

Justice Committee

Oral evidence: [The work of the Lord Chancellor](#), HC 883

Tuesday 18 July 2023

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Members present: Sir Robert Neill (Chair); Tahir Ali; Janet Daby; James Daly; Maria Eagle; Dr Kieran Mullan; Edward Timpson.

Questions 130 - 254

Witness

[I](#): Rt Hon Alex Chalk KC MP, Lord Chancellor and Secretary of State for Justice.



Examination of witness

Witness: Rt Hon Alex Chalk KC MP.

Q130 **Chair:** Welcome to this session of the Justice Committee—welcome, Lord Chancellor and Secretary of State. Thank you very much for coming to give evidence to us.

Before we begin, you will recall, Lord Chancellor, as a former member of the Committee, that we must make our declarations of interest. I am a non-practising barrister and a former consultant to a law firm.

Maria Eagle: I am a non-practising solicitor.

James Daly: I am a practising solicitor and partner in a firm of solicitors.

Edward Timpson: I am a barrister and former Solicitor General with a practising certificate. I am a former chair of CAFCASS and former chair of the Child Safeguarding Practice Review Panel. My brother is chair of the Prison Reform Trust.

Q131 **Chair:** Prisons are one part of your responsibility, but they are the one about which there is real concern. How soon will we run out of prison places?

Alex Chalk: It is no secret that there is intense pressure. I hope it will assist the Committee if I set out the context for that.

In the last quarter pre-covid, when courts were disposing of matters in the normal way, the remand population—pre-trial detention and those who have been convicted and are awaiting sentence—was about 6,000 fewer than it is now. Covid and industrial action made a big difference.

The reason for that is plain. The case load was coming down nicely, but then we had Bar strikes and so on. That ticked up the case load. A proportion of the case load will be remanded in custody, which means we have a massively higher remand population. We need to address that significant issue.

There will always be enough prison places to give effect to an order of the court; there will always be enough prison places to keep the British people safe.

I should be clear: the pressures are intense. It is the combination of the pandemic and industrial action, which, incidentally, had a bigger impact than I thought it would, that ticked up the case load, and that in turn had all sorts of knock-on effects—for example, timeliness, which no doubt we shall come on to.

On the specific point you raise, it is the case load that is the principal factor, but you could also look at judicial appetites to remand in custody. There might be an element of that, although it is not my bailiwick, but the principal driver is case load.



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Q132 **Chair:** We have the issue of case load. Fortunately, the industrial action has been settled. We are recruiting 20,000 extra police officers. They will arrest more people, so more people will end up in court and more people will end up in prison. Where will we put them?

Alex Chalk: At the risk of stating the obvious, if you have a big case load, and if I am right in saying that case load is important to the issue of prison pressures, you have to try to bear down on that case load. We are doing some important and valuable things.

It is not just that the number of sitting days has been raised or that we continue with the Nightingale courts. People might think, "Hang on, covid is over; Nightingale courts and hospitals are over." We still have 24 Nightingale courts going. We have recruited 1,000 judges. We have a plan to recruit more, and we might come on to that.

We are also putting more money into legal aid, because we need not only to recruit but to retain practitioners to grind through the case load and get justice done. A key driver will be to bear down on the case load.

I went to Snaresbrook Crown court recently—a stomping ground for any barrister on the south-eastern circuit, and I went there many times. Incidentally, they have spent quite a lot of money on a new roof.

I spoke to the list officer about the incentives that exist. If defendants know, frankly, that they've done it and may have to take their medicine and plead guilty, some of them may make a calculation of when it is in their interests to plead guilty. If we keep bearing down on the case load, there comes a point when he or she thinks—it is usually a he—"I am going to plead now and take the credit."

If we continue to maintain that downward pressure by adding capacity in the way I have indicated, eventually the dam will not necessarily break but you will start to see an acceleration in getting through the case load.

That will be critical to how we heal the system overall and drive more capacity into it.

Q133 **Chair:** I understand that that is a long-term objective, but is not the problem that the dam is likely to break this summer for prisons?

Alex Chalk: Of course there are pressures, and that is why we are doing all sorts of things to increase capacity. We have rapid deployment cells, which people might have thought of as a function of covid. That is not the case. They are part of our 20,000 scheme and we are bringing them into our closed estate—our cat C estate—and into the open estate.

We are looking to refurbish and bring on new house blocks. A huge amount of work is taking place to flex the supply. Of course, that is right, but one of the most important levers, once you have identified the issue—the remand population, principally; there are others, but that is the key one—is to bear down on that. Don't sweat the small stuff but



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focus on the things that will make a difference, and that is absolutely at the heart of it.

Q134 **Chair:** Are you confident that we will reach September, when the House comes back, without having run out of prison places?

Alex Chalk: There will always be enough prison places to give effect to the order of the court and ensure that the guilty are convicted, the innocent walk free and the public are protected.

Q135 **Chair:** It is going to be a stretch, isn't it?

Alex Chalk: There are acute pressures on the population—I have been very clear about that. It is important to be clear and to explain the situation. A historian looking back through time or internationally will see that all countries and all systems have points of pressure. It is not unusual.

These circumstances are exquisitely unusual: the double whammy of the pandemic and the strike.

It is worth looking at the stats. Prior to covid, the total case load in the Crown court was about 39,000. In 2010—I am not making a political point but setting the historical context—it was about 48,000. It was considerably lower. Covid jacked it right up to about 60,000. It started to come down to about 57,000. The Bar strike jacked it up again. So we have had that double whammy.

The final point is really important, because people listening might say, "Hang on. Is it all about the Crown court?" You, Chair, and practitioners in this room know well that probably more than 90% of all criminal trials—whether it is a section 5 public order matter, driving offence cases or theft cases where the bench accepts jurisdiction or the defendant does not elect—happen in the magistrates court. Magistrates have responded incredibly well to increase capacity in the system.

There is probably no system on God's green earth less amenable to a pandemic than the jury system. It means that there is a tail that we have to work through.

Q136 **Chair:** The commitment is to deliver a target of 20,000 additional prison places by March 2025. So far, we look to be on track to do 8,200. What will be done to make up the shortfall?

Alex Chalk: The context for that is planning. We have delivered two prisons, and if you have the opportunity to visit them I invite you to take it. They pass what I call my French Foreign Minister test. You go around with your French counterpart and say, "Look at what we have delivered in this country." They are remarkable prisons. At Five Wells and Fosse Way you see decent, clean rehabilitative prisons where people can learn in workshops how to do joinery, carpentry or electrical engineering. I saw guys in Fosse Way making prescription glasses for everyone in the



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estate, and over 70% of them get qualifications and are employed in Specsavers or wherever when they come out. Fantastic rehabilitative work is taking place.

They have cracked making cat C prisons in a way that is affordable. Millsike is coming on, on the old Full Sutton site.

We have had planning difficulties with Garth, Gartree and Grendon/Springhill. They were knocked back at the planning application stage but they are now going through the appellate or quasi-judicial call-ins. There is only a certain amount I can say about that, but we will know an awful lot more in a few months.

Q137 Chair: Are there any contingencies to deliver those places?

Alex Chalk: There are. A lot of work is taking place with house blocks. HMPs Stocken, Hatfield, Sudbury and Rye Hill are new house blocks, but we want to accelerate new house block delivery at Elmley, Bullingdon, Wayland, Guys Marsh and elsewhere. That is important.

A load of RDCs are in the system as part of the 20,000, but we are looking at whether we can accelerate that and bring some forward.

As people on this Committee will understand and appreciate, not every prisoner is alike. You cannot put everyone into the cat D estate, just as you want to ensure that not every cat D prisoner should be in the closed estate, because you want people to move through.

We need to build the secure estate, the likes of Garth, Gartree and Grendon/Springhill. What happens in the autumn is very important to us. We need to build that estate.

Q138 Chair: And to make good use of the existing estate. You will know of the long-running concern about maintenance backlogs. How many prison cells are not available because of maintenance issues?

Alex Chalk: There are—accurate to within 100, I would say—about 1,500. As you, Chair, can imagine, I have looked at this quite closely. Those are principally about dealing with our statutory fire obligations. One of the last things that a Prisons Minister or Lord Chancellor worth their salt thinks about as they go to bed is fire. It is important that we do what we can on that to bear down on it, quite apart from the fact that there is a statutory requirement on us.

There are about 1,500, but once that is done it will bring a lot more back on—and those are places in the closed estate, by and large.

We look at the maintenance issue to see whether we can bring on additional capacity. We focus on essential maintenance while ensuring we are not storing up problems for the future.

Q139 Chair: Looking to the future—the bigger picture—is a prison population of around 10,000 really sustainable? Is it a satisfactory way of dealing with



things?

Alex Chalk: Forgive my giving the straight-bat answer. We are here to give effect to the order of the court. It is a fact—this is certainly not a criticism; it quite the opposite, as we are blessed to live in a country with an independent judiciary overwhelmingly doing an excellent job—that if you look at the trends on rape sentencing you see that it is up by about a third compared with 2010. It applies to murder, as well, but that has been affected by schedule 21 to the Sentencing Act.

I do not want to lose the point that the issue we face with the prison population is not principally about sentencing. People say to me, “Shouldn’t you get rid of sentences under six months or 12 months?” That is not the issue. The principal issue is the remand population.

That is an unglamorous point to make, but it is incredibly important. Resolving the issue of the courts being able to manage the case load means doing prosaic but important stuff like making sure that the Bar is an attractive place to come to. I am passionate about wanting to improve the infrastructure of the courts, which people think of as a second-order issue. No, it is massively important. Every time we improve a court, it percolates into the wider environment and people say, “This is a great profession to be in”, and that brings more people in, which creates capacity and drives more throughput. Victims get a better service. The guilty are convicted, the innocent walk free and the public are protected.

The bottom line is that, yes, we can have a discussion about the correct sentence for a crime, but let us not lose sight of the fact that the principal pressure that I am facing is in remand.

The second issue is not about sentencing but about recall—the extent to which people are recalled and, once they are in the system, how quickly they come before the Parole Board.

You might be minded to raise IPPs. A load of people in custody are on IPPs, and those are the sorts of things that gum everything up.

I am not suggesting that we should not have a sensible public debate about the prison population, but we should not lose focus on the principal pressures at the moment.

Q140 **Chair:** Perhaps it is time to have a serious public debate about the purpose of sentencing.

Alex Chalk: It is an ongoing debate. People say to me, “Shouldn’t you get rid of short sentences?” I am not particularly in favour of that. I remember prosecuting in court. A defendant was convicted of shoplifting from Boots—shoplifting is not a victimless crime, because we all pay for it—but did not comply with the unpaid work order. The bench said, “We will breach you, but we’re going to give you another chance. You can have another 20 hours, but you go ahead and do it this time.”



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It gets breached again. The defendant says, "I don't want to do it." There is no good excuse. There has to come a point where the bench says, "We gave you your chances. The law states that no one is above the law but requires that the order of this court is abided by. We gave you a warning. We gave you a chance. You are now going to reflect on your actions behind bars."

Let us have a sensible discussion, but it is not automatically the case that we should be removing discretion from the courts.

If you want to push me, I can probably go further. I do think that there is a proper debate to be had about minimum sentencing, which I know judges hate because it fetters their discretion. I trust our judges. By and large, they do an absolutely excellent job and, as a general principle, I am in favour of them having as much discretion as is appropriate, taking account of the sentencing guidelines.

Q141 **Chair:** It is the job of Government not to fetter the discretion of judges but to give them alternatives.

Alex Chalk: We should be slow to do so. There can sometimes be appropriate cases. The Kinsella case gave rise to the 25-year starting point in respect of knife crime. There is a proper basis for that. We should be slow to fetter their discretion.

Q142 **Maria Eagle:** I want to ask about some of the short-term capacity measures you have been taking for the prison population. How many police cells have been used since Operation Safeguard started?

Alex Chalk: The way in which Safeguard works is that there is an agreement between the MOJ and the police, which has been going on for 20 years.

Q143 **Maria Eagle:** We used it when I was the Prisons Minister.

Alex Chalk: Exactly. That has existed for a million years—

Q144 **Maria Eagle:** Not quite that long.

Alex Chalk: Well, close. It was a term of art. It has existed for a while. There is a discussion between the MOJ and police about available capacity. The total average activated since February was 274. I know that you, as an experienced Minister, will know that when you use those you have to book the capacity and give a bit of a lead time. You take prisoners out of the safeguarding cells and into your own estate at night.

Q145 **Maria Eagle:** The information we received by letter was that, by May, 350 were made available—a slightly different figure. We would like you to get back to us on that discrepancy.

Alex Chalk: I will certainly do that. I may have given you the average figure.

Q146 **Maria Eagle:** You must have figures on daily numbers.



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Alex Chalk: It changes overnight. I look at it every day. Some days, it is in single figures; on other days, it is up to 20. I can give you an average for the number that we have booked and have as a facility to reach into, as required. I can confirm the figure, but it is in the 200 to 300 mark.

Q147 **Maria Eagle:** But small numbers are being used.

Alex Chalk: It is small numbers, but the important thing to note is that pressures are not uniform around the jurisdictions. Things surge and then go down; it depends on how well behaved or otherwise people are.

Q148 **Maria Eagle:** And how active the courts are.

Do you expect to be able to stand down Operation Safeguard at some time in the near future?

Alex Chalk: We have to take a decision. There has to be an agreement. We have to speak to the police, but they could say no. We have had a very good relationship with the police, so I do not anticipate that happening.

All I can usefully say to the Committee is that we expect to keep the Safeguard facility in place over the summer and that there will have to be further conversations as we get into the autumn, depending on the pressures that exist at that time.

It is not something that happens overnight. There is typically a lead time of around eight weeks, so we will start those conversations later in the summer.

Q149 **Maria Eagle:** Your expansion programme is behind schedule, so how long do you anticipate rapid deployment cells being in use?

Alex Chalk: Rapid deployment cells are not temporary cells. They have a shelf life of about 15 years.

Q150 **Maria Eagle:** Am I right to say that some of them have been used to avoid the use of Operation Safeguard?

Alex Chalk: Absolutely, because you want overall to increase capacity. I am saying that they have a life beyond an immediate pinch point. They add to somewhere between stock and flow, if you see what I mean. They provide a short-term stock increase and run for about 15 years.

I was going on to say that when I went to HMP Drake Hall as Prisons Minister, which as you know is a women's prison, I was amazed to find facilities there from the post-war period that had been given a 15-year shelf life but were still there 60 years later. We have no plans to do that with RDCs.

Q151 **Maria Eagle:** So you do not have any plans for how long you intend to keep them.



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Alex Chalk: As advised, we will have to see the projections. A huge amount depends on how quickly Millsike, Garth, Gartree and Grendon/Springhill come on. They are quite good. I spend quite a lot of time looking at them.

Q152 **Maria Eagle:** Not living in them.

Alex Chalk: They're not bad. The best I can say is that at the moment we consider them as additions to our overall stock, mindful, of course, that that will taper off. They are not as good, in my view—on any reasonable view—as bringing on the house blocks or the facilities that you will see at Fosse Way or Five Wells, which are excellent. Yes, it is a place of detention. Yes, people need to give back to society and atone for their crimes. But it is a place of safety and security and is a really good regime. That is what we want to prioritise.

Q153 **Maria Eagle:** Do you have a plan to take them out of service if you can overcome the planning issues with the new jails?

Alex Chalk: The present plan, as advised, is that they will taper off when they reach the end of their life. Supposing we suddenly had a lot of headroom, where would I look first? I would first get rid of the Safeguard stuff, as we discussed. Act 1, scene 2 would probably be RDCs.

Given the choice, at the moment I prefer to keep that capacity because you never quite know what will happen. It makes sense to hold on to it. The taxpayer has paid for them, so we might as well keep running them.

Q154 **Maria Eagle:** It is probably why you still have the second world war block at—

Alex Chalk: No, it has gone. The Drake Hall one has gone.

Q155 **Maria Eagle:** How much has been spent on the temporary measures to manage the prison population?

Alex Chalk: It is a bit of a moot point whether RDCs are truly temporary. Is 15 years temporary? Discuss. What I can say is that the RDCs are part of the 20,000 package that was funded in the SR—£4 billion in this SR to bring on part of the cat C closed estate, the RDCs, the house blocks I referred to and the refurbishments. Liverpool is having some work done to it, as is Birmingham, and so on. I might inadvertently give you the wrong figure, but I will happily provide it. It is funded; that is all I am saying.

Q156 **Maria Eagle:** Do you have other short-term capacity measures in hand that you might resort to if a sudden surge requires you to do something extra? We used to have something called end of custody licence when I was Prisons Minister. You won't remember it, but it was in operation for a while. You must have contingency plans for other arrangements.

Alex Chalk: Lest we forget, I talked about Fosse Way. It has a relatively small proportion of the 1,700 capacity. At the moment, it has under 200



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and it is being ramped up by Serco. Five Wells is not full. It is close to being full—I think it has headroom of about 100. There are other surge house blocks in the event of public disorder that we can look at, so there are capacity measures.

I can tell you—I don't think it is a state secret—that 300 RDCs are sitting in a warehouse waiting to be plumbed in. There are those things that you can bring forward. I can bring in some from the next year, so those are the sorts of things I am focusing on at the moment.

Q157 Janet Daby: My questions are about the prison operational workforce and leadership. There is a problem with morale. Operational roles need to be more rewarding, and there is the need to retain staff. A third of band 2 operational support grade staff and over 40% of bands 3 to 5 prison officers whom we surveyed said that they planned to leave their job in the next five years. What are you doing to retain staff?

Alex Chalk: I thank you for raising that because it is absolutely at the heart of what I want to do in this job, which is to recruit and retain great staff. I am fond of saying—I am sure officials are bored with my saying it—that you can be an okay prison officer on day one but you won't be great until you have spent a few years on the job. You need to understand when you need to be tough and when, metaphorically speaking, you need to put your arm around someone and provide hope and guidance. That requires judgment.

I want to pay tribute to them. People are fond of paying tribute, but my goodness they deserve it. It is a challenging job, and overwhelmingly they do it extremely well. Just yesterday I spoke to an Unlocked graduate. She spoke so movingly and positively about working as a band 3 wing officer in Brixton. She was motivated and enthused and was clearly getting a lot from it professionally and personally. It was really wonderful.

Given that, recruitment and retention are really important. There are a couple of things to be clear about. We are recruiting hard, with something like 4,300 more prison officers than there were in 2016.

Retention does matter. What is the first thing you do with retention? You pay people properly. We accepted the recommendations of the pay review body. That was a really important thing to do. That starting salary has gone up by 7% for those on a 39-hour contract.

We have invested in the workforce. If you are going on to the wings, what will you be thinking about? You will be thinking about your safety. We have put £100 million into prison safety. That means you have the scanners that ensure that people coming into prison have internal scans to check that they have not secreted contraband.

We have rolled out body-worn videos so that all officers have them not just to deter and dial down confrontation, although that is precisely what



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they do, but to gather evidence as a deterrent to those who might be tempted to stray over the line. That is all massively important.

You talk quite properly about surveys and retention. The 2022 civil service people survey saw an improvement—of course we want to accelerate it—in results among bands 2 to 5. Band 2s are the OSGs and they have been given an additional £2,000.

The biggest increases were across learning and development—up 7 percentage points—management, my manager, was 5 percentage points up; pay and benefits were 5 percentage points up; and future intentions to leave were reducing and intentions to stay were increasing.

I do not want to overstate these relatively modest improvements, but the retention data is up 1.1 percentage points in terms of the resignation rate among bands 3 to 5. The resignation rate is 9.7% but previously was 10.8%. That is positive, and it is about pay and conditions. I am not suggesting that the job is done. It is not. But we seem to be turning a corner.

Q158 Janet Daby: The Committee has heard from prison officers about the retirement age. Do you have a view on that?

Alex Chalk: The issue of retirement is a difficult one. Part of the issue is that it is very hard to compare apples with pears. The contribution to pension rate for prison officers, compared with that for firefighters and elsewhere, is much better. It is something like 5% for prison officers, as opposed to others.

I am not suggesting that this is anything other than a demanding job. I am not suggesting that it is anything other than challenging. But there are important compensatory elements, particularly the pension, which are significant.

There has been additional investment in numbers. People want to know that when they are on A wing on Wandsworth they have colleagues around them. They also want to know that they have the technology and have been trained, whether it is in self-defence and in PAVA spray and so on, to make it a better environment.

They want to be satisfied, as I know from when I went around Isis, that less contraband is coming into jails. The tech we are using is making a real difference. You have to stand in one of these things where they X-ray you to see what you are carrying. It is a pretty significant deterrent.

Q159 Janet Daby: On making prison staff feel safe in the workplace, you mentioned PAVA spray. There are also body-worn cameras. Does anything else need to be done to support prison staff in feeling safe?

Alex Chalk: I think that numbers are key. Training is important—self-defence training—and ensuring that things are not brought into the jail. I



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always try to put myself into the position of the person on the wing. I would care most about what is coming into the jail.

There is a mentoring system. New recruits will be mentored by more senior officers. That is massively important.

We also have an entrenched system of exit surveys, so you say, "What was the reason why people left?" and learn the lessons from that. There is also TRiM, or trauma risk management, to ensure that if there is an incident people have the opportunity to unload and to explain what happened, and how they were affected by it. That is something that the police do, but prison officers do it as well. They are given the tools, remuneration, security, coaching and mentoring, and access to medical support, both physical and psychological, if and when it is required.

Q160 Janet Daby: In a recent annual report, the chief inspector of prisons raised concerns about the high level of violence across the youth estate. What are you doing to improve safety among children held in those types of setting?

Alex Chalk: One of the most significant things that has happened in the criminal justice system in the last 10 years, which no one talks about, is the reduction in the number of young people in custody. It is absolutely extraordinary. In around 2010—I shall get the figures wrong, but it is not far wrong—there were well over 2,000 people aged 15, 16 and 17 in the estate. When I started prosecuting, people would go inside for being the passenger in a vehicle that had been taken without consent. People would go inside for street robberies. It does not happen now, because there is much more understanding of neurodiversity and how you divert people from custody. Yes, you have to punish them—go in hard and early to get them off the conveyor belt to crime—but there is better understanding of what is going on at home and the neurodiversity issues I mentioned.

The reason I make that point is that the number in custody now is 480 or so, of whom half are on remand. Those who have been sentenced—roughly 250 people—I make no bones about it; they have committed extremely serious offences. They have committed murder and very serious violence. All rapes are appalling, but they have committed appalling rapes and dreadful sexual offences.

We need to keep our feet on the ground. It is an extremely difficult cohort. With that said, of course we want to drive down violence, but when you go to somewhere like Feltham, as I have done, or Parc, the numbers in those YOIs are massively reduced. Fifteen years ago, you would put about 250 kids in that estate and now it is 60 or 70. It is totally different.

So the first thing is the staff to prisoner ratio, and that is improved by dint of the fact that there are fewer young people in custody. The second thing applies in both the youth and adult estates. If I had to name the single thing that makes the biggest difference, it would not be what I do



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here in Whitehall, and it would not even be what you do: it would be what the governor does. Getting the right governor—the right leadership—in place makes a colossal difference. When I was Prisons Minister and went around, I always asked, “How long has this governor been in place? Are they a temporary governor?” Having a temporary governor was often associated with more of the problem factors that you refer to.

For example, I have spoken to the governor of Cookham Wood, which has had issues that you will be aware of, and has had a UN. He came shortly before that UN, but there was a temporary governor before. It is quite hard for a temporary governor to assert their authority among the staff, because the staff think, “Well, he’ll be off soon.” Now there is someone who will be there for a while, and he has said that his commitment is to that prison. Guess what? Violence has gone down by two thirds—both prisoner on prison officer violence and inter-prisoner violence. So, leadership is massively important.

Time out of cells has improved; they are spending double the time out of their cells. Those are all things that, frankly, Ms Daby, have the distinct advantage of being common sense. This is about a strong, clear regime where boundaries are set for prisoners—“This is what you can and cannot do”—and about having proper, motivated staff and proper equipment, and a robust but rehabilitative regime.

Q161 Janet Daby: Are you saying that generally violence across the youth estate is going down?

Alex Chalk: I am specifically focusing on Cookham Wood, because that is where there is a UN.

Chair: Urgent notification. Some people will think we are talking about the United Nations.

Alex Chalk: Sorry—I am not blaming the UN for the problems at Cookham Wood. That is where there has been the particular issue, but if you go to the YOI at Feltham it is incredibly impressive. You can go to the Alpine unit, where they have enormous resources—psychologists and psychotherapists—to try to address some of the issues.

Q162 Janet Daby: I need to move you on a little bit. I want to talk about PAVA spray. Last week, the Prisons Minister confirmed that the Government are considering extending its use to youth estates. Of course, PAVA spray is used in the most serious violent situations. When it was first rolled out in 2018, the Equality and Human Rights Commission supported a legal case against the MOJ. The case was withdrawn, I believe, on the basis that the Ministry of Justice promised to work to publish national use of force statistics, and that there would be better data reporting. That was in 2020 and, so far, it has not happened. As the Prisons Minister has said he is considering rolling out the use of PAVA spray when the data has not been looked at, would you agree that the published data needs to be in



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place before the Government consider extending the roll-out of PAVA spray?

Alex Chalk: I have not made any decisions on the roll-out of PAVA spray, and plainly that is an important consideration; but I do not want to lose the point—I know we have to get on, so I do not want to repeat myself—that it is a very serious cohort and we have to ensure that prison officers are protected from highly violent individuals. Although of course we want them to be rehabilitated in due course, a lot of them are serving very long sentences and will graduate, so to speak, into the adult estate. I will always want to put first the safety of prison officers, who do an extremely difficult job. That will be front and centre of my thinking, but, yes, I have not made a final decision on it.

Q163 **Janet Daby:** Would you look into making sure that that information is published?

Alex Chalk: Of course I will consider that.

Q164 **Janet Daby:** The commitment to publish it was made in 2020.

Alex Chalk: Let me look at what we committed to and reflect on that.

Q165 **Janet Daby:** I appreciate that.

The chief inspector's recent annual report found that the improvement in prisons was most evident when senior leaders had clear direction and had set ambitious targets. What are you doing to strengthen leadership across the prison estate?

Alex Chalk: I want to strengthen autonomy for good governors—our highest-performing governors. That can best be achieved by reviewing decision making, through the organisational hierarchy, and extending autonomy to probation leaders. We are looking at changes, one of which is the introduction of the seven area model. I do not know whether you are familiar with that. It takes seven area executive directors to be responsible for the prison groups and probation regions in their areas. It is about shifting—effectively delegating—appropriate decision making to the frontline.

It is really striking: everyone knows who the good governors are. All the governors are doing a great job, but there are some who are conspicuously brilliant and who do a wonderful job. The same governor I saw at Feltham is now at Isis and she is brilliant. She is doing such a good job.

My instinct is not just to advance and recognise as, in a small way, I am doing today, but to look to provide more responsibility. I know we must move on, but let me give you one core example. A huge amount of public money goes into the prison education service. I would like high-performing governors to have greater responsibility for what is being taught in their prisons, working with brilliant people such as the employment advisory boards—including, dare I say, Mr Timpson's



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brother, who plays an important role there. A governor could liaise with the employment advisory boards and ask, "What jobs are available in my area, what education regime is being provided internally and how can we marry the two up so that I can ensure my prisoners have the best chance of getting a job on the outside?" If they do get a job, they are 10% less likely to offend and, given that reoffending costs the taxpayer £18 billion overall, we want to bring it down.

Q166 Janet Daby: In theory, that sounds very well, but some of the evidence that we have heard in the Committee suggests that prisoners spend far too much time in their cells and not enough getting the specific training that they need and require. The senior leaders are significant in making sure these things happen.

Alex Chalk: They certainly are; I agree with you.

Janet Daby: Thank you, Chair.

Q167 Chair: Anything else on that?

Alex Chalk: Very quickly, having people out of cells doing purposeful activities is brilliant and critically important for the reasons I have indicated. Let us not forget what facilities there now are in prisons. I have talked about the joinery and carpentry, and those sorts of things, but it goes beyond that. At Berwyn, for example, you can go into an employment hub. If you did not know you were in a prison, you would think you were in a jobcentre. You can meet people who go through your CV and give you training. Then you go around the corner and into a video booth where you can have an interview with the very person on the outside who may employ you. That person has been lined up to interview you by the employment advisory board. It is incredible, and quite moving.

I said to a guy at High Down, "Where are you going to be in two years?" He said, "I am going to be in work." I said, "Really? How do you know?" He said, "Because I have been working on this"—he was making LEDs. He said, "I have got this ticket, that ticket and that ticket; I have been lined up with an interview; I have got this diploma; I have got my City and Guilds. I am going to be in work." I thought, "That is what a decent and rehabilitative system is about." There is some good stuff going on.

Janet Daby: Great. If that is going on, it sounds brilliant.

Q168 Edward Timpson: Can we move on from prisons to the probation service? You will remember that back in 2014 some reforms essentially split the service delivery of the probation service into a National Probation Service and the community rehabilitation companies.

Within seven years, we had almost come full circle, in 2021, with the reunification of those services into what was described by the Government as something that would strengthen probation and build confidence. We are a few years on from that now. It has had time to bed



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in, despite covid, so to what extent do you think that that ambition that the Government set themselves has been achieved?

Alex Chalk: You said, sotto voce, “despite covid”. I think that is an important part of the context. Let us put it in context, exactly as you indicated.

TR happened and then there was the unification. I think most people recognised that that was a good thing to do; but this is still a work in progress. I made a point about prison officers not being great on day one—you can be good on day one—and I think the same is true of a probation officer. Lest we forget, they have to make vital decisions. “Should I breach this person or not? Should I effectively recall them to custody? Am I satisfied that the accommodation they are in will be right for them? Are they sorted out with their licence conditions? Are they making sure they are on their drug script?”—or whatever it is.

The critical thing is to increase resource so that it can continue to mature as a process. It is a work in progress. We are not there yet. We put in an additional £155 million: it is worth reflecting. Not only that, but we have an additional 2,626 trainees. When they are fully trained, the number of frontline probation officers will be at full strength. At the moment, part of our sworn strength, so to speak, is not yet operating at full temperature. That will happen over time. Experience, experience, experience is really what matters in this important sector.

Q169 **Edward Timpson:** You are correct about the number of trainee probation officers who have been recruited since ‘21-22; and there were more in ‘22-23—I think there were another 1,500. I take your point about the need for them to have time to learn and grow, and develop their skills, so that they can have the experience that you rightly say is needed; but there are concerns that in the interim, at the moment, some less experienced staff are increasingly having to take on quite complex cases, sometimes with quite minimal supervision. Are you concerned about that, and are you looking to address it?

Alex Chalk: As I say, the single biggest thing I can do to maximise performance is to ensure that people are properly rewarded. We have done that.

The second thing is to make sure we are recruiting. You rightly pointed out that there were 1,000 in year 1, which was 2020-21, with an additional 1,500 in 2022-23. That process has to mature as they come online, so I will continue to do that.

The other thing is to provide the tools they need to do their job as effectively as possible. Probably the single thing I am proudest of in the rehabilitative space is the fact that for those coming out of jail, we will ensure—we have done the six pilot areas and Damian Hinds mentioned yesterday that we are rolling it out across the country—a guaranteed 12 weeks’ accommodation.



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That is critically important. It means that you get them sorted. You get a roof over their head and say, "Right, okay, you know that job we lined you up with at HMP Berwyn, when you were on the link? Well, best you turn up to that job—and if there is a drug or alcohol thing, let's get you sorted and into that pathway. I know there are relationships that have taken a bit of a pounding since you have been inside. Let's see what can be done to assist you, within the bounds of what is appropriate"—and so on.

That is a critically important point. Yes, of course we bring on more probation officers. We reward them properly—but we also give them the tools to work with.

Finally, when I went to Luton and Dunstable and I saw the roll-out of one of these things, I spoke to a senior probation officer who had been doing the job for 30 years. He said that that initiative, for the accommodation, was the single most significant thing that had been rolled out in his entire career. I do not want to lose that point. I was quite moved by that.

Q170 Edward Timpson: To be able to deliver this more wraparound probation service—and I agree that you need all those different elements of someone's life to make sure that they do not fall back into the ways that got them into the criminal justice system in the first place—you need enough probation officers to fulfil that remit that has been set. As of 31 March this year, there was a 28% shortfall of probation officers in post. The most recent report from His Majesty's chief inspector of probation, Justin Russell, which was published about two weeks ago, found that excessively high practitioner workloads continue to be a problem. While lauding the announcements about how we support people through probation and into a fulfilling and hopefully crime-free life beyond, when do you expect the Government to be able fully to staff the probation service appropriately, to be able to bring about that service?

Alex Chalk: As I was indicating, we have a number of trainees—2,626 or so. They will reach maturity—get their full ticket, as it were—over the course of the next 15 to 21 months. As that happens, once that process is completed, we will be at or around full strength. Over that period, you will see a steady ramping up of manpower—and not just the quantity but also the quality. As I have said, experience is so important. When you do a massive service reorganisation, as we did, however welcome and appropriate it is, it takes time to bed in. We are on the right glide path. The next 15 to 21 months is going to be a process of steady strengthening.

Q171 Edward Timpson: You mentioned a conversation that you had with a very experienced probation officer, who was very excited by this accommodation offer. That may be one thing that will help to keep people in the probation service, but in what other ways are you trying to retain the vital experience of some of those longer-serving probation officers, so that we do not lose them when they are most needed?



Alex Chalk: It is similar points to the ones I was making about prison officers. One of the most important things, in life as in the prison or probation service—and I always try to put myself in the position of the person who is going into it—is wanting to feel that you are on the curve, improving and developing as an individual, and not flatlining. It will not just be a flat line between here and retirement, but you are constantly developing your skills. The critical point about creating this capacity, as we are doing, is that it means it is possible to do such things as career professional development. That is important, and so is increasing personal prestige. These are professional people. I am interested in creating the capacity, so that people can have fulfilling careers that nurture and develop their talent, and can spend time on that, and I am interested in promoting expertise and professionalism. I looked at that when I was the Prisons and Probation Minister in the past.

It is also a matter of ensuring that we deliver for the public on the things they want. An example is unpaid work orders—ensuring that things are getting done in people's patches so that the community that has been offended against is getting fixed, by the graffiti or litter clean-up, or whatever. The probation officers I have met, and those who are supporting and supervising, are really keen to get stuck in.

Other examples are planting trees or work with the Forestry Commission—all those great things. It is providing a stimulating, important environment, where people are professionally developed as well as being personally supported and adequately remunerated. Those are the key levers that I should pull on.

Q172 **Edward Timpson:** As part of not only the protection of the public but the rehabilitation of offenders, it is a key part of what you have available to you to make that happen. By the end of 2022, there were 240,431 people on probation, so it is a significant number. The quality of that service is vital. Yet, in the inspections of the 30 probation delivery units that have been inspected since 2022, only one has been rated good, 14 have been rated "requires improvement" and 15 were rated inadequate. I assume that causes you some consternation, when you are trying to improve the quality of service. How are you trying to address that, bearing in mind the issues raised by those inspections?

Alex Chalk: The first point, of course, is that we consider inspection reports extremely closely. You give a fair summary of the position, which is why things need to improve. However, if you drill down into those inspections, it is worth reflecting that, following the intense focus on recruitment, we are beginning to see better results in HMIP inspections relating to staff. Of the 13 PDU inspections in 2023, eight have been rated good against that measure, compared with only three of 17 in 2022.

I think that the inspection reports that you referred to are a symptom of the fact that the system is recovering, healing, growing and strengthening. You can also see the signals—in the reports, by the way—



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of how that process is strengthening. I anticipate we will see an accelerating improvement in this regard. I reiterate my respect. Good probation officers make the difference between people going straight or not. Ultimately, that protects the public, which is what we all want.

Q173 Edward Timpson: Do you think, bearing in mind its recent history, that the probation service has an image problem?

Alex Chalk: I hope not. I do not think so. If you are referring to errors being made, yes, to err is human and occasionally there are errors. Dare I say it, maybe politicians make mistakes from time to time. Overwhelmingly, probation officers are highly skilled and trained, and do an extremely important job. They have to use their judgment to say, "With that offender—do you know what?—I think he is potentially a risk to the general public. What if I don't recall that person?" By the way, there may be all sorts of reasons, to do with a relationship breaking down, or starting to run with the wrong crowd, or whatever. They have to make those finely balanced judgments, knowing that if they do recall the person it may be a while before they are brought round again before the Parole Board.

They do an incredibly important job in keeping the British people safe, and I pay tribute to them. Some of the most impressive people I have ever met in this job are probation officers, and I want to see the continued growth of excellence in that important profession.

Q174 Edward Timpson: I could not agree with you more on that last point.

If I may, Chair, I want to move on to the not unsurprising topic of case load in the Crown court. You will know that the outstanding case load is still high. It reduced by just 0.4% in the last quarter, to 62,235. There has always been some backlog, exacerbated, as we know, by covid, but at its current pace the Government will hit their target of 53,000 at some time in the early 2030s. How confident are you that the steps you have taken to date are going to tackle the backlog sufficiently and that you will meet your own case load target by 2025?

Alex Chalk: I do not want to go over old ground, because I know that the Chairman wants to get on. There is no doubt that the case load increased. It went up from about 39,000, as I indicated, pre-covid. It was 48,000 in 2010, so it was at a reasonable level pre-covid. It jacked up, and then started to come down to about 57,000. The Bar strike came along. It went right up again. It started to come down and now it is sort of flatlining a bit, but with downward pressure.

We are doing everything we can to increase the capacity, so that the courts can do what they need to. That means we have had no caps on sitting days. There were caps before, and now there are not, so that is massively important. If you have the courts, the judge and the practitioners, just sit those cases.



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Secondly, there are the Nightingale courts. There are over 24, although not all of them are Crown courts. A significant proportion are. By the way, the pressures are not just in the Crown courts.

On judicial recruitment, we recruited 1,000. We have more, and we over-recruited in the last period. We now have more competitions.

We are putting more money into the courts estate, to make it an attractive place to be. We will put, at steady state, an additional £144 million into criminal legal aid. I declare my own interest—I was a criminal legal aid barrister. They do incredibly important work. They make the whole system work.

We have to do those things, and work respectfully and collegiately with the judiciary and with such things as local criminal justice boards. Incidentally, that has been done unbelievably effectively in Wales, where the local resident judge, the governors of the local prisons and the head of the local Bar speak together to iron out the problems. It is a matter of building those important relationships and getting on with it.

Finally, I reconvened the Criminal Justice Board last week. It had not been convened since 2019. That involves Sir Mark Rowley, the chair of the Bar Council, plenty of people from HMPPS, the Prison Service, and so on. That is so important in trying to deal with some of the operational matters; but there is real positivity now. People want to fix this, to come together and play their part, and the Government will certainly do everything we can.

Q175 Edward Timpson: In doing that, just to be clear, there will be no putting the brakes on trying to deal with the backlog because of issues around capacity in the prison estate.

Alex Chalk: We have provided sitting days; we will have to make a decision in the week of 7 August about the next crop of sitting days. My central position is that I want to get through these things as quickly as possible. To reiterate the point that is easy to lose, if I get through the case load, that in turn releases pressure on prisons and people waiting to give their evidence in court. It is about those case loads. It makes a massive difference, so I want to get through those.

Q176 Edward Timpson: One last question if I may, Chair, in relation to the rape review and the progress update. There are some encouraging increases in referrals, charges, Crown court receipts and convictions. However, there is one aspect that is not mentioned, on which it would be helpful to get your view: the outstanding case load for adult rape reached a record high of 2,210. Do you know the reasons for that? Does it concern you? Is there a reason why it was not in the report?

Alex Chalk: It is really important to say that if there are more cases in the system—people being prosecuted, with a risk of conviction, punishment and disgrace, for rape—that is not a bad thing. One of the metrics that we set in 2018 was to increase the number of people whose



cases were received in the Crown court. The three metrics were how many cases were passed by the police to the CPS, how many cases were charged, and how many cases were received in the Crown court—and it was a stretching target, because it was a third more than in 2010. That was not a soft target. It was a stretching target. As you say, we met them. We met two out of three 18 months early, so the number of cases passed by the police to the CPS for a charging decision is up 130%; the number of cases charged is up by 90%; and the number of cases received in the Crown court is up by 160%. So two of those three are already done and we are on track not just to meet but to beat those challenging targets.

It is a good thing that those people are at risk of conviction for those serious matters. However, we also have to ensure that victims are properly supported in that process. It is worth reflecting that in 2010 the total number of independent sexual violence advisers was fewer than 10. It was a handful. Certainly, when I was prosecuting rape, and heard the idea of an independent sexual violence adviser, I said, “What on earth is this?”

When I looked at what would be available for victims, in terms of a victims code, it is so much more significant now. The code has 12 rights. There is the entitlement to be kept informed about the case, and to be informed about the right to invite the prosecution to review if they want to reduce the case, as well as court familiarisation visits, special measures, and section 28. We doubled the maximum funding for rape support, we have set up a 24/7 rape helpline, and we have done so much more that I could talk about, to ensure that the environment, the package, and the wraparound support for victims is like night and day compared with what existed before. That really matters.

The straight answer to your question is, yes, there are more, but that is important. We want people to be charged and convicted, and we want to have the support for victims through that process.

Q177 **James Daly:** Have you asked the Home Secretary why the referral rate from police forces throughout the country to the CPS, for rape allegations, is so abysmally low?

Alex Chalk: Well, it is up dramatically.

Q178 **James Daly:** From a very small number, Lord Chancellor.

Alex Chalk: You are right. That is why we are absolutely clear. Back in 2018, frankly, the system had a crisis of confidence.

Q179 **James Daly:** I do not dispute all the things you say. I am just asking whether you have spoken to the Home Secretary.

Alex Chalk: I speak regularly.

Q180 **James Daly:** So what is the explanation given for the abysmally low



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referral rate?

Alex Chalk: It is very difficult. If you go back—and I do not want to name the person, because he is completely innocent—there was this case that you remember back in 2018, which we all know. Then there was a review about what had gone wrong in that case. Bluntly, there was stuff that should have been disclosed—digital material—that was not disclosed, and we came within a whisker of a miscarriage of justice, which appals us all. You know all that. That was at least part of it.

We then set up the rape review. People would meet regularly—not just the Secretary of State for Justice but the Home Secretary, to your point, the Policing Minister, the Attorney General and the Solicitor General—to drive up every part of the system.

The final thing to mention is getting all the data together, because the CPS and Home Office gathered it in a different way. We got it all together, published the score cards, and drove it up. The key thing that we have driven up, and the steepest trajectory, is precisely your point—the number of cases referred by the police to the CPS per charge.

Q181 **James Daly:** Do you think that the magistracy sends too many people to prison?

Alex Chalk: No, I do not.

Q182 **James Daly:** That is a very straightforward answer to a very straightforward question. The Government extended magistrates' sentencing powers but recently reversed the decision. The Minister cited prison capacity. Do you think that the policy was reversed because there was concern that magistrates were sending too many people into custody?

Alex Chalk: Let me be clear: I think that magistrates do a very good job. As I said earlier today, even though it might be a fashionable view that you should get rid of all short sentences, actually, magistrates acting on behalf of us, the public, sometimes have no option, even though it is a last resort, but to do that. Lest we forget, compared to 10 years ago, they actually send fewer people to custody on short sentences than they used to. That is a fact. It is not that issue at all.

However, on the 12 months, there was a period in which that had taken place, and we needed to review how it had worked and not worked, and that process continues.

There is a context of prison pressure, but there is also a wider imperative to ensure that we take this in stages, and that is one of the data points that we need to consider.

I am absolutely in the market, when the time is right and when it is appropriate, to have 12 months, but you have to take it in stages. I



pause to note that that power to go to 12 months was in the Criminal Justice Act 2003, which Ms Eagle will be aware of.

Q183 **James Daly:** I am not criticising you at all; I am just curious, because you have said that part of the Government's strategy is—I cannot remember the phrase—trying to get cases dealt with as quickly as possible. Of course, you are going to have more cases dealt with more quickly if you have 12-month sentencing powers, so it seems an odd decision to reverse that decision.

Alex Chalk: It is one of the factors that we have to consider, because you make a very fair point. One of the things that people have said to me, by the way, is, "Have we got the line right in terms of either way offences?" Is it right that someone on their fifth alleged theft from Boots should be able to elect a three or four-day Crown court trial and so on rather than having it tried in the magistrates court as a summary-only matter?

All I am saying is that these are things that we have to consider in the round, and we have to take account of the entirety of the context, which includes the case load and plenty of other issues such as pressures that you have alluded to and that I discussed earlier. We will consider that evidence in the fullness of time. When it is right to do so, I think, for the reasons that you have indicated, there is real merit in considering if we can extend that again.

Q184 **James Daly:** We both practised in the criminal courts for a long time.

Alex Chalk: Yes. You still do.

Q185 **James Daly:** There is the idea that delays have happened recently and that the pandemic has exacerbated that, but there were always huge delays when you and I practised in the criminal courts. I have always found listing a curious thing and how it is organised and the considerations that are taken into account.

There is a case today—I will not go into the details of it—where a rather famous defendant has had charges and no evidence offered by the Crown Prosecution Service. As an example—and I do not think this is unusual, whether it is the pandemic or involving a man of some fame—it has taken from an arrest in August 2021 to, potentially, the matter coming before the court in July 2023. The original trial for a relatively straightforward matter of assault was months and months after the original police allegation.

I am using that as a practical example on record because people will have seen that case in the court today. From my experience, that is typical. Straightforward evidential cases take months to list, and there is no good reason for that. I just wonder whether you agree. If that is the case, what are we going to do to make sure that these cases get dealt with far quicker?



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Alex Chalk: It will not surprise you to know that I will not comment too directly on that case other than to note that, as I understand it, a jury was discharged because they failed to reach a verdict in the first trial, and it had to be relisted for a second trial. It is important to know that there are two trial listings in that case, as I understand it, and the Crown decided to offer no evidence just before the second trial day.

You asked a straight question: do I think that, effectively, there is perverse listing? No, I do not think there is perverse listing. Listing is a judicial function, and the courts need to take account of all sorts. You know this. Forgive me for telling you something you know extremely well. The first thing they have to think about is CTLs. What is the situation in terms of their remand population? They have to bring on a defendant within the six-month time limit or that person will make a bail application. Unless the Crown can show all due diligence and expedition or some other good and sufficient cause under the 1985 Act, that person is going to be on their toes, and there may be good reason why they should be in custody. They have to consider that.

As to how they prioritise listings thereafter, the things that I would instinctively expect the courts to do—ultimately, it is a matter for them—is give rape cases a fixture. This is my final point. If you have vulnerable victims, I would hope and expect there to be a fixture in those cases so that they are not gearing themselves up for the trial on the Monday, only to find that it is a floater and it has all been stood up for a month's time.

Q186 **James Daly:** Are you effectively saying, therefore, as Lord Chancellor, that listing is a function of the courts and therefore nothing to do with you, and that there is no perverse listing? The listing process that we have is absolutely fine as far as you are concerned.

Alex Chalk: This is an area where I have to tread carefully constitutionally because it is a function. That having been said—this is part of my general point—it is one of those things that you cannot measure. If you have that meeting with the Criminal Justice Board, the SPJ and the president of the King's bench division, those are the sensible, collegiate discussions you can have. I recognise what the constitutional boundaries are and they know what their constitutional boundaries are, and we can have a sensible conversation.

In the fullness of time, does there need to be discussion about listing and the extent to which politicians can play a role? Fine, that is a debate one can have, but it is one for another day, and I am not kicking that one off just now.

Q187 **James Daly:** Why do you think that the number of duty solicitors is projected to decline by 618 by 2027?

Alex Chalk: Duty solicitors play a fantastically important role, and it was their fortunes and their future that were absolutely at the heart of the whole decision to kick off CLAR, which you will know about. It is so



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important for that defendant as he is coming into the police station to be represented by somebody who is experienced and understands what is correct and fair advice to give to his client, and that will assist the administration of justice. That is why if and when the CLAR reforms are in full effect we will be looking at duty solicitors getting up to an additional 30% for police station work.

Q188 **James Daly:** I understand that, but that was not the question I asked.

Alex Chalk: I know. I just want to make this point. For magistrates court, they will get up to an additional 20%. As I said, it is absolutely at the heart of the reforms. There is over £85 million going into the solicitors' profession.

You ask why the numbers are projected to go down. The best answer I can give is to address the issues that are under my control, which is to ensure that the people are properly remunerated and that the court estate is properly maintained. We put in an additional £135 million and then an additional £30 million. I want to go further still. Those are all the things that are under my control and that I am pushing.

I also wanted to send out a message: legal aid solicitors and barristers will always be respected by this Government. We are not going to go down the ridiculous rabbit hole that others did of boasting that they were going to derail the gravy train of legal aid or trying to name and shame them. There will be none of that. We respect them and we want to reward them.

Q189 **James Daly:** One of the things that I find curious in my experience of the justice system is that we have reducing numbers of everything, it seems, apart from police officers, which I fully accept. I think that you have confirmed already that the target of 1,000 new judges has been met.

Alex Chalk: In 2022-23, we over-recruited. There were 990 vacancies and we recruited about 1,000.

Q190 **James Daly:** Do we need more judges to allow the courts to run at full capacity?

Alex Chalk: Yes, we do. The 2023-24 programme is for about 1,000 vacancies, but that is across jurisdictions.

Q191 **James Daly:** I do not know whether you get a daily report. In the figures coming back to you, do you get a flavour or a specific figure on how much of the court estate or how many courts in percentage terms are not being used daily, weekly or monthly?

Alex Chalk: Yes.

Q192 **James Daly:** Can you give us an idea of the figures?



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Alex Chalk: As I say, we effectively said, "Full tilt. Use courts to the maximum capacity." We lose about 0.5% of sitting days to planned and unplanned maintenance. That is basically the figure.

The wider point is that we need to increase the pipeline of practitioners, because we have to make sure that there are people to prosecute and defend these cases. My wife is a civil practitioner. Sometimes, a case has been stood up because there isn't a judge. Practitioners will be familiar with that. That is why we have to recruit.

The general point is this. The system is delivering more justice, but there is a case load as we heal from covid, and we are ramping up that capacity. It will do it and it is healing well. We have phenomenal practitioners in this country. We have phenomenal judges. The system is healing and progressing well, but it is not something that happens overnight. You have to do some of the boring plumbing like putting the arrangements in place for remuneration, having proper relationships, getting more capacity in the courts and having more sitting days, and to improve that we are all in the process.

Q193 **James Daly:** When you and the Chair were practising, I cannot remember a time when it was a reasonably regular occurrence that a prosecution barrister could not be found for a matter of rape. It just did not happen. You know that that did not happen. For some reason, it is happening now. Why?

Alex Chalk: Do you know what? You are right. I have never known a time when there were 60,000 cases in the case load in the Crown court. That is the fundamental difference. If you look at the number of cases in the Crown court, in 2010 it was about 48,000. Just before the pandemic, it was 39,000 to 40,000. It is now 60,000. That is the fundamental reason.

During covid, we all asked ourselves these questions of the system. "Hang on a second, should we just bin juries?" It was asked in Scotland. People were talking about it here. Should we effectively just have sheriffs? We decided not to do so, because if you wash away that line in the sand it is very hard to put it back. It is a totem of the lamp of our liberties, and so on.

To some extent, there is a price you pay for principle. In 90% of cases in the magistrates court, there is not this issue to anything like the same extent.

Q194 **James Daly:** There is too much work.

Alex Chalk: Yes, there is a lot of work in the system.

Q195 **James Daly:** I will tell you what, Lord Chancellor. My final point in respect to that is that most charging-out rates—

Alex Chalk: This is your favourite point.



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James Daly: —in this country for offences are well below 10%. If we actually charged people a proper rate, the amount of work coming through the court would be monumental compared with what you have now. If we cannot deal with what we have now compared with the number of cases, we have some problems.

Alex Chalk: It is apples and pears, because, as you said, the overwhelming majority of what they charge is in the magistrates court, and the magistrates are operating at about 120% of their pre-covid capability. They have switched it on absolutely dramatically. It is worth listeners of this realising what that means. That means common assaults. That means ABHs. That means section 20 GBHs. That is non-dwelling burglaries. It is TWOC. It is dangerous driving. So much stuff is dealt with in the magistrates court that affects people's lives, and that is going very well.

Q196 **Chair:** Lord Chancellor, I imagine you are still in touch with your old chambers in the same way as I am in touch with mine.

Alex Chalk: Yes.

Q197 **Chair:** You and I both had the good fortune to practise from sets regarded as being in the top half dozen in their field—big sets of criminal chambers. You will know that the percentage in all those big sets chambers doing criminal legal aid has declined markedly. Far fewer, even in the big sets with plenty of work, are actually doing legally aided work. Far more of them are doing much more private and regulatory work. That is a problem, is it not?

Alex Chalk: You encourage me on a trip down memory lane. I was called in 2001. I was elected in 2015. I was still doing stuff in the Court of Appeal until 2017. When I started out, there was such an atmosphere of contempt and hostility towards legal aid. It was like, "You are these fat cats, and you are just, effectively, robbing off the public." It was complete nonsense because I knew what it was like to work until the middle of the night and then go down to Snaresbrook Crown court, which I was talking about, to do a mention hearing in a really serious matter for £46.50 plus VAT, and it was pretty demeaning.

I want to have a total reset. Legal aid barristers and solicitors work phenomenally hard and do an incredibly important job to make sure that the guilty are convicted, the innocent walk free and the public are protected.

One of the things I am proud of is, when we first came in, Ken Clarke, when he was sitting in this seat, metaphorically speaking, cancelled in 2010 what was going to be the last act of the previous Government to cut criminal legal aid again. We have not done that. In 2018, we put about £23 million more in. In 2019, the CPS put in £30 million. We had the advanced CLAR stuff that put up to £51 million in. We are putting an additional, up to, at steady state, £144 million. We want to show not just



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that legal aid barristers are admired and do phenomenally important work, but that it is possible to make a good and decent living and that it is more attractive.

The final point I will make is it is not just about the pay; it is about the conditions. I want the condition of our estate to be such as to inspire pride in the profession so that people know that they are indeed joining a profession and not something that might give them pause for thought. That is what it is all about.

Q198 Chair: There is one aspect of the CLAR package in relation to solicitors that has not yet been implemented, and as a result of that there is potentially litigation. I am not going to ask you to talk about the details of a potentially ongoing case, but what are you doing to meet with the Law Society to try to deal with this one remaining area of the 15% that has not been passed through to the solicitors who are leaving doing legal aid work, as we have already heard?

Alex Chalk: You raise a really important point with a necessary caveat. There is a threat of litigation, and that process continues. There is obviously a limit. All I can usefully say is that I would like nothing more than to get this implemented. It is a unique opportunity. I will always have sensible conversations. I am meeting Lubna Shuja this week. I have met her already. She is absolutely fantastic. She has done brilliant work, by the way, in trying to foster opportunities for English and Welsh lawyers in India. She has done a wonderful job there.

I will always try to be sensible. We have set out our position. I regret that there is potential litigation. I just want to underscore this point. The sums that we are looking to put in at steady state—£85 million a year, plus the wraparound arrangements to ensure that we do not lurch from dispute to dispute and that we try to keep this on an even keel so that we can heal the system, move forward and grow capacity—are put in in good faith. I just hope, respectfully, that it does not need to proceed to litigation. Let us see.

Q199 Chair: Have you met the Criminal Bar Association recently?

Alex Chalk: Of course. I met the Criminal Bar Association last week. I have met the Bar Council. I have met the circuit leaders.

Q200 Chair: I know that you are in regular touch.

Alex Chalk: Yes, of course.

Q201 Chair: You will be aware, therefore, that it is still an issue for them about the deal that was done.

Alex Chalk: You are talking about the £4 million.

Q202 Chair: Precisely. The section 28 fees of £670. Apparently, the CBA is not able to establish from your Department what the actual spend is on that section 28 money. Why is that?



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Alex Chalk: Just to remind everyone—I know you will know this—section 28 is the thing from the Youth Justice and Criminal Evidence Act 1999 that allows for pre-recorded examinations in chief and cross-examination. The idea is you get it in the can early on so you can then get on with the rest of your life.

I always listen carefully to what the CBA has to say. The reason I have some sympathy with the point is, if you are going to cross-examine the key witness in this case, best you have considered the unused material and best you have read all the witness statements—

Q203 **Chair:** You have to prep the whole trial.

Alex Chalk: You have to prep the whole trial. You have to do it. By the way, you are then handing over to someone else. You want to do it as a matter of professional pride. You want to hand over something that is good.

A discussion needs to be had about the correct fee for that. I have to be careful not to get that figure wrong. Once you get to full operating temperature, if you set a figure but suddenly you bust your budget, I have to go along to the Treasury or indeed take money from other budgets. I have to proceed with caution.

The central point made by the CBA is a perfectly fair one. Is £670 the right amount? I think there is an argument for saying, given the amount of work that needs to be done in most cases, that it is not a king's ransom—it is probably as high as I can sensibly put it at this stage. I am looking at this very carefully because it is an important part of the offer that we make to victims.

I will just make this final point. This ultimately comes down to the discretion of the judge as to whether he or she is going to say, "Yes, this is an appropriate case for section 28." In plenty of cases, the judge may say, "No, it is not, as a matter of fact," and the better thing to do is to use other special measures—a screen or a live link—so that that person can genuinely give their best evidence. It has to be viewed through the prism of what allows that witness to give their best evidence.

Q204 **Chair:** There was also going to be a review, was there not, of the implementation of the special prep and wasted preparation fees? I think that was going to be reviewed in July. That is this month.

Alex Chalk: Yes.

Q205 **Chair:** Is that going to be completed by the end of this month?

Alex Chalk: We had a conversation. I cannot precisely remember, but I think the answer to that is yes. If I am wrong about that, I will let you know.

Q206 **Chair:** It would be a gesture of good faith, would it not, to say to the CBA, "We are going to deliver on that"?



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Alex Chalk: I cannot speak for the CBA. It is more than capable of speaking for itself. There is a really strong desire to have a respectful, decent and adult relationship. I am certainly getting that impression. I will work in good faith and hard to try to iron out any lingering issues. We are in a materially better place, and I hope that I can make announcements in due course that will cement that progress.

Q207 **Janet Daby:** Civil legal aid has not increased since 1996. Recent calculations suggest that the real-terms depreciation of civil legal aid fees is about 50%. Will fee uplifts be given consideration as part of the Government's civil legal aid review?

Alex Chalk: We looked at the means test review. I prioritised that as an Under-Secretary of State and now as the Lord Chancellor. I am genuinely proud of the fact that as a result of the changes we are making there is an additional £25 million or so a year. That means an additional 6 million people will be brought within the scope of legal aid, civil and criminal. That is a really important point, and I would hate for that to be lost.

People on universal credit who are seeking a protective order—a domestic abuse protection order or non-molestation, or whatever it is—can be, in effect, passported without a means test in getting access to that legal aid. That is a really important change.

In addition, we have launched an ongoing review of civil legal aid. We are going to be looking at this in the round, although it will not be the specific individual levels, and the structure of how it is financed.

To the point I was making about crime, this has to be a dignified, decent, rewarding, stimulating career. We need to be able to say to young people in law school where they have all these people from the chancery Bar or the tax Bar saying, "Come and join us. That is what you want to go and do. Do a bit of equity and trust," to go and do family work or go and do civil work or housing or whatever it is. It is fascinating, stimulating, unbelievably important work, and we need to get good practitioners doing it.

This review is about doing exactly that—ensuring that it is remunerative and sustainable. That is all about building evidence for a bid in the next SR.

Q208 **Janet Daby:** The information that I have in front of me is that the number of legal aid cases to help people get early advice dropped from almost 1 million in 2009-10 to just 130,000 in 2021-22. That is significantly fewer people seeking advice. There has been a 59% decrease in legal aid work in law centres and legal aid agencies. This will create a legal aid desert. Are you concerned about that? Will it be addressed in this review?

Alex Chalk: There is so much in that question. First, I think you are referring to the period pre-LASPO. LASPO happened, and I do not think it will be unpicked.



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You talked about law centres. One of the things that I am proudest of is that during covid there was a genuine concern that these were going to fall over never to recover—I remember the North Kensington Law Centre, for example—but we answered the call and over £3 million went in to support them during that time. A lot of support went to other providers as well. That is the second point.

The third point is this. Lest we forget, it is important to understand that so much has moved on with technology that a lot of the support that is provided will be in civil legal aid helplines—over the phone. That is important. That is important, by the way, because there may be providers of housing advice in the north-east that can provide team support for someone in the south-west. We have to recognise that that plays an important part.

The central point that you make is: is early legal advice important? Yes, it is important. I am a total evangelist for the value of early legal advice. When I was the junior Minister, I came up with something called ELSA, early legal support and advice, which was the wraparound acronym to talk about how we want to promote that. That is why we have had housing support legal advice pilots. It is why I want to see what more we can do in respect of family, which, of course, Mr Timpson knows a huge amount about, and CAFCASS and roll forward pathfinders and so on.

The general principle is we are not going to unpick LASPO, but I will take every opportunity consistent with the resources that I have to try to promote early legal advice, because I think it is manifestly in the interest of litigants, and it is certainly in the interest of the courts as well.

Q209 Janet Daby: Can I just press you a bit more to say that you will look at the geography to make sure that there is that civil legal aid support that is needed so that there are no legal aid deserts across our country?

Alex Chalk: That is right. One of the best places, by the way, to get support—suppose there is a family dispute, whether you are in Sheffield or Sherborne—is RCJ Advice. It provides brilliant support. I am not suggesting that geography is irrelevant. It is not irrelevant, but it is less important than it used to be a long time ago. I want to see how we can bring on, in particular, women who might be working part time because they have families. How can they provide legal advice for three hours a day? That meets a need, and it is fantastic for the person receiving it, but it reflects the modern ways of working.

I am not saying that your point is not important. I just think that the quality of the advice is as important as the geography, or even more so, if that makes sense—for example, finding legal options for women survivors, which we funded during covid. The person who is being assaulted sneaks off to the bathroom to call for advice. She can call that number and get advice on the phone about how she might get injunctive relief, and so on. This is really important. Technology matters.



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Q210 **Chair:** There is a lot of modernisation going on in the civil court regarding practice and procedures. One of them, of course, is the online portal in relation to personal injury claims. I know that there is some litigation potentially before the Supreme Court. Are you concerned about what appears to be a very large number of claims that are, to use the words of practitioners, stuck in the portal, in effect? They are going in and they are not coming out the other side. Is your Department aware of that?

Alex Chalk: I am certainly aware of the glitches, being diplomatic, in respect of the roll-out of court reform and common platform. I know that there have been significant issues.

Q211 **Chair:** This is the ABI-run portal on PI cases.

Alex Chalk: Exactly, but also other civil cases. That having been said, there are all sorts of things that need to improve. I will go through in a moment the things we are doing to try to get on top of that.

I do not want to lose the point that the technology is also having some significant dividends. For example, there is less than a 1% rejection rate for divorce applications submitted online compared to 40% previously. Damages cases are issued digitally within minutes using the online service as opposed to waiting 10 days in legacy cases. There is remote technology in 70% of courtrooms, and so on. That matters, by the way.

When I went to Japan recently, they said that the UK is great not only because it has the second biggest legal market and probably the best judges anywhere in the world with unimpeachable integrity, colossal intellect and all that good stuff, but because we are relentlessly modernising and we invest in our system. Yes, Singapore is doing it, but we are doing some great stuff here as well.

The Master of the Rolls is a force of nature when it comes to digital reform and advancement, and that process continues. It is not necessarily an entirely linear process. It is glitchy and it is bumpy, and we have seen some significant problems in the common platform, but there is a really concerted effort to try to resolve some of those issues. Senior sponsors responsible for each regional area and function visit their areas and get the feedback. There are then regular weekly update emails for users and so on. We are trying to get on top of those IT issues.

Q212 **Chair:** Are you aware of a potential concern about a perverse incentive with the way the portal operates in PI cases, where, if people bring multiple claims and you add on an element of psychological harm to the straightforward whiplash injury, that gets it out and into a faster track, which leads to over-pleading of cases?

Alex Chalk: Yes, I am aware of what you might think of as gaming in that way. It is difficult to see around every corner to see precisely how it will come to be used. I am pretty sure that the Master of the Rolls would agree with this as well, although, of course, I do not speak for him.



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Overall, it has played a massively positive role in reducing a lot of the whiplash cases that clogged up the system and ultimately were unmeritorious, but they certainly had a big opportunity cost in terms of other capacity.

I am aware of the point that you make. We are considering that, but let us not lose sight of the fact that the UK is “upteching”, if that is a word, which it is not, fast, and we will continue that progress.

Q213 Chair: Lord Justice Jackson put forward some very ambitious reforms on fixed recoverable costs regimes. Broadly, those have been implemented. He recommended excluding lower-value clinical negligence cases from the fixed costs regime—those within the £25,000 to £100,000 bracket. Why, therefore, have they been included—the reversal of what Lord Justice Jackson, the expert in the field, had recommended? What gives rise to that?

Alex Chalk: I understand the point as somebody who practised very briefly in clinical negligence. I think the central point that was made is that they might be on lower value, but, as Dr Mullan will know, it is very complicated. Potentially, you could have loads of experts, competing experts and really knotty issues about causation or the extent to which negligence is proven and remoteness of loss and so on. The precise reason is slightly before my time in terms of why that decision has been made.

Q214 Chair: So you have inherited that.

Alex Chalk: I have inherited that decision. By the way, do not read into that that I am saying it was wrong. I am just saying the decision has been made.

The central point is that those reforms have been made. We, of course, have to keep an eye on them and to be clear that the overriding objective, which is something that finds its place in the beginning of the CPR, is constantly being delivered, and that is not something that we fire and forget. It is something that we keep an eye on.

Q215 Chair: I understand. You will appreciate the point. Of course, in some ways, it is the Government who are the beneficiary of these reforms because very frequently the defendant in these cases will be a hospital trust. If you have a system that perhaps chokes some people out of bringing important but low-value litigation, that is not in the interests of justice. Is it your duty to review that?

Alex Chalk: That is why you have to keep an eye on it, and it is why the courts are vigilant, necessarily, about access to justice. We saw that in the Unison case in respect of employment. This is something that we can expect the courts to keep an eye on.

I am extremely mindful of access to justice. My single biggest priority in this job is access to justice, because our courts do an exceptional job. By



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the way, that is those people who should be in court, not those who should be diverted, for the avoidance of any doubt. Access to justice always has to be at the forefront of our thinking.

Q216 **Chair:** We have three more topics.

Alex Chalk: Three more topics? Very good.

Q217 **Dr Mullan:** I am going to ask you some questions about Parole Board reform specifically, but before we get to that I have some broader questions, because this area is all about victims and how they feel the system works for them. More broadly, do you think that the Department talks enough about the satisfaction of victims when it comes to reflecting on its performance?

I will give two examples. The most recent annual report from the Department did not talk at all about whether victims feel justice is done. The recent impact assessment on extending early release gave absolutely no consideration to the impact on victims of crime. Do you think the Department is sufficiently focused on that?

Alex Chalk: I accept the tenor of your question, but I think the context is incredibly strong on victims. If I think of VAWG, violence against women and girls, and I think about what has happened just in the last 10 years alone, there was no offence of stalking. We created an offence. There was no offence of coercive and controlling behaviour. We created an offence. Upskirting was not an offence; revenge porn; threats to do revenge porn; non-fatal strangulation was not a separate offence. There was not a Domestic Abuse Act. That had not been invented.

People were automatically released at the halfway point. They are now released at the two-thirds point. We have a Victims and Prisoners Bill. We are looking to ensure that people are forced to come into court to hear their sentences. The 2020 sentencing code sets out the most rigorous set of victims' entitlements. We have quadrupled funding for victims. We have doubled funding for rape support centres.

The overall package for victims is incredibly strong. I really do think that. Are there things that we could better? Of course, there are things that we could do better, but I will tell you this. When I started prosecuting serious cases like rape cases in 2008 and 2009, it went a bit like this. "You, the victim, go and make your statement to the police. Thank you very much. We will see you later. We will call you on the Thursday before the trial, and you'd better just tip up and we will see you there."

You then come into court and think, "What on earth is this place?" The police officer might, if you are lucky, give you a copy of your statement to refresh your memory. You are then in court and a prosecutor standing there in a wig and gown is suddenly asking you questions. What I am saying is that the whole environment has totally changed.

Q218 **Dr Mullan:** That is really good and all really positive. We think it is so



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important for people to have a process that works for them, and we are giving those opportunities, because ultimately we think that they should be satisfied by the end result, or at least partly satisfied. I do not make any suggestion that that is the only measure. It might not only be the most important measure, but I will go back to my original question. Do you think the fact that the Department does not talk at all in the annual report about the outcome of all that work, the sentence, and that it is not mentioned in a very significant impact assessment is a satisfactory state of affairs?

Alex Chalk: You raise a really important point. Maybe more could be done on that. I certainly think that one of the things that the Domestic Abuse Commissioner is there to do is ensure that the feedback from victims is gathered—there was an issue about whether victims are getting good services from that police and crime commissioner who is responsible for about £20 million-worth of funding every year as compared to that one and whether there is inconsistency—and draw that together. That is something that is taking place there.

If you look at the plumbing of the Victims and Prisoners Bill, one of the key things is to your exact point: the PCCs will have a statutory duty to see the extent to which their local area is complying with the victims code. That means: are the victims being supported?

To your general point, I am always in the market to get feedback, but I think that the structures we are putting in place will give us some of that feedback.

Q219 **Dr Mullan:** I will move on. All the things that you just talked about are process-based, are they not, rather than the actual outcome? That is fine.

We were very lucky to have evidence from the chief executive of the Parole Board. In relation to the idea that it might refer decisions to you, he said that he could not think of a single example of where he thought it was unable to make a decision and might have been minded to refer it to somebody else, where that functioned.

Can you explain why you think that the ability for the Parole Board to refer cases to you is important?

Alex Chalk: I have listened very carefully to that, and I will be reflecting on it over the summer. You can, if you think hard and hold it up to the light, think of, I suppose, some circumstances. It is possible, I suppose, with the most significant national security matters, where it might feel it is necessary for the Secretary of State to look at it. I recognise that it is likely to be very rare, or maybe even vanishingly rare. Can I just say I am looking at that?

Q220 **Dr Mullan:** In terms of the new power for you around you directing the Parole Board to refer a case to you, could you give a couple of circumstances when you think you might do that?



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Alex Chalk: The aim will be in circumstances of acute sensitivity where it might be felt that there is some advantage to be had from the Secretary of State having a look at it themselves, but it has to be a very narrow set of cases that are of particular notoriety.

Q221 **Dr Mullan:** High-profile, public interest-type cases—is that what you are suggesting?

Alex Chalk: Yes.

Q222 **Dr Mullan:** I know you have not used those words.

Alex Chalk: Along those lines.

Q223 **Dr Mullan:** All right. How do you think your process will differ from the existing process?

Alex Chalk: If you look at the Bill—I think I have a copy of it here—it sets out how there is the potential for the Secretary of State effectively to direct officials to take evidence, if that is appropriate, or potentially even hear evidence if that is right. There is a power that exists. I will find the precise subsection if you stand by one second. I have it here in front of me. It is clause 37(2).

Q224 **Dr Mullan:** How are they different?

Alex Chalk: They are not substantially different. It provides for a second set of eyes, where they have recommended release, to go over that matter, and to have all the tools that they had as well to consider it. In practice, I suspect, overwhelmingly, that will mean them providing a lot of the written materials.

To your point, which I suspect you are getting at—does it retain the full suite of evidence-taking measures?—the legislation says that. What it also adds—I am looking now at clause 37(5)—is that “the Secretary of State may make rules with respect to the procedure to be followed by the Secretary of State in dealing with referred cases, including rules requiring cases to be dealt with at prescribed times.” That is still at large. If you look further at clause 37, it talks about powers to interview and all those sorts of things.

Q225 **Dr Mullan:** Going back to your original answer on when you might do it, it could be fair to say that this is about public accountability, but do you accept that that slightly blurs the lines between the separation of the judiciary and the Government?

Alex Chalk: It would unacceptably blur the lines if, effectively, the Minister was acting like a medieval monarch and having the final word. That would not be acceptable. I do not think you would get a section 91A certificate on that. There is the power for the offender to review that, and I would expect that in the overwhelming majority of cases they would. That is the judicial lock, and you have to work out how—this is a terrible word, but you know what I mean—that is operationalised. That is why I



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know that your Committee considers this business about whether it should be the Court of Appeal or the tribunal, or indeed the point that Sir Bob made about whether you just have a reconstituted Parole Board.

Q226 Dr Mullan: On that question, the evidence we heard was that the Upper Tribunal would not be the ideal place and that the criminal division would be. Are you minded to reconsider that? Some of the evidence we heard was that it seems more appropriate for that.

Alex Chalk: We are thinking about that. That said, we have spoken to the Judicial Office, and there is a general sense that, actually, given that you might have to consider further evidence—and the Upper Tribunal has done that—particularly if you think of appeals and the Disclosure and Barring Service, or potentially sometimes from the first-tier tribunal, albeit in rare cases they can consider evidence, the Court of Appeal does not tend to do that.

At first blush, I am not immediately persuaded that if you were going to go for either of those two the Court of Appeal is preferable to the Upper Tribunal. As I said, we have spoken to the Judicial Office about that, so I feel fortified having had that consultation.

Q227 Dr Mullan: To be clear, I have some sympathy with the reforms. I guess the one area where I am most uncomfortable is that I understand from the impact assessment for the reforms that it will cost £32 million a year when the budget of the Parole Board itself is £27 million. That seems crazy.

Alex Chalk: Look, I am a fiscal conservative. As a nation, we need to live within our means. Turning to the five tests—do not worry, I am not going to talk about them. Of that £32 million, it is worth drilling into what it constitutes. That includes the running costs of the additional prison places, which is £28.7 million of it. That is worth reflecting.

Q228 Dr Mullan: That is because people are waiting for a hearing.

Alex Chalk: Correct. Of course, the Parole Board would have said, "Right, you are out," but then the Secretary of State says, "No, you are not," and then there is the hearing before the Upper Tribunal or whatever, and that has time in custody.

Q229 Dr Mullan: That was how much of it?

Alex Chalk: That is £28.7 million. It is worth reflecting that every prisoner we keep in custody costs £40,000 a year. It is simply a mathematical question of how you extrapolate. The cost to the board is an additional £700,000 and the legal aid costs are £900,000. The lion's share is about people remaining in custody.

One has to ask the question: is there merit as a matter of public interest in a second look? I think you indicated that there may be some merit in that. We think that broadly it is a justifiable position to have a second look at the most serious prisoners where it has the biggest impact on



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public confidence. Yes, it means that they will be banged up for longer, frankly. There is a cost to that.

Q230 **Dr Mullan:** Talking to you, it seems that you are open-minded, as the Bill passes through the House, perhaps—

Alex Chalk: I am a pragmatist. This has to work. You do not want to set things up to fail. I am very mindful that these tribunals work blinking hard. They have a lot on, and we have to be sympathetic to that. I am going to try to be as sensible, fair and reasonable about it as I can, recognising that there is a proper public interest in having a second look in the most serious cases, and not in any way disparaging the Parole Board, which overwhelmingly does a good job.

Q231 **Dr Mullan:** This is about public confidence. Do you have any concerns that if the Secretary of State's decisions get overturned that is going to further undermine public confidence?

Alex Chalk: No, I do not think so. There is a balance to be struck. The British people want to know whether, in the most serious cases, there is a mechanism for someone to say, "We do not think you, the Parole Board, are doing a bad job, but to err is human, and we are going to have another look at it because these are such serious cases." Yes, that means that sometimes the Secretary of State will be overruled, but I would not want to live in a country where the Secretary of State's writ was never overruled.

Q232 **Maria Eagle:** When will the Government's response to Bishop James Jones's report into the Hillsborough disaster, published in 2017, be published? We were told at the last time of asking "this spring". We are now towards the end of July, and it has not appeared.

Alex Chalk: Can I begin with a mea culpa on that? It has been too long, and I accept that. We take that on the chin. I am sorry about that. The direct answer to your question is that I think we are saying the summer, or soon. I went in June, as you may be aware, with the Home Secretary and met the families.

Maria Eagle: I am aware.

Alex Chalk: You are aware of that. I have said it before on the Floor of the House of Commons. I hope you will forgive me for doing it again. Can I express my thanks to you for what you have done, which is, if I may say, the model of what a constituency MP should be doing to support that community? Thank you for that.

The reason I wanted to mention what happened in June is that when we spoke to the families and we socialised about what we were proposing to do in terms of the IPA, and we listened very carefully to what Bishop James Jones said in his famous report about the arrogance of unaccountable power—



Maria Eagle: Patronising disposition of unaccountable power.

Alex Chalk: Patronising disposition of unaccountable power, which incidentally is a brilliant response. There are a couple of things that really gave us pause for thought. I am thinking particularly about equality of arms in inquests, which is an important issue. As a Back Bencher, I used to talk about that a lot. That is an important issue, plus precisely how you get the IPA right and whether there should be—a point that you have made, I think—not just an office that remains there and is a continuous office but whether you potentially have a continuous advocate as opposed to simply dipping in to spark one up at the time of the particular crisis.

These are just a couple of things that we want to get sorted. I genuinely think—and I know this is frustrating—less haste, more speed. We are going to get this right. We are going to get it right, if I may say so, in the spirit of really good co-operation with you and your colleagues and with Bishop James Jones. I am confident that for what my grandmother called a ha'p'orth of tar we will get to the right place on this.

Q233 **Maria Eagle:** I received a letter from the Home Secretary this morning saying that she was delaying the response further to try to get the best possible outcomes. but she has not indicated any kind of timescale.

Alex Chalk: I think I signed that as well.

Q234 **Maria Eagle:** When you were the Under-Secretary at the MOJ—which is not that long ago in parliamentary career terms but is quite a long time ago in the passage of time—you told me in reply to a debate on 16 September 2021, following the collapse of the Hillsborough criminal trials, that you were announcing on that day that you would be responding to the 2018 review and Bishop James's report by the end of the year, or perhaps rather earlier than that. We are now going on for two years later than that, and these families have waited for 34 years. It is becoming ridiculous.

Alex Chalk: I totally get the point. As I say, there is a bit of a mea culpa about this. This is phenomenally complex. It is not just about IPAs, by the way; there are all sorts of other aspects to it, as you well appreciate, and it is to do with death certificates and all that stuff. There is a huge amount in this report and so many points of learning, as they are referred to in Bishop James Jones's report.

When we spoke to the families, we went through eight or 10 different topics, of which the IPA is just one. Just to give you an idea of how complex it is, on the IPA we wanted to consider your Bill, as you know. You had your own Bill, and there were interesting ideas about how you go about setting it up and to what extent you take 51% of the families to do it. I had to think carefully about whether that would work.

There was the issue about whether there should be data controllers. In order to consider that, I wanted to go back and look at the chronology of Hillsborough, what happened with the Hillsborough Independent Panel,



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and then how this would work alongside it and what the potential pitfalls were.

This is an area of such complexity. The thing is if you get it wrong on those specific points, leave aside the anguish to these families, you have to think of the potential anguish you are baking in for future families. We are within touching distance of something that I think will be so powerful, so effective and so much better if we can just hold on for a bit longer.

I have had conversations with the former Prime Minister, who did such important work setting up those second inquests. I am helpfully provided with some inspiration here that tells me that the response is expected in September. That is a short distance away. I really think we will be in a good place.

Q235 Maria Eagle: Okay, well, that is good to hear.

In part 2 of the Victims and Prisoners Bill there are proposals for an independent public advocate. I know much of this was done by your predecessor. However, there are big differences between your proposals and what was in the Bill that Michael Wills has been introducing in the Lords and that I have been introducing in the Commons since 2016. It has been around for a long time. It was first introduced in the Lords in 2014. These are not new proposals.

The idea is to learn the lessons of the Hillsborough Independent Panel, because that worked. It worked in a way that no legal proceedings in that whole sorry saga have worked. It would be good to capture the learning from that and make sure that when future disasters happen we can immediately put in place something that will support families. There is a big opportunity here.

Your ministerial colleague who has dealt with the Bill has been very generous in saying he is going to consider this, that and the other.

Alex Chalk: I know. He has no summer holidays.

Q236 Maria Eagle: I have been very generous in withdrawing and not pressing all my amendments and new clauses. I hope, Secretary of State, that you will be open to considering significant changes in the proposals that are currently in the Bill. Will you be?

Alex Chalk: We will certainly listen and consider your proposals. Can I thank you and indeed all the members of the Committee for the really collegiate and sensible spirit in which those discussions have taken place?

There are a couple of things I want to say. Hillsborough is of course the context for all this. You rightly referred to the Hillsborough Independent Panel, which I think was probably the turning point when things, frankly, were sorted out. Frankly, this is not the opportunity for a complete rehearsal of what happened on Hillsborough, but it is worth reflecting that at the time—I think it was Alan Johnson who set up the Hillsborough



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Independent Panel in 2012, and there was Peter Sissons on it and Bishop James Jones, of course—there was no inquest—

Q237 **Maria Eagle:** It was in 2009.

Alex Chalk: Yes, sorry, 2009.

Q238 **Maria Eagle:** The report was in 2012.

Alex Chalk: It concluded in 2012; exactly right. The central point is it was not going alongside an inquest. By the way, it did not have powers as a data controller, but it was able effectively to act as another investigator and pull those things together.

We have to make sure that we do not learn a false lesson from that. The thing about what might happen and what is more likely than not to happen in the future is if there is an atrocity—heaven forbid nothing appalling happens, but we fear that something may happen one day—and there is an inquest, you do not want to find yourself in the truly horrific situation for victims where you have rival investigators. You could just imagine it, because once lawyers are appointed they try to justify their existence. I know because I am one. They will say, “Hang on, the coroner has a whole load of material that we think we need to have and I as the advocate need to have, so hand it over. If they do not, I am going to witness summons them and potentially litigate.”

You said just now that we want to be able quickly to stand up this advocate. Your Bill, which I read very carefully, absolutely is intended to try to stand it up quickly. What you are also, I think, doing is you want to try to ensure that victims’ families are stood up as part of that, and yet my concern, respectfully—and let us talk it through—is that there is a risk that, if you have to get the 51% of families to stand up that initial advocate, that could create delay, because what about those victims who are in hospital who cannot be consulted, or what about the families who after Grenfell lived in Indonesia or around the world? How do you get in touch with them? What if once you have stood it up by 51%, or you do not stand it up by 49%, some more people come out of the woodwork?

We think that the proper balance is to say, “Okay, Secretary of State, appoint this person rapidly. Get them stood up.” Then the families can feed in, in slower time, as to who they think the person should be and who should go on the panel so that you can bring the families involved in that way. We think that is the right balance.

Let us have the conversation. There is no politics in this. We just want to look at what works. I will happily have that conversation with you at a time of your choosing.

Q239 **Maria Eagle:** Yes, I think that is a very generous offer. I am sure that we will be able to have some discussions about that.

Alex Chalk: Thank you very much.



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Q240 **Maria Eagle:** It would be a shame to lose the opportunity of learning the lessons of Hillsborough.

Alex Chalk: Let us get it right.

Q241 **Maria Eagle:** One of the key things is whether you agree that we need to give the families some sense that they are a part of these proposals. One of the things that often happen in the wake of disasters is that families feel left out and done to, and I have repeatedly had that said to me by families who have been caught up in disasters through no fault of their own.

Alex Chalk: You put it extremely well. I want families to feel they are participants in, not spectators of, and that is to your point about things not being done to them. That is precisely where we want an advocate. The clue is in the name—independent public advocate.

To your point, if you do not get it right in the beginning, you poison the well. That is why I am planning—let us have a discussion—to say what actually will be the trigger for when we are going to stand up one of these things, because we have necessarily left it quite vague in the Bill where we say “for victims of a major incident”. What does that mean?

I want, having discussed it with the right hon. Lady, the former Prime Minister from Maidenhead, to look to issuing some guidance to assist families about what that might mean. It then means, supposing a Secretary of State does not, that you will be either taking them down to the High Court or in Parliament on a UQ asking why the Secretary of State has not done it. We are really trying to think around every single corner as to how we can ensure that not only is it rapid but that victims feel that there is transparency about the process and an opportunity to feed in.

The last thing I will say about that is that, if you look at the circumstances in which the appointments take place, it is deliberately ensuring that other people—namely the families—can feed in particularly in respect of the panel, because it is the people who command confidence in the community who are going to be the most effective advocates.

Q242 **Maria Eagle:** Often, families caught up in these disasters feel that every state organisation is against them, especially when things have gone wrong over a number of years or have taken a long time. Do you agree that the public advocate must clearly be seen to be independent, otherwise they will not garner the confidence of the families? Once that confidence or trust is gone, it is almost impossible to get it back.

Alex Chalk: That is exactly right. It has to be about the law and the label. In other words, it is not just the label of an independent public advocate, but they have to be able to show by their actions that they are truly independent.



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That having been said, the taxpayer funds it. That is why someone ultimately has to be responsible for standing it up. It has to be responsible to the Public Accounts Committee and indeed to Parliament. Beyond that, absolutely, because, by the way, the very advocacy they may need to give—say, for example, in respect of Grenfell—is going after Government Departments that have dragged their feet. It might be saying, “Well, hang on. There are a whole load of victims here. While they are grieving for their loved ones, they just frankly do not need to be worrying about what is going on with their indefinite leave to remain application because the Home Office has fallen short.” That is exactly the sort of thing they should be doing.

An independent advocate worth their salt fulfilling their mandate as set out in this statute will be going where the need and where the evidence requires, and that is precisely what we would be inviting them to do.

Q243 **Maria Eagle:** Okay, well, I look forward to some further discussions with you and your ministerial team. Thank you.

Alex Chalk: Thank you, Ms Eagle.

Q244 **James Daly:** You said—forgive me if the terminology is wrong—that IPP is a stain on the criminal justice system.

Alex Chalk: Yes.

Q245 **James Daly:** Recent prison population data shows that on 31 March 2023 there were 1,355 offenders serving an IPP sentence who had never been released from prison. Of those, 641 people had been in prison for more than 10 years longer than their tariff, including 189 people whose original tariff was less than two years.

Do you think that a political system should allow somebody who has received a two-year tariff to serve potentially over 40 years in prison?

Alex Chalk: I have probably said more lurid words of condemnation about IPPs than any other Secretary of State. I reiterate that they are a stain on the justice system and a stain on the conscience of the justice system.

I should say, by the way, that I have read your report, which I thought was very interesting, and we will go on, no doubt, to talk about some of the recommendations in it. I am particularly interested in recommendation 8, which the Government initially opposed, and we will have a discussion about that if that indeed is your will.

I just want to say that, stepping back for a second, the difficulty for a Secretary of State, who of course has to keep the public safe, is that you have a conundrum. The people who were deemed dangerous in the first place—in other words, a judge was satisfied that this was a qualifying offence and this person was dangerous because it was a particularly appalling knife-point robbery and so on—because they remain in custody, potentially that has damaged some individuals, bluntly, because they



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have not got out each time, there is a sense of hopelessness, and yet that person can potentially become more dangerous as a result of what has taken place.

That is a matter of injustice, but if that person is out on the street, that causes a potential risk to your family, parents or children. That has to be considered, but we have a solemn duty to do everything we can, and devote what resources we can, to try to ensure that these individuals can progress through the justice system, while never losing sight of our duty to protect the public.

That is why we have this action plan, which we can go through. It has a lot of detail. Effectively, it has four principles and six workstreams, but, baldly and bluntly, the aim is to reduce the number of people serving an IPP sentence, and I am interested in some of the recommendations in your report.

Q246 James Daly: You have just touched on the point that I was going to make. There is very clear evidence, contained in our report and, I think, from every professional body that has been involved in this, that mental deterioration is linked very closely with the nature of the sentence. My concern, Lord Chancellor, is that we are getting away from people being a threat to the public and keeping people locked up because they have mental health conditions.

The differential between those two statements is perhaps a nuanced one, and I do not know whether you agree with me, but I think that some of those 1,355 offenders are not a threat and are in there because of the impact that this sentence has had on them—the mental deterioration it has brought. We surely cannot be in this situation. I do not know quite how to describe it, but it is stark: if you are in prison for 10 years longer than your tariff, it is bound to have an impact on you; you are not going to be a person who is—I hate to say this—normal in the normal sense of it. You will not be able to go out and walk into a job and everything is going to be all right.

It really concerns me, Lord Chancellor, that we are locking these people up because they have mental health problems, rather than because they pose a threat or a risk. If you have been in prison for over 10 years longer than what the original sentence should have been, I cannot see where the threat to the public comes from.

Alex Chalk: I agree with the thrust of what you are saying, but I have a slightly different view on the detail. It is certainly the case that having people serving 10 years over tariff is very concerning to anyone who has a basic sense of right and wrong. That is point one. Point two is that I agree that plenty will have mental health problems. Point three is that I accept that, in a lot of cases, those problems may well have been exacerbated by the experience the person has had.

However, I depart from your logic that, sitting here in the Grimond Room in Parliament, we can form a view on whether that person is dangerous



or not. That has to be a decision for the professional Parole Board, considering psychologist and psychiatrist evidence and the offender management evidence. We cannot avoid the fact that the judge at first instance decided that that person was dangerous—and bear in mind that that was on the basis of psychiatric and probation officer evidence, in 2004, or whenever it was. It was decided that that person was dangerous and then, at each review, the Parole Board decided that the person is not safe to be released. I cannot supplant my judgment for the judgment of the Parole Board. That is not a counsel of despair; it is not me saying, “Okay, brilliant. Well, it’s just one of those things. We’ll just have to let people suffer in custody.”

Q247 **James Daly:** Are we going to let people be in there for ever?

Alex Chalk: No, you have not let me finish. That is why I am absolutely determined that you have to get them in a position where they are safe to be released with an extremely aggressive and intensive plan—an action plan, with its four principles and six workstreams, which are about not just publishing data but ensuring that every IPP sentence prisoner has a sentence plan that does not just say broadly what needs to happen but specifies the particular interventions required to reduce the risk in each case and ensures that when they come out they get support to avoid the merry-go-round to go back in. As you rightly pointed out, there are now more people on recalled IPPs than on original sentences.

Q248 **James Daly:** I just have one more question. The recall is another fault in the system. We have heard evidence, in camera and out of it, that, when these people are released, the conditions put on them in many cases have no relationship to the alleged threat they pose to the public. When somebody who has been in prison for a long time comes out, it is a difficult transition for them, whether they are a threat or not, to survive in society.

We are asking people to report regularly to a police station, or something like that, who may not be able to do so as they simply have not yet developed those organisational or human skills because they have been in prison for a long time, and, as a result of that, we are sending people back into prison who are not actually committing further offences or posing a threat. How can we do that?

Alex Chalk: I will say two things. There are issues with generalising. I understand why you made the point as you did, but this goes back to an earlier conversation that we had about probation officers, and skilling them up to make sensible decisions. If a person missed an appointment, does that genuinely reflect a risk that they are about to go and knife someone? If they are, they should be back inside, I am afraid. We have to keep the public safe. Perhaps they missed the appointment because they have not rekindled their relationship on the outside, but that can be stabilised, or perhaps they have not got their mental health treatment or their medication in proper balance. Probation officers can take a view on that, which requires finely balanced decisions.



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If I may, and if you are interested, I want to address where there is stuff for us to think about carefully. In recommendation 8, you looked at the fact that, at present, there is an automatic referral after 10 years—it used to be the case that they would have to apply—for consideration of whether the licence should be dropped. It hangs over people like a sword of Damocles. That is about people's hopelessness: the feeling that, "Even if I get out, this will be hanging over me for 10 years. I might be dead then." They want to think that they can get past it. That is an important part of it.

In recommendation 8, you asked whether that period is too long and should be five years. I want you to know that I am looking very carefully at this. It was initially rejected. It seems to me that there is merit in what you have written as a Committee, if I may respectfully say so, and it is getting a very careful and developed consideration. That is probably as far as I can take it.

Chair: We are grateful for that and for the tone that has been adopted in relation to what is a difficult issue. That is appreciated. I am sure that there will be an opportunity for us to progress that further.

Q249 **Edward Timpson:** My question is about supporting early resolution of private law family arrangements. Before I go into some of the Government proposals on mediation, I want to ask you about a pilot that has been ongoing since last year in Dorset and north Wales, with a more investigative, problem-solving approach in family proceedings that involve domestic abuse or substance misuse allegations. The idea is that there are fewer hearings, it reduces delay, and it is very child-focused. My understanding is that the work so far has demonstrated quite dramatic and positive results. Can you tell the Committee what your understanding is and, perhaps, what you might do as a consequence?

Alex Chalk: You put it very well. It is about trying to take the heat out of these very sensitive issues, adopting a different approach. I do not think it is overstating it to say that it has been a spectacular success—a really strong success. The judgment for me is, do I have to go through all the evaluation and all that kind of stuff in circumstances where everyone recognises that this is working really well? I am an enthusiast for rolling this out with the minimum bureaucracy and as fast as I properly and reasonably can.

We are aware that it works, it cuts the stress and the time and it puts children first. My goodness, this is something that we should be promoting. I pay tribute to those in the pathfinder's pilot in north Wales and Dorset who are contributing to making this a success. It is a very positive ray of light and I am keen to expand it as fast as I properly can.

Q250 **Edward Timpson:** Excellent. One of the things that might help support that in future is the role that CAFCASS plays.

Alex Chalk: Yes.



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Q251 Edward Timpson: As things stand, the legal framework allows court officers to involve themselves in a child's case only once an application has been made to the court. But, certainly, in my time as chair of CAFCASS, I heard lots of evidence, including the pilot in Manchester, which was done during a court application, where it was clear that about 20% to 30% of cases could have been diverted away from court if CAFCASS had been involved earlier, before an application had been made. Is this something that you would want to look at and potentially even legislate for in future, if there was time to do so?

Alex Chalk: You make such a powerful point. Getting CAFCASS to do more earlier has been shown to lift the scales from parents' eyes about the harm that is done by these enduring disputes, and explaining the opportunity to improve the lives of their children can have an extraordinarily salutary effect. I am a real enthusiast for the pre-action CAFCASS work that has taken place, and I join you in that.

As to whether it can be made mandatory, that would require legislation. You asked about considering vehicles. I would welcome a legislative vehicle to do that. As always, it is the art of the possible, but certainly, within the legislative framework available to me, I am instinctively in favour of getting some more up-front CAFCASS work in whatever form I can deploy it.

Q252 Edward Timpson: Can I ask you about the Government's proposals on compulsory mediation? We heard evidence that there was some concern that it was, in effect, an oxymoron to call it compulsory mediation, as voluntary participation is meant to be a core principle. What was the evidence base used to support that proposal? What will it mean in practice?

Can you also respond to the concern that the funding for mandatory mediation for all children's cases, which is up to a value of £500, will not, in reality, be sufficient to meet the need for the sessions required for mediation to be successful?

Alex Chalk: On that last point, of course we have to keep it under review. Stepping back for a moment, this is the state stepping in, providing taxpayers' money to try to assist people by dialling down the temperature of these very tense and difficult confrontations and diverting people from the justice system, which has a benefit in itself for the litigants, or putative litigants, and, of course, for the capacity of the system.

Since its launch, more than 18,000 families attending mediation through that voucher scheme have reached a full or partial agreement away from the family courts. That is 69% of those who did it; it is really worth while. We have recently announced a further investment of £15 million in the scheme, which will help another 28,500 separating families over the next two years.



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You raised the issue, and I have received the letter about the proper, legitimate and reasonable concerns raised about DA cases. Plainly, if there is a DA case, it has to be dealt with by the court. We are extremely mindful of that, and we want to make sure that mediators are properly trained and equipped and that the structures are properly in place to ensure that those issues are addressed.

However, I do not want to lose sight of the extraordinary benefit that this has had. It has been positive, and we think that, as long as we proceed cautiously and are mindful of the points that people properly make, there is value in proceeding to expand it in the way that I have indicated.

Q253 **Edward Timpson:** On the compulsory mediation point, in the voucher scheme cases that you pointed to, both parties decided to take part and involve themselves in a mediation that was successful, but surely there will be cases where to compel people to mediate could be counterproductive.

Alex Chalk: Yes. We are thinking about this very carefully. You may be aware that we hosted a roundtable with the DA Commissioner, the Children's Commissioner, the Children's Commissioner for Wales, Women's Aid, Welsh Women's Aid, Refuge, Rights of Women, and so on. We are considering those views at the moment and will want to make sure that they are fully taken into account before we announce any further steps but, as I said, they are fair and reasonable points. We are listening very carefully, and we want to make sure that the system does good, not harm.

Q254 **Chair:** Lord Chancellor, it has been quite a lengthy session and I am grateful to you for the amount of time that you have spent with us and for being very full in your evidence to us, which is appreciated. I hope that we will see that on many more occasions when we have the opportunity to hear evidence from you.

Alex Chalk: Thank you, Chair.

Chair: It is nice to have a Lord Chancellor who was called to the Bar in this century, rather than the century when I was. It has been a most helpful meeting. I am grateful for your time and your evidence.