but, in cases where it doesn't, it may barely lead a physical mark. How do you detect that? How do you effectively investigate that and bring it forward so that it is appropriately charged? That is a burden, I suggest, on inexperienced police officers in high numbers, unless they have training, supervision and the files that we receive are compliant with the various requirements that have been set by the system. All of that is knock-on. Going back to where I started, a lot of that is positive. It has led to an expansion in the system generally, including in the number of staff in the CPS.

Edward Timpson: I will come on to the relationship between policing and charging in a bit more detail later. For the moment, thank you very much.

Q99 **Maria Eagle:** I want to talk a little bit about the Government's end to end rape review progress report, which came out at the end of last year. It refers to the target of increasing the CPS's rape and serious sexual offences workforce by 194—a 44% increase—by the end of March 2024. You have already managed a 17% increase, so you are getting there, but do you expect that the CPS will meet that target?

Max Hill: The 194 was a CPS self-imposed target; this was our modelling, and our ambition, using the spending round money. We have reached 170. We are 20-odd short. I had hoped that by the end of this first financial quarter of the '23-24 year, we would arrive at 194. If we do not, I think that by around September we will. It is understandable in one sense—it can take time to bring on board new staff, particularly legal staff, if they are coming from an external job with a notice period to serve, or even security clearance to go through—but we pushed as much as we could. We wanted to be rigorously honest, though, about the numbers, and to be clear about where we have failed to reach that volume in a 12-month period.



HOUSE OF COMMONS

As for the fact that we did fail in 12 months, in the first place, we are catching it up. Secondly, it is an indication of what I said earlier about the size of the legal market. There are only so many people who can be rape and serious sexual offence prosecutors, and the one thing I am not going to do is lower the quality threshold just to be able to say that I have filled the numbers.

Q100 Maria Eagle: How long do you think it will take to train new recruits to the specialist standard required, so that they can work effectively in your dedicated rape and sexual offences unit?

Max Hill: In a RASSO unit, we say 18 months, and I think that is realistic. It depends on the individual, and what their career profile has been before they arrive in the unit. If it is somebody who, as I was mentioning, is quite an inexperienced senior Crown prosecutor, which is our standard grade, I would expect that it would take 18 months before they were really confident enough to take these very sensitive, difficult decisions and to absorb all the training we give, which includes things like how to spot and look for the neurological impact of trauma on a victim. That is not a simple matter, so it takes time. As for someone who has been in a Crown court team or a complex casework unit for a period of years, and who then comes across into a RASSO unit—I would say a number of months, but it will be less than 18 months.

We have to allow people time to be brought into play in these units, because we know that the focus is still on us when it comes to rape. We know from the Government's rape review that there is no finishing line. I have never set a finishing line for how we need to improve what we are doing for rape. By proportion—by all the volume measures—a really considerable distance has been covered in the last two years, but I have never set a target for that. It is about continuing. Recruitment is vital, as is looking after the people who are prepared to do this work, and giving them the space to be able to say, "Yes, I'm fully trained and I'm confident."

Q101 Janet Daby: Good afternoon. The Ministry of Justice recently issued a process evaluation on the use of section 28 in cases involving intimidated witnesses. In respect of the roll-out, one of the CPS lawyers who was interviewed raised concerns about the number of hearings that will be adjourned or will collapse because they are not ready. Do you share that concern, and what has been done to prepare the CPS for the roll-out of section 28?

Max Hill: First, I think it is quite right that prosecutors be spoken to as a programme like this is rolled out, and I do not have any hesitation in supporting what individual members of staff say and their concerns. The second thing is that section 28 is a really valuable tool in the right case, but that does not mean every case. We are entirely conversant with a whole range of special measures, as they are called, that are designed to make the victim journey and the victim experience in court, at whatever stage, more comfortable and more bearable, particularly when dealing with these very difficult areas. For example, there can be physical screens



HOUSE OF COMMONS

around a witness box; or we can use a live link, so a witness does not have to come into the courtroom, but can be in another part of the building or an entirely remote building. We can use video-recorded evidence in various forms. All of these are valuable tools, but they are not to be used in every case.

What I am saying is that, yes, we are ready. Part of that readiness, though, involves communication, so that we, in partnership with the police, can encourage a victim of crime to feel confident not only that they are important to their own case, but that they will be supported through the journey. If that journey can include an appearance at the trial court to answer questions and be part of the delivery of justice in their own case, we should continue to encourage that.

In other instances, section 28 is clearly necessary. Take the case of somebody with a physical or mental condition, or perhaps an elderly victim of crime who has a condition that is worsening over time. With the state of the backlog, there is real pressure on that individual as their condition worsens. That is an example of where you need section 28, which is pre-recording—no appearance at the trial court. I would also include, because this really resonates in the area of rape and sexual offences, a lady victim who happens to be pregnant a year or two after the event in question, as the case approaches trial. Of course, they should not have the strain, as they come to term in pregnancy, of having to give evidence in court. However, it is not to be used in every case.

Q102 Janet Daby: Are you concerned about cases being adjourned or collapsing because of section 28 and the processes around it?

Max Hill: The point about effective use of section 28 is that you have captured the entire role of the victim, regardless of what happens after their evidence has been captured. Even if it then takes another year and two or three listings to get to trial, you are not inconveniencing the victim. That is a benefit of section 28. It is of itself, though, a pressure on a busy Crown court to list section 28 hearings. It takes time out of the diary of a Crown court in any week if it has to support five or 10 section 28 hearings, alongside all its trials.

It is not for me to tell judges how to do that. I know that judges up and down the country are considering how to prioritise section 28 listings. The work, of course, starts considerably before that pre-recorded hearing because it is like a trial. The advocates on both sides need to prepare, as they would for trial, for what is sometimes quite a short section 28 cross-examination. There are many things to keep an eye on, but in the cases where it is needed and is of real benefit, the point is to minimise inconvenience to key individuals, such as the victim.

Q103 Janet Daby: Last week we also heard evidence that the technology was not always suitable, and was having a negative impact on the presentation of section 28 evidence in court. It could be small screens; it could be the quality. Do you have any concerns about that?



HOUSE OF COMMONS

Max Hill: I am very concerned if the technology is not up to scratch, but I think the courts are now used to supporting digital hearings. I think the quality has improved, whether you are talking about remote hearings, or pre-recorded hearings such as section 28. It is a matter that needs proper resourcing. It costs money. It is not something that the CPS can or is intended to provide, but the quality needs to be there. The worst outcome would be that everybody is prepared and listed for a section 28 hearing and the equipment does not work. I do not hear many examples of that, though, and going forward I would not expect to. It is a way of streamlining justice, and in the cases where it is necessary, we should use it.

Q104 **Janet Daby:** Last week we also heard a suggestion that section 28 may be impacting trial outcomes. Is that a concern for the CPS, and is it doing anything to respond to that?

Max Hill: Well, we do not set targets for conviction rates, whether in rape or any other species of crime. The outcome—that is, a guilty or not guilty verdict—is a matter for judge and jury, not the CPS. I do hear these concerns. Anecdotally, I know that legal professionals are interested in whether section 28 has an impact one way or the other, but I have not seen any published data that has been clear about that yet. I think we will see some more academic research—which I would welcome; it is something to look at—but I make the obvious point that the use of pre-recorded testimony from a victim should not have any adverse impact on obtaining justice in their case. If I were to see statistics that indicated that, I would have many questions about the use of section 28, but there is no dataset at the moment to prove it one way or the other.

Q105 **Janet Daby:** We are obviously raising a lot of concerns with you. A further one: in our evidence session last week, we heard concerns about the quality of police-conducted Achieving Best Evidence interviews, which become a witness's evidence in chief. It was suggested that practitioners believe it would be better for counsel to ask the questions in chief instead. Do you have a view on that, please?

Max Hill: Police officers have been conducting ABE interviews for many years now. I do not think it is true that, across the board, there is a lack of skill or expertise in interviewing effectively in policing. I certainly would not go that far. I agree that the output can be varied, however. Sometimes in a complicated case, we will find that the interview strategy does not seem to work, or is lost halfway through, and that is probably what people are referring to. It means that, on arrival at the trial court, it can be a task for advocates, superintended by the judge, to edit the transcript to make sure that what the jury receives makes sense, is coherent and provides what the parties need from the victim's account.

I am aware of the proposal that was made to you last week, on 26 June. I have a lot of respect for those who made the proposal—they are very experienced practitioners—and I think it is very interesting. It is something that we should look at in the system. I would not want it to lead to any further delay in the system; conducting a further process with



HOUSE OF COMMONS

a victim who has already gone through the ABE interview and will go through the pre-recorded cross-examination could be a real burden on them.

The proposal is, I think, that the section 28 hearing will be expanded, so that instead of just the defence advocate testing the prior account, the prosecutor should go first and elicit the essence of what is in the ABE interview. Funnily enough, that is quite close to the system in Scotland—I think it is called “on commission”—where prosecutors do that sort of thing, but they do not have the volume of casework that we do.

I will certainly not reject the proposal out of hand. It would change the nature of what are currently called section 28 hearings—they would be hybrid and longer—and we need to look at it very carefully, but it is an interesting proposal. Timeliness for victims has to be the watchword here, though. What we are all trying to achieve is less delay and justice for victims. This proposal, like many others, needs to be scrutinised to ensure that it does not just increase the burden on people who have already been through enough.

Q106 Janet Daby: Moving on to the Victims and Prisoners Bill, how will the new duty to meet rape victims improve their experience of the criminal justice system? Jan Lamping indicated that the suggestion that victims meet a reviewing prosecutor was supported by Operation Soteria. Will you tell us more about that, and whether you agree?

Max Hill: Yes. The Bill Committee took evidence from Jan Lamping, the Chief Crown Prosecutor in Yorkshire and Humberside, who is our national lead for victims. She is a real expert on this topic. I welcome the Victims and Prisoners Bill—it is the victims bit that I am interested in—but it came to the House, I think everyone would accept, on a longer timetable than we hoped for. We were ready for it to be introduced much earlier. We had been working in consultation with the Ministry of Justice and others to ensure that the duty to meet is drafted correctly, because that is what we want to do. It links to our victim transformation programme. A meeting with a suitable member of the prosecution team before trial but after a not guilty plea—in other words, when you know a case is going to trial—has to be a good thing, and we are absolutely determined to make it happen.

There are cases where the prosecutor will be able to conduct the meeting. There are others where the prosecution advocate, who will very often be an external barrister, will, with more streamlined listing, know for a certainty that he or she will conduct the trial; we can then support them in having the meeting. In other cases, it will be other members of the prosecution team. “Other members of the team” does not mean people who are completely unconnected to the area of work; it means our very dedicated and experienced paralegals, and other management elements of rape and serious sexual offence teams, who are wholly committed to this area of work.

This absolutely chimes with what we are trying to do in the victim transformation programme. If anything, I would like to have seen the Bill



HOUSE OF COMMONS

a little earlier, but now that we have it, we are following its passage through the House, and I am absolutely confident that we will put it into effect. I think the terminology of “meeting with the prosecution team” is the right phrase, and I hope it is understood by all.

Q107 Tahir Ali: In 2018, the average time between police referring a case to the CPS and the CPS authorising a charge was 67 days; in 2022, the average was 148 days—an increase of 121%. What were the main factors driving this increase, and what can be done to reduce the length of time it takes to authorise a charge?

Max Hill: The major aspect of our casework in which we have seen CPS time taken increase—in other words, go in the wrong direction, because we want it to decrease—is rape. At one stage, it went up to 170 days. It is coming down now, but my answer is that I am not surprised that the time taken has gone up, and the reason is that the volume of cases that prosecutors are considering has gone up. It is the same prosecutor, and the same team involved, under Operation Soteria, in giving investigative advice to the police, and then the same individual who will see the returned cases ready for charge. It is no surprise that the amount of time they are spending on advice files has an impact on the amount of time they have to deal with charging. That is not an excuse, but it is an explanation for why the time taken has gone up.

Where we see an increase in volumes elsewhere, the time taken for a prosecution decision depends on our resourcing, on what sort of crimes we are talking about, and on what other work is going on to ensure effective communication between police and prosecution before that metric hits, because that statistic only hits when the CPS has a file that is ready for charging consideration and the case is about to be charged.

In the vast majority of general crime cases, where our aspiration is to charge in 28 days, we meet that target, and where we do not, we miss it by a matter of five or 10 days in some areas. However, in bespoke areas—rape is the best example—the time taken has crept up, because the volume of cases in the system, for advice as well as charging, has doubled and is continuing to grow. I do not think we are complacent about that; it is just that that needs to be explained. I think it has reached a peak. I know it is coming down. I hope it will continue to reduce. Can I put it this way? I would rather have the volume, and take a little bit longer over it, than not have the volume at all. It is a symptom of prosecutors having more to deal with and more cases to look at.

Q108 Tahir Ali: My second question follows on from that. It is about the volume of suspects charged in domestic abuse cases, which was down 42% in 2021-22 compared with 2014-15 figures. What do you think is behind the decrease, and what is the CPS doing to improve the charge rate?

Max Hill: There has been a marked decrease. Let me give you the figures that I have. In quarter 3 of 2016-17, the number of domestic abuse flagged defendants proceeding to prosecution was just below 20,000—19,202. By the time I arrived in quarter 3 2018-19, it was 15,456. By



HOUSE OF COMMONS

quarter 3 2022-23 it was 11,963. I am afraid the simple answer is that the police were bringing us dramatically fewer cases. I think there are a number of reasons for that, one of which is covid related. Domestic abuse by definition—not always, but very frequently—happens behind closed doors. We have to understand that particularly during the national lockdown period, and then as we were trying to stand the system up through 2020, 2021 and even into 2022, the police did not have visibility on these sorts of cases. They themselves were trying to recruit, so I have a large measure of understanding for that.

However, I think that those statistics are alarming and need to be reversed. That is why the domestic abuse joint justice plan is being developed and will be rolled out later this year. In the same way that a decline in the volume of adult rape cases has been addressed by Operation Soteria, the domestic abuse joint justice plan now needs to address domestic abuse. The difficulty is that you are dealing with much larger volumes anyway, so there are an awful lot of people already investigating and prosecuting domestic abuse—12,000 cases in the last quarter 3. But I think that that should increase, and joint working is the way to do it—maintaining communication and working more effectively together.

Q109 Chair: Thanks very much. We have talked quite a bit about rape and serious sexual offences. You will have seen that the Law Commission has issued a consultation paper on the prosecution of sexual offences. I imagine that the CPS will make submissions to that in due course.

Max Hill: We will. There are a number of interesting points to talk about and matters to consider. We absolutely will play our part in the consultation with the Law Commission. There is a spectrum of ideas there. At one end of the spectrum is the question, which the system should certainly talk about, of whether to move to non-jury trials for sexual offences. I have to say that that has not happened up till now.

I was secretary of the Criminal Bar Association 20 years ago when the Criminal Justice Act was considered by both Houses in 2003. The question of whether to conduct serious trials without juries was robustly debated and roundly agreed on the basis that only in jury tampering cases could there be non-jury trials. I agreed with that then. I still agree now that the jury is the cornerstone of the system, but I am aware of a proposal in Scotland to pilot juryless trials in rape cases. It would be wise for us to see how that goes and to consider the recommendations.

If you press me, I think that the jury is there for a very important reason. It is to do with open justice and the delivery of justice, so we should be very careful about moving away from jury trials. Even in the grip of covid in England and Wales, no recommendation came forward to try cases by a judge alone without a jury. I would be guided by that. But it is interesting to have the conversation.

Q110 Chair: There is a public confidence issue as well that arises. A less dramatic proposal is the use of specialist rape courts, using the existing system but in a building that is properly equipped with specially trained



HOUSE OF COMMONS

staff. Does that have merit? Is it practical?

Max Hill: I do think that, as I have said, trying to create a better experience for those who have to participate in these cases should be a pressure that bears down on us all. Actually, the section 28 initiative is a way of prioritisation—a theme that I have been expounding this afternoon—but the notion of listing only sexual offences in a particular list, or potentially in a particular court, is also interesting. Funnily enough, some of the Nightingale courts, from the past two or three years, are, to put it bluntly, more comfortable surroundings, and if that can be done, I certainly would not talk against it.

The trouble is that there are so many competing interests, and so many different offence types that would be queuing up for a specialist court for everything. Our judges are extremely experienced, very highly trained, authorised to conduct trials, and are experts in conducting any jury trial—from homicide to rape to general violence and theft—so I do not want there to be a fragmentation of the system. We do not need a specialist court for everything, but we definitely need greater prioritisation, and whether that is exactly in the way that the Law Commission are saying, or in some other softer way of just moving forward on those cases that need to be listed, I would support that.

Q111 **Edward Timpson:** For understandable reasons, there is a common theme in these sessions regarding the relationship between the CPS and the police, particularly around charging decisions. I do not think that it will have escaped your notice that, in recent months, the police have had a little bit to say about that—in particular, the Met commissioner who suggested that the CPS were “cherry-picking the easy cases” to boost conviction rates. Then, back in February, several chief constables suggested that the police themselves would be better placed to charge more cases, including serious cases such as domestic abuse, which we were just talking about.

Of course, we have seen a changing dynamic between the police and the CPS on charging decisions over the years. How do you respond to those comments? I know that you have already publicly done so, but what do you think actually is the nature of the relationship, based on what you see now? Is the way in which those charging decisions are currently split the right balance?

Max Hill: I am certainly not going to allow an individual assertion about the CPS, or an allegation about cherry-picking, to destroy the effective working relationship that we have with the police, from most senior to most junior. I value my relationship with the Metropolitan Police Commissioner and with the chief constables, through the National Police Chiefs’ Council, and I am not going to allow this to get in the way of that.

It is a fact that some of the things that are being said are not accurate, I am afraid, and when it comes to the CPS “cherry-picking” only the easiest cases, that is demonstrably not true. In fact, in London, in the Metropolitan police area, the charging rate—the percentage of all crime types that we charge from the volume of investigation files provided by



HOUSE OF COMMONS

the police—is 80%. That is higher than the national average across England and Wales, which sits at around 75%. Far from cherry-picking, the CPS in London charges four out of five of all files referred from the police. That is not cherry-picking by my definition.

Equally, when it comes to taking cases through to trial—as opposed to those that achieve a guilty plea—the statistic demonstrates that, actually, across the whole country, around 60% of trials in the Crown court result in a guilty verdict. That would not be the case if the CPS took only the strongest cases—what I might call the slam-dunk certainty cases. We are clearly not doing that.

I did come out in reaction to what was said by the Metropolitan police Commissioner because I thought that it was grossly unfair to our prosecutors—in this instance, in London—who achieve the statistics that I have given and work very hard to do that. But we are not going to allow that to break the relationship. The relationship, which has been in place for a long time now, is a sensible division of charging—a 65:35 split. Across the country, the police, in the guise of the 43 police forces, charge 65% of all cases themselves and they come to us for 35%. So they already have charging in the majority, and they come to us for 35%.

The reason that I know that it is not appropriate to amend that is the quality of the product that is going through us and into court. I take that from the objective reporting on what are now called the data dashboards, which include the file quality—judged objectively according to adherence to the various statutes, the Criminal Procedure and Investigations Act 1996, the codes under the Act and the Attorney General’s guidance on disclosure. Nationwide, policing achieves a compliance rate of more than 50% but less than 60%—about 57% or 58%. That masks a regional variation as wide as 38% at the bottom and 80% at the top.

It is an already published figure—others from the CPS have given evidence before other Committees of this House—that the Metropolitan police file compliance figure is 38%. They are the lowest, in fact. That tells me that we really need to work together on the quality of the product. This is not the time to say, in these most complex and most serious cases—the top 35%—that we will simply quit the field as prosecutors and leave it to the police to charge. That would be dangerous, in my view. It would also be dangerous, as previously mentioned, for us to take any approach that might be proven wrong in relation to domestic abuse casework, which is a very significant percentage of the national caseload, because of the complexities there.

So let’s see more work on quality, and let’s continue to work together. As I speak, we are rolling out a new charging model right across the country. That is designed to give a very rapid turnaround in those cases that require a remand in custody at the point of charge—so, serious cases in which an individual represents a high-threat risk or harm. In those cases, a legal decision from the CPS will be provided in three hours. That is the service level agreement. That has been rolled out through all the forces in Wales and in Merseyside too. The statistics and the six-month review that



HOUSE OF COMMONS

came back from that told me, and everybody else, that in many instances average charging time was two hours and 10 minutes—significantly beating the service level agreement.

We are now rolling that out through all police forces this calendar year. It has not arrived at the Metropolitan police yet. It has just arrived in one of the three forces whose chief constables wrote an article in *The Guardian* a few months ago. My plea to them is, "Give it a go. Try that. Your colleagues in Wales and Merseyside have not found it wanting. They have found it very positive." That is the way to go at the moment, and we should not be getting into an argument about the division of charging. We should be concentrating together on quality. The quality of all decision making by prosecutors is on my watch, and the quality of investigation and file compliance is on police chiefs' watch. I think that is going to be a journey that will take us through the rest of this year and into next year. At my kindest on this issue, I am saying, "Not now."

Q112 Edward Timpson: Can I just focus on a particular aspect of the relationship between the CPS and the police? It concerns Operation Soteria, which we have already spoken about during this session. The "Operation Soteria Bluestone Year One Report" has been published, and it references recent inspections that describe that relationship between the CPS and the police as needing fundamental improvement. It notes that across all forces, poor liaison and communication with the CPS were present. What is your response to that? Do you want to describe in more detail how you are seeking to improve that communication with the police, so that that relationship can be even more effective than you consider it to be at the moment?

Max Hill: As in anything else to do with criminal justice, this is a journey that takes time and enormous commitment. Operation Soteria followed on from, or was formed at about the same time as, the joint national action plan between the police and CPS, which was created some months before the Government's rape review. It is in course of progress. It is a three-year plan commenced in 2021. It will be this time next year before we are able to evaluate it. But what it has achieved in so many areas is a doubling or more of the volume of high-quality rape investigation files that turn into active prosecutions and, may I add, a charge rate here of 70%, so very close to the all crime, all offences charge rate. When we have a compliant investigation file for a rape-flagged case, in 70% of those cases, we will be able to proceed to charge it.

I think what comes with Soteria, though, and the benefits that I have just been hinting at is there needs to be continuous scrutiny of what we are doing and an appetite to improve the model wherever we find that there is more to focus on. You referred to the Bluestone report; I would refer to the interim report from Professor Vanessa Munro and the University of Warwick team, which have been looking at this for us. I met Professor Munro and one of her researchers only two weeks ago, and we sat down and went through the interim report. That told me that a great deal of really positive effort is going in and that the Soteria model is working—it is not broken—but there is still work to be done on making sure that the



HOUSE OF COMMONS

attitude towards all of those things that one has to bear in mind to prosecute a rape case is universal. There is a lot of learning in that interim report, just as in the Betsy Stanko report from Bluestone, which is further refining the model and telling us all as a system, "Don't let up your progress."

Bluestone may point to some inequalities and inefficiencies on the policing side—certainly, Munro does on our side. The answer here is to keep going, but I think there has been real progress here—sufficient progress—for me last week to conduct an internal launch in the CPS of the new national operating model for rape: 335 RASSO staff joined me on that internal launch. We all committed to continue what we have started, to absorb the lessons learned from Bluestone and Soteria, and to keep going. I hope next week the external launch of that national operating model will come too, so I hope you will see it very soon. But, as was recognised at the London Victims Summit three or so months ago, this takes the whole community. It also requires that we listen to important voices, most important of which are the victims, quickly followed by those who speak for the victim community. That is what we are doing as part of Soteria.

Q113 Edward Timpson: On the point of victims and their involvement, there is one specific issue that came from the review of progress on Operation Soteria, and I think it has been a really important piece of work and a staging post for trying to check against progress. There was some concern that requests from the CPS for evidence, particularly for sensitive data about a victim or a survivor, may be disproportionate and cause unnecessary stress and distress. Is that something that you have picked up through some of the conversations you have had internally as well as externally?

Max Hill: Yes. I would say that this is not endemic, but there are examples of it, and there are examples of insufficient thought about reasonable lines of inquiry, whether you are talking to a police investigator or a CPS prosecutor. Frankly, in any system that requires effort by human beings, things will not be universal. There will be instances where there is more to do, but speaking for my staff, a lot of training and support has gone into ensuring that necessity and proportionality are baked into prosecuting thinking. That means that you look for additional information relating to a victim only when necessary, and the way you look must be proportionate to the needs of the case.

That runs alongside a principle we have introduced in prosecuting rape cases, which is to take a suspect-centric approach. That is not something that was happening years ago, but it is absolutely happening now. The way that you make these important decisions before a case goes to court is not about second-guessing what the victim says; it is about building a strong evidential picture to show the true conduct of the suspect, who will become a defendant, before, during and after the offence. I am confident that in both policing and prosecuting, that is really making a positive difference. There is great encouragement there.



HOUSE OF COMMONS

When it comes to what lawyers always call third-party material, that principle of necessity and proportionality is absolutely key. I am aware that there may yet be legislative change to ensure that third-party material should be requested only when that is necessary and proportionate. I have no difficulty with that at all, because that is the practice we have been putting into effect. It takes an effort to ensure that it is really working, but these programmes we are referring to are having that impact, and I sincerely hope that victims have more confidence in the system and the process. That starts with having trust that the police officer will look only in those places where a reasonable line of inquiry makes it necessary and proportionate to look.

Q114 Chair: Thank you very much. Director, all things being equal, this will probably be the last time you give evidence to the Select Committee. You are leaving your post in October and the recruitment of your successor is under way. After five years—you have outlasted most recent Prime Ministers—and a professional lifetime in criminal justice, as you come to the next stage of what you will do, do you have any reflections on the role of DPP, and the role of the CPS? Do you have any valedictory thoughts on where it might be different or better?

Max Hill: Thank you. Needless to say, I have been extremely proud to be the 16th holder of this office—the first was in 1879—and I think the eighth in the modern era to head the Crown Prosecution Service. The role of DPP and of CPS is just as vital now as it was in 1986, remembering the scrutiny that was brought to bear in the late '70s and the first half of the '80s in the creation of a national prosecution authority. In my view, you cannot do without it. You need a uniform service, full of suitably qualified professionals who can be trusted to do their job in a non-partisan way. You need them to reflect back the pressures that they know courts will bring to bear on cases once charged; and to ensure, before charge, that cases meet a standard that ensures that they will not implode under scrutiny. That was the argument for a truly independent prosecution authority, and it is just as strong now as it was before.

What I found during my five years was, first, that five years is an appropriate period of time. I have absolutely no complaints or regrets, but a lot has happened in five years, including many things, covid being at the top of the list, that I never envisaged I would have to cope with, any more than the rest of the country did before 2020. We have, I believe, set the CPS on a really strong course, not just to 2025 but, through early thinking, to 2030. We are leveraging technology in the right way to support the people, making sure that the operating model is fit for purpose, prioritising the right aspects of criminality, and having some influence on the way that legislation is brought to bear, which I believe we do very effectively through our strategy and policy team.

We do not sponsor Bills, or in any way presume what Parliament may do, but we indicate what the consequences will be of legislation. I will give one example: non-fatal strangulation and suffocation. That was not on the statute book when I started, but it clearly filled a gap in legislation. I was able to say to Dr Cath White, who was really the driving force behind it—



HOUSE OF COMMONS

the credit goes to her—that in just over the first year of the implementation of that statute, I think 1,300 cases have been brought of strangulation and suffocation. That is a really positive advance.

Alongside that, the level of engagement for the director, if I can talk objectively about my own role, has changed even over the last five years. The level of ministerial time has not just doubled or trebled but grown out of all proportion. Although my primary superintendence relationship still rightly remains with the Attorney General, and alongside her the Solicitor General, I have been interacting, and still am on a really regular basis, with almost all the Ministers at the Ministry of Justice, almost all at the Home Office, and many more besides. I think that is a good thing.

It is the sign of the strength of an independent prosecuting authority that engagement does not mean that you give away your independence or operate in some partisan or ineffective way. On the contrary, I would say that we are rigorously independent, and the framework agreement that I have drafted with the Attorney General and her predecessor is evidence of how much we guard our independence, but if we are to build better resonance across Whitehall and a better level of understanding of what the national prosecuting authority needs to be, and if we are to achieve effective resourcing, we have to come out and demonstrate what we are doing, take responsibility when we do things badly, and expect at least some understanding when we do things well. That was a major priority when I arrived.

A second priority was excellence in casework. We cannot get it right all the time, but take what has happened in disclosure; when I arrived, that was rightly a major preoccupation of this Committee, as shown in your July 2018 report. We have barely mentioned disclosure this afternoon. That is not because it has gone away; it is still being worked on very hard, but the errors in the system were frankly endemic in 2017. We are in a wholly different language now, and that speaks to the trust and confidence that I believe there should be in the CPS, and in all participants. We take people at the worst point of their life—when they are the suspect of a crime sometimes, and certainly always when they are the victim of crime. That means that it is very difficult to create a positive impression. Sometimes it is impossible. We accept that, but we need to continue working on that as well as we can.

I finish on the fourth appointment objective: the international work of the CPS. I mention that because both through Brexit and through covid we now do much more internationally, and it is much more streamlined than it was. The number of liaison prosecutors across the European Union and around the world has grown to a high. When I go around the world—it is mostly in Europe, and always for a short period of time only—I find that the level of understanding of and respect for the CPS is very high. My aspiration for the CPS as I leave is that the international level of respect for what we do is matched domestically. The next director, whoever they may be, will inherit an extraordinary group of more than 7,000 super-dedicated people, who put their shoulder to the wheel day in and day out,



HOUSE OF COMMONS

and who will support my successor in taking the organisation on to even greater strengths. I shall enjoy watching from the sidelines.

Chair: I want to thank you on behalf of the Committee for your consistent frankness and thoroughness in your evidence to us, which has been very much appreciated, and for the leadership that you have shown to the CPS during unprecedented times, as you rightly say. I know that you will take back our thanks to all your colleagues, too. On a personal level, having been in professional harness together for 35 years or more, I thank you personally as well, and wish you the very best for the future.

Max Hill: Thank you very much indeed.