



Justice and Home Affairs Committee

Corrected oral evidence: Lord Chancellor and Secretary of State for Justice (Ministry of Justice evidence session)

Wednesday 25 October 2023

10.30 am

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

Evidence Session No. 1

Heard in Public

Questions 1 - 18

Witness

I: Rt Hon Alex Chalk KC MP, Lord Chancellor and Secretary of State for Justice, Ministry of Justice.

USE OF THE TRANSCRIPT

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

Examination of Witness

Alex Chalk MP.

Q1 The Chair: Good morning, everyone, and welcome to the House of Lords Justice and Home Affairs Committee. We have with us this morning Alex Chalk, the Lord Chancellor. Welcome to your first meeting with this committee. We have a variety of questions, and no doubt others will crop up during the time we have with you. It has not exactly been a quiet period since you took office. I wondered how your priorities might have changed since you took office, given, as I say, that quite a lot has been going on over the last few months.

Alex Chalk MP: Can I begin by thanking you for the kind invitation to address this committee? I am aware that it is an extremely distinguished committee, and it is a session I have been looking forward to.

To the first issue about priorities, when I was appointed, as you will know, as a Minister you go into the department and first thing officials want to know is, “What do you stand for? What are you all about?” I was very clear about how I look at the prism of the justice system, particularly through my background as a criminal practitioner. I said, “We need to have a system that ensures that the guilty are convicted, the innocent walk free and the public are protected”.

I say that, because there was—“consternation” would be the wrong word—an eyebrow raised: “Why are you focusing on ensuring that the innocent are acquitted, the innocent walk free?” I know from my experience that fundamental fairness in the system must be the rock upon which everything else is founded. Interestingly, when the Malkinson case came along, everyone said, “Now I know why you are focusing on that”. That was a very important statement of principle.

In terms of the priorities, building on that central rock, I wanted to ensure that the system is strengthened. That is an easy thing to say, but what does it mean in practice? Partly, it is a short-term issue about how you ensure that the caseloads that have built up during the pandemic are addressed. That is very important, of course, for the experience of all court users, from complainants to, yes, defendants as well. It is also important for the issue of prison capacity, which I will come on to in a moment.

Strengthening the system includes getting the caseload down, but it also included—this was an early priority—ensuring that the physical infrastructure of the court estate was invested in. You may say, “Frankly, ought this to be a priority?” Absolutely, it ought to be a priority. In the justice system in this country, lest we forget, the legal sector is the second biggest in the world, a point that a lot of people are not necessarily acutely aware of. It is massively important not just to the reputation of the United Kingdom but, by the way, to our GDP.

The dignity of the court matters as well, given that we ask people to abide by court orders. We ask people to attend when they are required to attend and to abide by an order of the court. It was very important to me that we should increase the

budget to restore the estate. That has taken place. The Chancellor was good enough to reopen the spending review to put significant additional sums in. That is part of strengthening justice.

The second thing that is very important to me is access to justice. I first came into the Ministry of Justice in February 2020, and I said that it was really important that we try to strengthen and enhance access to justice. I came up with something called ELSA, which was designed to stick in people's minds—early legal support and advice—to support that general endeavour. I will talk a bit more about that if required.

The third thing is violence against women and girls, something that I have always considered to be an enormous priority. Let us be clear: the number of prosecutions dropped considerably following the case that we recall. I am not going to mention the name of the guy, because it turned out he was not guilty. I do not want, therefore, to provide further notoriety to that case. The rebounding of the system has been significant since that time. I would be happy to talk about that. That remains an enduring priority. I pause to note that it was a priority for me as a Back Bencher as well as a Minister, so this is an ongoing theme for me.

The fourth thing was visibility of justice. People need to ensure that justice is done for the British people, not to the British people. Those were the four priorities.

You asked how those have changed. Inevitably, operational issues of capacity have come to the fore, but I see solving those as very much working alongside and in concert with the principles that I have indicated about the fairness and good operation of the system.

Sorry for that long answer. They will be briefer hereafter, but I thought it helpful to set out some context.

The Chair: I would like to pursue some of that now, and some of the points will come up later. On the courts and the prison estate, not the detail of overcrowding and so on but the concrete problems, I have not seen anything about whether RAAC has been found in the courts, but I believe that it has. I have heard about some courts having had to close because of the presence of RAAC. Can you tell us anything about that?

Alex Chalk MP: I would be happy to. The courts estate has been surveyed in total. You will be aware that RAAC principally was deployed between around about 1960 and 1990; it is not exactly those dates, but that appears to be broadly the window. Eight court buildings were found to have RAAC. One has been remediated, and you will know that Harrow Crown Court has some difficulties in the roof at the moment.

I am pleased to be able to say that the overwhelming majority of cases have been able to be reallocated to different court centres, so the impact is modest. Of course, all impacts are relevant, but it is relatively manageable, if I can put it in those terms. We continue to survey parts of the estate, but the overwhelming majority of the

surveying work has been completed and plans are in place to address those outstanding issues.

On the issue of Harrow, by the way, somewhere I have prosecuted many times in the past, our ability to plan the remediation work to deal not only with issues such as RAAC but with ongoing issues, such as whether the lift works and whether we are ensuring that the heritage of some of these buildings is protected, has been immeasurably enhanced by the fact that we have significant additional funds, which means that you can plan. You do not simply have to say, “What is the budget for this year? How can we get through it?” You can plan. By the way, not only is it welcome to have additional money, but it means that that money will go further. By planning, you can use it in a more efficient way.

I was pleased. I recently went to Bristol Crown Court, which has had something in the order of £9 million spent on it, but, my goodness, we need that money to be spent on it. It is getting every one of those courtrooms in action, which is how we will drive down the caseload. That, in turn, means the throughput in the court is improved, which, in turn, means that the pressure on prisons is improved, because you have fewer people on remand—that is to say in pre-trial detention—so that means less pressure on the system overall.

The Chair: You have mentioned women and girls, but, on victims generally, the Victims and Prisoners Bill will put the Victims’ Code into legislation. I am a little puzzled as to whether that will really be effective if the code has not been observed by those who need to until now.

Alex Chalk MP: It is worth reflecting how significant the code is. When I started prosecuting—I prosecuted and defended, but I principally prosecuted—the standard operating procedure went a bit like this; I am exaggerating slightly to make the point. Broadly, it was, “Right, so you’re a complainant in respect of a serious sexual allegation. Come to the police”. You will make your statement. The police officer says, “Thank you very much. Sign here. Brilliant. Can we have some dates to avoid, please?” “Yes, okay. Here are my dates to avoid”. “Great. We will see you later”.

They then get a call from the Witness Care Unit: “You are in court, the Old Bailey, on Monday. Please turn up”. That complainant then receives a copy of their statement, gets an opportunity, hopefully, to reread it and then is in court, straight to being examined-in-chief by the prosecutor and then, potentially, subject to a very searching cross-examination by defence counsel. The overwhelming feedback was that that was a very forbidding experience.

It is true is that you could still have, back in the day, achieving best evidence, so video-recorded evidence, but it is worth reflecting how the Victims’ Code has transformed that experience. I will give some brief examples. First, there is the entitlement to be kept updated about the progress of the case. Secondly, there is the entitlement for court familiarisation visits, so you can get a sense of what it is all about. Thirdly, there is a right to be told about special measures applications, so to

give your evidence over a link, or potentially have a Section 28 pre-recorded evidence, or potentially to give your evidence behind a screen. Fourthly, there is a victim's right to review in the event that the CPS decides that it wants to reduce the case from rape to sexual assault, plus meeting the prosecutor and making a victim personal statement. I could go on. The point is that it is night and day. Your point is, presumably, "Yes, this is all very good", about enforcement.

The Chair: It is about enforcement.

Alex Chalk MP: Exactly, yes. To your point that, "This is all well and good, but how do you go and enforce it?", the balance that we have sought to strike is that, because these entitlements need to evolve over time but you want them to have some statutory basis, we have said that the principles that underpin this code should be in statute. To ensure that there is sufficient flexibility so that you do not have to wait for a legislative slot before you can make any tweaks to the code, we think that the Code itself should sit atop these fundamental principles.

To your question about how you go about ensuring that people are aware of it, events such as today—

The Chair: It is that they actually comply with it.

Alex Chalk MP: Yes, exactly. There will be a duty, first of all, under the code to ensure that relevant stakeholders—chief constables and various people—promote it, but also that there is a requirement on Police and Crime Commissioners to monitor compliance with the code. That means that, if a local force—I am sure it would never happen in Gloucestershire, where I am from—had perhaps not done what it ought to have done, that police and crime commissioner will publish that. Then Members of Parliament there can hold police services and other agencies to account in that way.

We do not want to create a whole load of satellite litigation where finite public resources are being mopped up in endless litigation. We want to ensure that the profile of the code goes up, its utilisation goes up and people are held to account for their ability or inability to abide by it. That is the proper balance, and that is what ensures that victims are protected, rights are upheld and resources are properly allocated.

Q2 The Chair: I do not want to suggest for a moment that I do not support there being a code and imagination being used to protect victims and witnesses. Indeed, I am aware of a case where a very vulnerable witness was allowed to wear a wig even though she was also protected by a screen, because she was concerned about somebody seeing her.

Finally, can I ask about immigration legislation? You have said that you are prioritising operationalising immigration legislation. I wondered where the division was between the MoJ and the Home Office.

Alex Chalk MP: “Operationalising” is a horrible word, isn’t it? We know what it means, so forgive me for using it. The division simply depends upon the extent to which the legislation touches on each of our departments. As you know, broadly speaking, the legislation operates to ensure that an application for asylum is inadmissible by dint of the fact that someone has arrived illegally. As you know, that is the broad principle.

The 28-day period is relevant to me because, if people make an appeal against the original refusal, that goes to the Upper Tribunal, but that only crystallises in respect of the person who is in detention. The detention issue is a matter for the Home Office. Does it have the accommodation and so on? That then creates a pipeline of people who could make appeals to the Upper Tribunal. I then need to work, respectfully and professionally, with the judiciary on how we ensure that Parliament’s will is enacted there.

I am not spilling state secrets when I say that I will be sitting with the Prime Minister and indeed the Home Secretary to look at how we are ensuring that the system is prepared in the event that the Supreme Court rules in the way the Government are keen for it to rule. It is a matter entirely for it, operating independently. We are prepared in that way. We simply do the bits in our lane and the Home Office does the bits that are in its lane.

The Chair: We will resist the temptation to follow the point about accommodation for asylum seekers.

Q3 **Baroness Henig:** Thank you very much for coming here this morning. We are extremely interested in the interchange we are going to have. My question is about one of the recent reforms you have announced. That was following a couple of high-profile cases where defendants refused to come to court for sentencing. The Government announced that, in the future, defendants would be forced to appear and that reform would be considered—it is the usual term—when parliamentary time allowed. Would the Victims and Prisoners Bill be used as a vehicle for that reform? If not, do you have anything else in mind?

Alex Chalk MP: You will understand that I do not want to upset the Speaker of the House and so on, so there are limits to what I can say. I can say that we will legislate in the coming Session and get it on the statute book before the general election. That is the important point, I hope.

To digress for one second, if I may, we are clear that there is a proper public interest, and it strengthens the rule of law, for victims to understand that those who have shattered lives, betrayed trust and destroyed families should be in court to hear society’s condemnation expressed through the sentencing remarks of the judge. I remember being in the Old Bailey at the time of the Adebolajo case. Do you remember the case about the young fusilier who was very sadly murdered? I remember that in that case there was a concern about some people seeking to use the sentencing hearing as a propaganda exercise.

The sentencing judge understands the dynamics of what has taken place in that courtroom, how the defendant has behaved and how the family's concerns need to be properly accounted for. We think it is for the sentencing judge ultimately to make the call as to whether the person should be in court. Equally, we want there to be no ambiguity. If the judge, in the exercise of his or her discretion, thinks that that person should be in court as a matter of basic natural justice, he or she should attend.

We cannot have a situation where you have the likes of Thomas Cashman, who you will recall from the Olivia Pratt-Korbel case, and individuals from other cases, such as the killer of Zara Aleena, saying, "I'm not turning up as a matter of choice". We want to ensure that, after the verdict of the jury, as that person is sitting down in the cells, speaking to their brief and saying, "Do I have to turn up for the sentencing hearing?", that brief should be saying to them, "Yes, you should. Yes, you must. That is the law of the land and the judge has made that order".

Baroness Henig: You say that something will be done in the next Session. I cannot prophesy, but it is perhaps likely to be a shorter rather than longer Session. We do not know. You are hoping for fairly quick progress. Will that include any consultation? It does not seem to me that there might be much time for that.

Alex Chalk MP: Respectfully, that is a very fair point. There is always a balance about acting decisively. One person's decisively is another person's knee-jerk, of course. It depends which side of the debate you are on. We think that there is a proper public interest in acting promptly, for the reasons that I indicated, because copycattery—that is not a word, but you know exactly what I mean—is a real concern.

I hope it is of some reassurance to this committee that I take very seriously my duty to consult with the judiciary. I have enormous respect for the judiciary in this country. It is not chauvinistic or nationalistic to say that we have some of the finest judges anywhere in the world; they are of enormous intellect and unimpeachable integrity. I speak to them, and I hope this committee will feel able to acknowledge that I have calibrated this measure as I have—in other words, not to make it an automatic, mandatory, in-all-circumstances crime not to attend—to reflect the fact that I had these conversations with the judiciary and I have confidence in their ability to do what is right on the facts of the case in front of them. I hope the calibration of this measure is indicative of the sensible dialogue that takes place with the judiciary already.

Baroness Henig: There will be dialogue and consultation? It is already taking place?

Alex Chalk MP: It has already started. It is already happening, yes. It is happening at pace. If you have those sensible lines of communication, you can get to the point quite quickly. The point, very simply, is that, yes, there is a proper interest in getting these people in court. Yes, there is a proper interest in ensuring that the discretion of the court is upheld. That is, broadly, where we have got to. That conversation does not actually take very long.

The Chair: I suspect that, if the Government do not come forward with amendments to the Bill in this connection, there will be amendments from elsewhere in one or other House.

Alex Chalk MP: Of course there will. That, if I may say so, reflects the public outrage. We, as a country, quite rightly want to ensure that people have fair trials. That is absolutely right. You cannot say whatever your private feelings about a defendant are until the verdict comes in, but once that verdict comes in they must answer for their crimes. That is the way you keep public confidence in the system, and that is why we are bringing in this measure.

The Chair: We will have a change of subject with Baroness Chakrabarti.

Q4 Baroness Chakrabarti: Welcome, Lord Chancellor. I also welcome your comments in support of the judiciary and judicial independence. None the less, even courts are imperfect. My question is about expert witnesses and the potential need for further regulation of expert witnesses. Inspiring this question are two scandals to which I have been alerted by practitioners, one in the criminal context and the other in the civil context.

In the criminal context, I am told that it is now not uncommon for prosecutors to call recently former police officers and even serving police officers as so-called expert evidence in relation to trials for violent crime, particularly of young black men, where the expertise is in relation to drill music, a form of popular music. The expert makes suggestions that listening to certain types of music makes you more likely to be guilty of crime, including crimes of joint enterprise. We know the concerns about joint enterprise.

The example from the civil context comes from the family courts. Practitioners are increasingly alarmed—and we have an expert on this committee—at the use of expert witnesses who are unregulated, without particular psychiatric or psychological qualifications to advise as experts on the controversial concept of parental alienation. The question relating to both is whether it might not be time for some statutory regulation of when expert witnesses are appropriate and whether they should be appropriately regulated.

Alex Chalk MP: Thank you for that question. At the beginning of your remarks you mentioned that it is important to respect the judiciary. That is my starting point in all this.

I remember as a practitioner thinking specifically about the admissibility issue you are referring to about drill music. I remember prosecuting a case involving two killings in London, one in Peckham and one at the SeOne nightclub in London Bridge. Some of the evidence that I sought to admit related, funnily enough, to some of the music that the defendant had sung. It was music boasting about being a hitman and our case was that he was a hitman. The judge ultimately decided not to admit that evidence. I appreciate that that is lay evidence, not expert evidence, but I will come to the specific point. His decision was that that material was more

prejudicial than probative, and he ultimately declined to admit the evidence. Of course, we accept that. That is a ruling of the court.

The point you make, a proper challenge, was considered carefully by the Law Commission, as you are aware. I think it was David Ormerod who made some recommendations about that statutory test. I hope I am not misquoting him, but the broad thrust of what he was saying is that there ought to be a statutory test that says that expert material should be admissible only if it crosses a threshold of sufficient reliability. That is, in plain English—sorry to be a bit blunt about it—to avoid quackery getting into court, essentially, and cod experts coming in.

Although the Government in 2013 declined to do so, David Ormerod acknowledged that that test had, in any effect, been imported by the Practice Direction in the criminal procedure rules and indeed in the CPR. Anticipating that this question might be coming, I dug those out. The Practice Direction in the criminal procedure rules says this: “Expert opinion evidence is admissible in criminal proceedings if, in summary, it is relevant;”—we know that—“it is needed to provide the court with information likely to be outside the court’s own knowledge and experience; the witness is competent to give that opinion and the expert opinion is sufficiently reliable to be admitted”. You will remember that phrase. That was the one that David Ormerod had mentioned in his 2011 report.

I will not read it all out, but it goes on to say that “factors that the court may take into account in determining the reliability of expert opinion”, be it on drill music or whatever, “and especially if expert scientific opinion, include the validity of the methodology”—this is (b)—“the extent to which the expert’s opinion is based on material falling outside the expert’s own field of expertise”, so in other words if he is just nicking this, effectively, from someone else, “whether the expert’s methods followed established practice in the field and, if they did not, whether the reason for the divergence has been properly explained”. In fact, it goes from (a) through to (i). I have just picked out some.

There is a similar situation for the Civil Procedure Rules. I certainly will not read all that out. For the purposes of the record, it is set out at Practice Direction 35.

The point is this. The material is already there for somebody who seeks to object to the admissibility of evidence to say, “Look, Your Honour, my Lord, this material does not satisfy the Practice Direction. Frankly, it is entirely specious. It is based upon a false premise. This is entirely synthetic expertise”, and the court ought to decline to admit it.

Finally, on the civil admissibility of this psychological evidence, that is precisely what the courts are doing. In a case that I dug out recently—the case of GB, from memory—dad was suggesting that mum had been involved in parental alienation and suggested that, “I, dad, want to call evidence from a psychologist to suggest that there has been this parental alienation”. The district judge, at first instance, said at a case management hearing, “Okay, you can admit it”, but the court on appeal was scathing of that decision and decided to overturn it. At paragraph 21, it

said: “The expert was being invited expressly to provide an opinion about parental alienation. In the judgment of this court, that is outside the expert’s remit. The decision about whether or not a parent has alienated a child”—I appreciate that Baroness Shackleton will know a lot about all this—“is a question of fact for the court to resolve and not a diagnosis that can or should be offered by a psychologist”.

From our point of view, the noble Lord in my department, Lord Bellamy, is looking at this issue with DHSC, because we think it is right to have another look at it, but I hope the committee will feel reassured that, in the short term, the judiciary is taking very seriously issues of admissibility of this evidence to avoid precisely the issues that the noble Lady rightly points out.

Baroness Chakrabarti: I am very grateful for that answer. I hope, Lord Chancellor, that you will keep an open mind, given ongoing concerns by serving senior practitioners that there are ongoing problems in practice, and they are both gendered and racialised in the examples that I gave.

Alex Chalk MP: I will certainly be listening very carefully. Given that you have raised it, I will make sure that my ears are particularly pricking up for that. I am alive to the issue and I will continue to keep an open mind.

The Chair: Can I raise something else about expert witnesses, just to put it in your mind? They can be very much affected by low legal aid rates and delays in payment. It means that fewer experts in certain fields are available, because they simply cannot afford to be. We talk a lot about legal aid rates in connection with legal practitioners. I would just like to add that in your mind as an issue.

Alex Chalk MP: Respectfully, I completely acknowledge that. I know, as a practitioner, that there have been occasions where the defence wants to get a psychiatrist, for example, and they cannot get the specific expert they want because the fees are not there. Can I take this opportunity to give a massive plug for the fact that we care hugely about legal aid? We think this is critical to the safe running of a fair, decent, secure and prosperous society. I am pleased that we are putting in up to £141 million more into the criminal legal aid system.

I am pleased to be able to make an announcement today, if I may, seeing as this is a hook for me, on Section 28 cases. As you will recall, this is where complainants give their evidence and it is pre-recorded, so there is not the delay. They can be examined-in-chief and cross-examined. That can be recorded in advance. The fees were too low in the past, and I am pleased to be able to announce that I have decided to increase the fixed fee for Section 28 cases to £1,000 plus VAT. That is important, because I know that, if you are defending in that case, you need to have read everything, not just her statement. You need to have read the unused material and the other witness statements, so that you do not have the appalling situation of her, having given her evidence and been cross-examined, having to be asked to come back for further questions that the defence has not been able to pose.

I hope that is welcome news. It is intended to send the most powerful signal possible that we value legal aid practitioners. We know the importance of their work. They ensure that the guilty are convicted, the innocent walk free and the public are protected, and we want to resource them appropriately.

Q5 **Baroness Shackleton of Belgravia:** Thank you so much for coming. That is very welcome news. May I add to your shopping list, when we are talking about expert witnesses, independent social workers? They do the work of a judge, or try to do the work of a judge, by looking at both sides of the problem and interviewing the children. There is a real paucity of them, a huge waiting list to get them. The quality of them is incredibly variable and they are not regulated properly. Because they are paid so badly, there are very few people coming into the profession. The courts rely on these people to help them make the right decisions.

Alex Chalk MP: Thank you very much for that. I have noted the issue of independent social workers. Coming from you, it has the validity that it requires, so thank you very much indeed.

The Chair: I should pick up the hook that you gave me to say that obviously we welcome what you have said about legal aid rates, but it will be a continuing problem. We have not actually solved it all.

Alex Chalk MP: Not at all.

Baroness Shackleton of Belgravia: But let us be grateful for small mercies.

Alex Chalk MP: You are right. I understand that. Lest we forget, the means test review is important. I know there will be people on this committee who say that it should have happened a million years ago, but it has happened. When it is fully rolled out, that will mean 6 million more people coming within the scope of legal aid. It means that under-18s do not have to do the means test review. That person who is the alleged victim of domestic abuse can get that protective order, the non-mol or the occupation order without having to worry about that. It means that the parents who are facing a challenge to withdraw treatment for their child come within the scope of legal aid.

This is really positive and, as I say, it is intended to be an important signal of the importance we attach to this thing. I remember, as a practitioner, having to read newspaper articles about certain people saying that they were going to derail the gravy train of legal aid and lampooning us as legal aid barristers. It was wrong then and you are not going to hear it now.

The Chair: Rather than using my own experience, I will say that, as a committee, we have heard from solicitors that they can only do a certain amount of legal aid work; they have to spend time doing other work in order to fund the legal aid work. It is not a satisfactory situation, but I have indulged myself now on that.

Q6 **Baroness Sanderson of Welton:** That is welcome news. It is nice to see you. Thank you for coming today. My question is about the independent public advocate or the

independent public advocate panel, as it is now, and whether it will have power to compel evidence, which I know is a slightly disingenuous question, because, as I understand it, I do not think it does at the moment.

The concern is that, if the advocate or the advocate panel is going to be something more than signposting and if it is going to give victims a voice, which is definitely what it is there for, it will not have the trust of victims groups if it does not have that power to compel evidence. It is something that groups from Grenfell and Hillsborough are following very closely, because they do not want what happened to them to happen to others. It is a fundamental part of the panel and the constitution of the panel that it has that ability. I would be interested to perhaps understand a bit about why that might not be the case.

Alex Chalk MP: Thank you for that question. The starting point, which is an uncontroversial starting point, is that, in the agony of that moment after an appalling tragedy, be it Grenfell or Hillsborough, families are reeling and having to pick up the pieces potentially of having lost loved ones or finding themselves without a home, trying to navigate the thicket of local bureaucracy about how they get some immediate support or indeed even get the prescription that they might need because so many of their belongings may have been destroyed. In the agony of that moment, there needs to be practical support. That is the first thing that we want the IPA to be able to do.

Secondly, the whole system then kicks in and you have inquiries, inquests and who knows what. You have people talking about this in Parliament. The families are sitting there, asking, "What on earth is going on? There is this huge amount of noise and what about us? We are in all this and yet now you have all the big cheeses talking about it. Where do we stand?" We want to ensure that their advocate is there to explain, not just to signpost, and sometimes, if necessary, to pick up the phone to the coroner or whoever to say, "Remember these guys. Remember to stand up for their interests".

Here is the important point. We should not misunderstand or mis-learn the lessons of history. I will come back to the Hillsborough case in a minute. Let me set out the principle and then I will explain why the Hillsborough case supports the argument. It would be no kindness to victims and would not be supporting them if the confusion was added to. Let me explain what I mean by that.

We have a system at the moment whereby, to get to the bottom of what happened in a specific case, to get to the justice and provide the answers that families so often properly say that they want, there will be various organisations that might do it. That could be the coroners, to understand the when, how, who, what and so on, or it could be the public inquiry. If you set up the advocate to be, in effect, a rival investigator, that risks not providing some light, clarity and reassurance but adding to the confusion.

I have thought about this with some care. You could literally have a situation of rival investigations. You could have an independent public investigator saying, "We need

to get hold of all this information from the building company that provided the cladding”, or whatever. You could have the coroner saying, “We need that”. You could have a situation where there are legal proceedings between one and another for production of certain documents and the poor families left in the middle, saying, “What on earth is going on? Who is actually in charge of trying to get to the bottom of this case?” Adding to that could create confusion and disarray. That could, ultimately, create scope for a huge amount of litigation, which I do not think is suitable.

There are those who say, “Hang on. We never want to see Hillsborough happen again”. We will recall—I remember this, as will Lord Blunkett—that one reason why we were able to get to the truth in the Hillsborough case was because the Hillsborough Independent Panel was set up in 2012, you remember, with Bishop James Jones and so on. They conducted this important inquiry after the previous inquests had taken place, years and years before. They played a critically important part in allowing Theresa May to then reopen to have the second inquests, but we must not mis-learn the lessons of history.

The difference then was that there were no parallel proceedings. There was no inquiry. There was no inquest, so they could get on and do what they wanted to do. The very real possibility, and indeed likelihood in future cases, is that you will have a coroner stepping in to do what the coroner needs to do, or a public inquiry. It would be quite wrong to deliberately engineer a situation where you had rival investigations taking place at the same time. That would be confusing.

We think that the proper balance is to ensure that there is someone there to stand up for victims, to ensure that their interests are properly considered and that they become interested parties, if indeed that is the appropriate thing. Also, they can stand up by speaking to RBKC, or whatever the local authority is, to try to support them in getting housing and so on. We do not want that critically important role to be eclipsed or confused by a role to which they are less well suited. Those are our representations on that point.

Baroness Sanderson of Welton: I understand your arguments and I take the point. Bishop James Jones’s review was not statutory so did not have the power to compel, but it did, nevertheless, get the answers, which is great. However, if there is a scenario where something happens that does not result in a statutory inquiry but involves the need for the independent public advocate panel, there is then the possibility that there is nowhere where evidence can be compelled, because there is not a statutory inquiry.

I think you underestimate the levels of distrust in authority from people involved in scenarios like this. This is a panel that is there to represent them. I take your point about confusion, but there could be a scenario where the victims feel that they do not have the power or are not being represented enough. You talk about justice for, not to; we talk about doing justice with, not to. They might not feel that this is with them.

Alex Chalk MP: Can I respectfully agree with every syllable of what you have said? The only slight gap between us is how you best ensure that families feel that they have agency to be represented in that critical decision about statutory versus non-statutory and so on, without creating the confusion. That point is well understood, and we are looking intensely and intensively, including speaking to Maria Eagle and others, about how best to do that.

I am reasonably confident—famous last words—that we have found a way through that takes proper account of the, respectfully, entirely reasonable points that you make to ensure that, on issues of whether inquiries should be statutory or not statutory, there is a proper role, which does not create confusion but creates accountability and agency. I cannot say too much now, because we still have to announce all that. The points that you make are well understood and there is a way through. The only point that I, respectfully, want to make is that we have to make sure that, out of an abundance of wanting to do the right thing, we do not inadvertently create confusion.

Baroness Sanderson of Welton: I take the confusion point.

Alex Chalk MP: You still have that lingering issue. I agree with that lingering issue. We think there is a way to get through it. More on this anon.

Baroness Sanderson of Welton: That is more welcome news. Thank you very much.

Q7 **Baroness Prashar:** Morning, Lord Chancellor. I would like to declare a couple of interests before I ask my questions. One is that I am an active member of the All-Party Parliamentary Group on Penal Reform. Some 25 years ago, I was chair of the Parole Board. A great deal has changed since, but inevitably my questions are about parole. They are in two parts. The first is about how the changes that were introduced in June 2022. How are they working in practice. Who exercises the responsibility? Can you explain to me how it actually works now and what account is taken of the Parole Board's recommendations?

Alex Chalk MP: Forgive me for turning to my notes for a moment to make sure that I get the statistics absolutely correct. Since June 2022, as you know, the policy framework was updated. In fact, that came into force on 17 July 2023. That applies to all outstanding Parole Board recommendations. This, by the way, is about moves to open prison.

Baroness Prashar: Indeed.

Alex Chalk MP: The position is that, under the terms of the policy, the Secretary of State will accept a recommendation from the Parole Board for a move from closed to open conditions where the prisoner has made sufficient progress during the sentence in addressing and reducing risk to a level consistent with protecting the public, he or she is assessed as a low risk of abscond and there is a wholly persuasive case for transferring. That is the third one. In terms of who actually advises, the decision is taken in the majority of cases by senior officials in HMPPS

after a full review of the recommendation of the Parole Board to ensure that the criteria are met.

In terms of statistics, in Q1 of this year, 15 recommendations to move to open were accepted; 75 were rejected. In Q2, 30 recommendations were accepted; 89 were rejected. The figures for Q3 are not available, but I can say that the balance is shifting more towards accepting more of the recommendations, but there is this lock, as I have indicated.

The only point I would make about this—I know that you, of all people, will well understand it—is that I receive many letters from victims' families about the anguish they feel when people who have, as I say, destroyed their families and lives are moved into open conditions. Let me be clear: overwhelmingly, the Parole Board does a really good job. There is a proper public interest in ensuring that, in appropriate cases, there is just that second look to ensure that the public interest is being met.

Baroness Prashar: Why has there been such a sharp increase in the numbers that are being rejected?

Alex Chalk MP: On the contrary, in fact the numbers that are being rejected seem to be on a downward trajectory as a proportion of the whole. It is certainly true, to your question, that, in Q1, there were 15 recommendations to open that were accepted and 75 that were rejected. But the point I was making is that, since then, it seems that the balance is changing significantly. I do not think they have been scrubbed or gone through the final quality assurance, but you will see, as the further statistics emerge, that there is a rebalancing. That is probably the way I would put it.

Baroness Prashar: The Parole Board, inevitably, has expertise in risk assessment, but you said that these are now considered by senior officials. What expertise do they have? What considerations do they take into account?

Alex Chalk MP: The considerations are very transparent and are set out. You are absolutely right: the Parole Board has expertise. Equally—this rather goes back to the point that was made with Baroness Chakrabarti—expertise has to be apt to be considered and understood by lay people as well and has to be credible. It is reasonable to weigh that up.

The criteria are set out. The first is that the prisoner has made sufficient progress during the sentence in addressing and reducing risk to a level consistent with protecting the public from harm.

Secondly, he must be assessed as a low risk of abscond. You only have to look at the news recently to understand why that is a proper consideration, although I am bound to say that the level of absconds are around a quarter of what they were in 2010-11. Every time that happens, it undermines or risks undermining public

confidence, so that second issue can be properly considered and considered notwithstanding the expertise that you rightly refer to.

The third is that there is a wholly persuasive case for transferring that person to open conditions. The balance we have struck is to acknowledge and respect the Parole Board, which has expertise, but also to ensure that there is the second check of a Secretary of State to look at whether the case has been met, mindful of the fact that I receive very many emails every week from families who—how can I put it?—take a different view.

Q8 **Baroness Prashar:** Can I move on to the second part of my question, which is the provisions in the Victims Bill? They contain some changes to the Parole Board. How do you envisage these working in practice, and what does that mean for your role?

Alex Chalk MP: There are three aspects to what we are proposing. I have the legislation here. The first aspect relates to who should sit on the Parole Boards. We have indicated that, in certain cases, we think there is public interest in ensuring that those with a law enforcement background can sit on that Parole Board. That is the first thing.

The second thing is what I call the ministerial check, which is the language that I prefer to use, because it more accurately reflects the proposals. That is to say that, where a recommendation has been made for release, the Minister can say, “Hang on. There should be a second look at this”. It is not really a permanent block, because that would not be consistent with Article 5. No Minister is a medieval monarch. We cannot keep people in custody for ever, but it is legitimate to say that there ought to be a block and for that to be considered again.

To ensure compliance, you will see that there then is a right of appeal for that individual against that ministerial check. The net effect is a second pair of eyes. I considered this very carefully when I came into the department, because I knew there would be concerns about it. We of course want to strike the right balance, but it is proper and appropriate, so long as the operational stuff works okay. That is, ultimately, what is critical to it.

If there is that block, I accept that you cannot then have it rolling on for years and years, where this person is then in custody, awaiting their appeal—which they will inevitably make, by the way—against that decision. It comes down to how this is operationalised. I am very mindful that it has to operate in a way that meets the balance of public safety and the rights of individuals. I am very alive to those points. That is the second thing.

The third aspect, to complete the point, is this business about dismissing the chair of the Parole Board. I mention it now. I am alive to the concerns that have been raised about that. Feel free to ask me a question about it.

Baroness Prashar: That was my question. Why was it deemed necessary that you should have this power to dismiss the chair? It is an independent body.

Alex Chalk MP: If it had been dismissing somebody who literally makes the decisions about parole one way or another, the criticism would have been unassailable. What is actually said in this is as follows. If anyone is following, this is Section 47(7). The point that is made about the chair is that, subject to paragraphs 2 and 3, the chair has the following functions: to lead the board in the general exercise of its functions, to chair meetings of the board, and to ensure that a strategy is in place, et cetera. In effect, they are there to do a lot of the administration, rather than to make the decisions.

There is an argument for saying that, if that person is not doing their job as they should, there should be a mechanism to remove them. That having been said, the Parole Board operates in a sensitive space, and I am sensitive to the points that have been raised about this. I can tell you that this issue is being kept under careful review. That is as much as I can sensibly say at this stage.

Q9 Baroness Prashar: This is the final question from me. Some of the changes proposed impinge on the independence of the Parole Board. Do you have a view on that?

Alex Chalk MP: I do not think they do. The single most significant concern is, “Hang on. The Secretary of State is effectively blocking the decision of the Parole Board to release”. That is, inevitably, the thing where people go, “Hang on. What’s all this about?” If you look carefully at what the Secretary of State’s power is—as always, going to the source material is the critical thing—in effect, the key power is to step in in respect of a narrow suite of cases. This is murder, rape, causing or allowing the death of a child and the terrorism cases.

It is not, as some people might want to say in rather lurid terms, effectively the Secretary of State saying, “I’m going to exercise my power to keep this person in custody in perpetuity”, going back to my medieval monarch point. It absolutely is not that. If you look at the wiring of this proposed legislation, by providing that right of appeal that individual can immediately appeal against that decision, which would have to be in there to be compliant with Article 5, by the way.

In effect, it comes to this. We should always look at the practicality, rather than necessarily what people might want to say about it in overwritten articles. The practicality is that you have the Parole Board saying, “We recommend this”, in these very serious cases, the Secretary of State saying, “No, I’m concerned about it for the following reasons”, as set out in the legislation, that individual then saying, “I’m appealing against that block”, and then you have the Upper Tribunal considering it. Incidentally, we have spoken to the Judicial Office, and it thinks that it is more appropriate for it to be the Upper Tribunal rather than the Court of Appeal Criminal Division.

There is a proper basis to allow a ministerial check in those most serious cases for the Parole Board to know that it is not all on it. I am in the business of saying that the Parole Board does a good job. In the overwhelming majority of its cases, it gets the decision right. In the most serious cases that have the greatest impact on public

confidence, I do not think it is unreasonable to introduce a second set of eyes. That is what this legislation is about.

Baroness Prashar: I am glad to hear that you have confidence in the Parole Board and the work that it does. Am I right in thinking that the statutory power to remove the chair is under consideration or you are going to keep an eye on it?

Alex Chalk MP: There are all sorts of aspects of this legislation that are under consideration. That is a point that has been raised with me and it is something that I continue to have an interest in.

The Chair: Going back to the figures that you gave us for recommendations accepted and not accepted, could I ask that, when the figures for quarter 3 become available, they get sent to us?

Alex Chalk MP: Certainly, yes.

Q10 Lord Blunkett: Lord Chancellor, thank you for being with us. As you will have gathered, this is not an adversarial environment, so I am hoping that you might be able to make a second policy announcement relating to imprisonment for public protection. I have accepted my responsibilities and I understand entirely the pressures on you, although it is unique in the sense that, whatever steps you take, I can almost guarantee that the opposition parties will not take political advantage of it, which is at least some comfort.

I wonder whether you could say a word or two on the back of what you said briefly about the second reading of the Victims and Prisoners Bill and a week ago on Monday, when you made your Statement in House of Commons. So that we have it on the record, you said, "I am looking at options to curtail the licence period to restore greater proportionality to IPP sentences". This, by the way, would apply to two strikes, which is the legislation under which there were indeterminate sentences prior to 2005. I happen to be dealing with a prisoner who has been in for 34 years under that previous legislation who did not commit murder or rape.

I wonder whether you could say a little more about your hints that you will reduce the licence period. Do you have anything further to say about the action plan and the way in which the Probation Service should support prisoners who are endeavouring to put their lives back together after a long period in prison, as opposed to being a check that results in a return to prison on breach of licence?

Alex Chalk MP: Lord Blunkett, I hope the committee will allow me to say at the beginning that I warmly welcome the approach that you have taken to this, which is in the finest traditions of our democracy when things go wrong. I absolutely accept that this was introduced with the best of intentions to protect the public, but it was not right. I daresay that I will do things that are wrong, but you have shown, if I may say so, great courage and decency in acknowledging it in the way you have. I am happy to put that on the record.

I was a practitioner when these orders were sought. This is a very brief anecdote. I will never forget being in court with a really nasty GBH case. Someone had been

glassed or whatever, and this guy had a record of previous convictions. The case was done in about two and a half days. It was at Southwark Crown Court. The judge said, "I'm going to proceed to sentence. Do we have a PSR?", a pre-sentence report. He did not want to adjourn it for a pre-sentence, so he said, "Let's do a stand down report to consider the issue of dangerousness".

Down in the cells, for two hours there was a discussion between the probation officer and the convicted offender, as he then was, about whether he was dangerous. We all waited in court. He came up. The judge proceeded to sentence. He made a finding then of dangerousness and imposed an IPP. Of course, that moment, two hours later, could make the difference of that person remaining many years in custody beyond the end of that minimum period. I remember it. I think we all acknowledge that they remain a stain on the justice system. I am very keen to address them as well as I can.

You kindly set out what I said in the Statement. I want to be as helpful as I can to this committee, but there are necessarily parameters within which I must operate. You will understand as well as anyone that, whatever representations I have made, there has to be collective agreement to all of them. I am confident that we will get collective agreement, but we have to take these things in stages.

In the spirit of being as helpful as possible, let me say this. You will recall that the Justice Committee produced a very useful report in 2022. There were 12 recommendations. The Government accepted or partially accepted eight. They refused three, and one was not applicable because it was a matter for the Parole Board. The three that were refused included one that I continue to agree it was right to reject and one that I think we should be looking at again.

Let me deal with the first one. In the interest of being as clear as possible, I do not accept the suggestion, which initially, by the way, had commended itself to me, that you resentence everyone. Initially, I had thought that that might be a sensible idea, but the more I have reflected on it, the more I think that would not be the right thing to do—for this reason.

The fact remains that there are around 3,000 people in custody either on their original sentence or because they have been recalled, where the expert Parole Board has decided that this person is dangerous. If you have a resentencing exercise, the judges, doing their duty, will be obliged to consider the facts of the original matter for which they were convicted, which no doubt would mean a great number of people potentially being released. How on earth are the judges supposed to deal with the fact that the Parole Board has decided that this person is dangerous? If released, that means there are 3,000 people, having been convicted of serious matters, who could go on to commit appalling crimes. Any one of us in this room or people who we know and love could be attacked or worse by people who are released in this kind of mass release. That does not commend itself to me.

The tragedy, I accept, is that the danger that some of those individuals present may have been exacerbated by an iniquitous sentence. But it unfortunately does not get

away from the fact that this person remains a danger to society. That is the first point.

However, the bit that was originally rejected, which I want to look at again, as I trailed in my Statement, is the business about the licence period. What is so wrong, it seems to me, is somebody who has come out because the Parole Board has decided they are safe to be released then living for a minimum of 10 years with this hanging over them. I know people on this committee understand this, but the general public may be less familiar with it. It means that they can be recalled not just for committing a crime but potentially for breaching part of the licence, which could include something—although all these matters are serious—at the lower end of seriousness, such as not attending a probation appointment. People could then be inside for years and years, which exacerbates the problem.

The recommendation was that the 10-year period should be curtailed to five years. There are grounds for looking at a five-year period or even at whether one could go further than that.

The second issue to consider is whether there should be a presumption that the licence should lapse, which could make a significant difference. In the event that a person is recalled because the Parole Board decides it did not want to lapse the licence, when that person gets out there could then be a period after which it sunsets.

There is only so much that I can properly say at this stage, because it is yet to be concluded, but I want to indicate that this has been given the most careful thought. It is also not betraying any confidences to say the Prime Minister himself recognises the iniquity of this situation and is working closely with me to try to resolve it.

Q11 Lord Blunkett: Chair, that is a very full and helpful answer on the licence issue. I very much welcome not only the potential for five years but the words you used about going still further.

We are very short of time, but I just want to follow up on the action plan and the recall facility. There would be universal support for a change in presumption in relation to that recall. You have given a classic example of how someone might end up back in prison on the original sentence rather than being punished for a crime.

I wonder whether you could take this away and look at what might be altered in the way we direct the Probation Service. Where there is alleged crime—it might be taking and driving away—people are being sentenced on the alleged crime, not replaced on the original sentence. There is a feeling of hopelessness, which has been described vividly by the families of prisoners with whom I am in regular touch. That hopelessness and the feeling of being on a revolving door, when they are in the circumstances of trying to rehabilitate their lives, is devastating. We all accept it.

Lord Chancellor, even though there will be a general election within 12 to 14 months, there is a moment when you might go down in history as having done something really helpful to put right something I got wrong.

Alex Chalk MP: That was elegantly and persuasively put. Certainly, on the point you make about recall, anybody who was scrutinising my Statement very carefully will have found a paragraph that alluded to the fact we are looking at that precise issue.

Q12 Lord McInnes of Kilwinning: Good morning, Lord Chancellor. Thank you for coming this morning. I wanted to ask you about extradition and our ability to reassure courts abroad that we are maintaining standards in our prisons in terms of Article 3 of the ECHR.

It is our understanding that earlier this year an extradition did not take place because of a failure to give assurances to a German court and thereby allow extradition. I want to use your new word of today, copycattery. Can you give today assurances and guarantees that we will meet the minimum standards to avoid this happening time and time again and continue to be able to extradite?

Alex Chalk MP: Thank you for that question. Let me just answer as succinctly as I can. First, it is important to note that, as I understand it, that court made no finding of fact. That is an important point.

Secondly, I am happy to restate what should be axiomatic in a fair and decent society governed by the rule of law: yes, of course we want the standards in our prisons to comply with basic British and international standards, as is only right.

Thirdly, it is fair to observe that the rollout of prison places is the largest since the Victorian era. If you look at some of the modern prisons—I am talking about Berwyn, Fosse Way or Five Wells—these are really decent, safe, secure and rehabilitative prisons. Without going into all the detail, when you go into Berwyn there is literally a jobcentre in the jail where people can have a videolink to their employer on the outside. I was in Fosse Way, where there are wonderful workshops where people can learn joinery and woodwork. I spoke to some of the staff who provide the training. They described the resources as being fantastic, and so on.

Yes, there are some older Victorian prisons. That is why there has to be more investment. More money is going into HMP Birmingham and HMP Liverpool. We are building new house blocks in Stocken and Rye Hill, and so on. An enormous amount of work is going on. We are alive to the issue of investing in the estate.

By the way, a really important thing that upholds the decency of a prison is the number of staff and their experience. We accepted every last penny of the PSPRB's recommendation on pay. We are putting £100 million into security so that everyone gets a body-worn video camera. We are ensuring that the attrition rate is coming down, which is really important. We have recruited over 700 in the last period for which figures are available.

Yes, the physical estate matters. We are putting a load of money into it. Yes, recruitment matters. We are putting money into that as well. All of this comes to the issue of the security of the British people and basic levels of decency and dignity.

Lord McInnes of Kilwinning: I just want to come back on the lessons learned from the earlier experience. Part of that appeared to be a lack of communication back to the German court in the particular circumstances. Have new processes been put in place to ensure that in future extradition cases there is an import to providing these assurances in order to avoid the situation we had earlier?

Alex Chalk MP: I understand that is taking place. I want to check that myself, but it is a perfectly fair challenge.

Q13 **Lord Filkin:** Lord Chancellor, thank you very much for your time and for your tone. I want to ask about ECHR and membership of it. Could you just put on the record that you are very alive to the significant and negative consequences for law enforcement and criminal justice if the UK were to resign from the ECHR?

Alex Chalk MP: The position of the British Government, as you know, is that we are members of the European Convention on Human Rights and we are confident that the policies that we have in place and our plans to address some of the challenges facing the British people can be delivered consistently with our membership of the European Convention. People view this question through the prism of the Independent Monitoring Authority (IMA). We would pause to note that the principle of offshoring is not that is said to be inimical to our obligations under international law. That remains the position of the British Government.

Lord Filkin: That is very good to hear. As you know, the Prime Minister made a very clear Statement to the Commons in February that we were and would remain members. Two weeks later, your predecessor effectively said, “We will remain a member unless we decide not to do so”, which slightly undermined the Prime Minister’s Statement. I assume your position about us being members of ECHR is one of principle as well as pragmatism.

Alex Chalk MP: On the second point, this committee well understands that no Parliament can bind its successors, but the position is that the British Government are a member of the ECHR. Incidentally, I went to the Council of Europe recently. It provided a good opportunity for me to engage with my international counterparts on everything to do with prisoner transfer agreements and other issues as well.

That is the position. We need to take this in stages and consider these matters as they arise, but the position of the Government is clear. We believe we can deliver what we need to deliver on behalf of the British people consistent with our international legal obligations.

Lord Filkin: If that is the Government’s position, how does that commitment align with the Illegal Migration Act 2023? Section 3 of the Human Rights Act 1998 does not apply to revisions of this Act.

Alex Chalk MP: I will be rather tedious on this one, I am afraid. As I said, our position is that the legislation is consistent with our international legal obligations and it can be delivered in that way.

As I say, sometimes the question of compliance comes down to the specific circumstances and what is done at a specific time, but the legislation itself is consistent. That is our position. That is the position we are advancing in the Supreme Court. We are hopeful that the Supreme Court will agree with us.

It is worth emphasising that, whether you are talking about the High Court or indeed the Court of Appeal, which overturned the decision in the High Court, what is not in dispute is that the principle of so-called offshoring is consistent with our international legal obligations. Indeed, this is something that you are beginning to hear across Europe, as the continent wrestles with this very difficult and intractable problem, which incidentally engages the human rights of people who are put on boats and trafficked across oceans at serious risk to themselves. As the continent grapples with this issue, my sense is that you will find a growing recognition that offshoring is not inimical to these important principles, which we hold dear in our country.

Lord Blunkett: Without intruding on Lord Filkin's follow-up, could I just pose a question to you, Lord Chancellor? That may well be true, but, in other cases where people are offshored, they are actually processed and, if their claim is upheld, they are then accepted by the host country, not retained by the offshoring country.

Alex Chalk MP: Under this legislation, it is still possible for people to advance some of their human rights claims from that third country. As I say, there is a reservation that, if some of those claims are upheld, that can still be the case, along the lines you have indicated.

I do not want to go down any particular or specific rabbit holes. The central point is this. If I look at the issues that we in the Ministry of Justice have to consider, for example, to ensure that legal aid is available so that individuals can advance a case of immediate risk of serious and irreversible harm, we will make that available. We want to ensure that people have the opportunity to advance their points. In the event that the Upper Tribunal does not agree with those points, we think it is perfectly proper that they should be removed.

I want to reassure this committee that the way we have calibrated and crafted that provision is to ensure that people's rights are upheld while also ensuring that the proper public interest of securing our borders and ensuring we stop the boats is also upheld. We think we can do that and balance those competing interests. The IMA has been deliberately designed to give effect to the rights of those individuals.

Lord Filkin: Chancellor, I will conclude by asking about one element of the question on which I did not get a final answer. As Lord Chancellor, is it a matter of principle that we should be a member of the ECHR?

Alex Chalk MP: As I say, we are a member of the European Convention on Human Rights. This was something we signed up to a long time ago. It provides me with opportunities to speak to my international counterparts. The position of the British

Government is that we can discharge our legislative priorities while remaining members of the convention.

Lord Filkin: I will try to say thank you.

The Chair: Baroness Chakrabarti might explode if I do not bring her in at this moment.

Q14 Baroness Chakrabarti: No, not at all. Thank you, Lord Chancellor, for your commitment to the European Convention on Human Rights. Thank you also for shelving the British Bill of Rights that was mooted by others some time ago as an alternative to the Human Rights Act. We are currently committed to the European Convention on Human Rights and we are not currently, at least in this Parliament, scrapping the Human Rights Act.

Of course, we do not want to scrap it one Bill at a time in bite-sized chunks. I am putting aside matters of migration, on which colleagues have pressed you. Lord Chancellor, you said you are still reviewing aspects of the Victims and Prisoners Bill. That Bill contains a disapplication of Section 3. One hopes that might still be under review.

Again, without touching on migration specifically, that Bill did disapply interim measures of the ECHR. Take the example of the war in Ukraine, where Russia is being held to interim measures. They are an important part of the Strasbourg system. Could I urge you to comment on Section 3 disapplications in principle and the importance of interim measures in the Strasbourg system?

Alex Chalk MP: Thank you for that question. On Section 3, yes, you are right. That is under very active consideration. I suspect I will be able to say more on that in due course during the passage of the Bill.

As regards Rule 39, you are right to say that that power exists. Ultimately, as so often, the issue crystallises at the moment it is or is not used. We have to take this in stages. It is there at the moment. At present, the legislation remains entirely consistent with our membership of the European Convention on Human Rights. We have to make sure we do not rush our fences. We have to take us in stages.

The Chair: I am reluctant to do this, but is it possible for you to give us another 10 minutes?

Alex Chalk MP: Can we take it up to PMQs? I should be on the bench for PMQs, if that is all right. I can stay another five minutes or so. I just need to have enough time to get to the Chamber.

Q15 Baroness Shackleton of Belgravia: May I begin by echoing your feelings about the judiciary? I also need to declare my interest as a practising member of the profession. We should never forget what a wonderful job all our judges do up and down the country. Their job is particularly important when other areas of our fabric—the police, the press, both Houses of Parliament and some members of the Royal Family—are under scrutiny for less than perfect behaviour. Judges appear, to

date, to be immune. We have a trust in them and what they do.

Some of the people who take those appointments in the area in which I operate are taking a 90% pay cut to do it. I am very heartened by the fact you are going to give them better tools to do their job. In some courts, they do not have a colour photocopier. Their lists are horrendous. The back-up behind and the technology is very much lacking. It is a great comfort to me to know that you are fighting their corner, and fighting the corner of people in your profession who do criminal law, because that is way behind what it should be. I am delighted that you are bringing it up to date.

My question is about the Lugano Convention. I know you have been given a hospital pass, because, at the first Select Committee meeting at which we brought this up, the Minister did not seem altogether clear. This was before we left Europe. Your predecessor's predecessor said he was about to do something, and then sadly he no longer had a job.

Your predecessor told me on a Zoom call when I was abroad that he was going to do his best to entice other European and other members of the Lugano Convention to let us in, because there is a mutual advantage for them and us to us being a member. This goes to the enforcement, as everybody knows, of cross-border orders, which make it much easier to do the job because they act as a deterrent against breaching orders. It is very much in everybody's interests, if we can join up with them, that we do. If any, how many people have you persuaded that we can rejoin?

Alex Chalk MP: First, to underscore my point about the judiciary, yes, they do an exceptional job. Yes, they act out of an abundance of public spiritedness. As you say, they often leave very successful practices to serve the law. We are immeasurably stronger as a nation as a result of their service. It is only right that they should have their interests protected. That is all good.

The first thing to say about Lugano is that there were those who feared that us not being in Lugano would cause very significant issues. In fact, we have shown much greater resilience than some had feared. I was in the department at the time and authorised, in my position as the International Law Minister, our application to go into Lugano. As you know, that has not so far been granted.

It is worth just putting on the record what this actually means. This is a point, by the way, I have emphasised when I have spoken to my counterparts; I will come on to that specific point. It is not about giving the UK some sort of competitive advantage. It is not about any kind of à la carte way of getting the benefits of the single market. It is nothing to do with that.

This is about ensuring ordinary citizens can have redress for grievance and can enforce rulings in a way that is manifestly in the public interest. I have a couple of examples. If a British driver were involved in a traffic collision with a German party in the UK, they could sue the German national in an English court, get a judgment

and then want to have the judgment recognised and enforced in Germany, where the German party is. That seems to be eminently sensible.

More in your area, you might have parties who want to initiate proceedings in different courts. If there is a Belgian father and a British mother, and the British mother has returned to the UK, the relationship having broken down, she may try to seize the English court while the Belgian father tries to seize the Belgian court. Lugano helps to avoid parallel proceedings.

Baroness Shackleton of Belgravia: I am not sure that is correct. I will give you an illustration for the family courts. If you have a maintenance order, which is described as a maintenance order and capitalised, under Lugano you can enforce it in every other country. It is about the enforcing of an existing order.

Alex Chalk MP: It is also about jurisdiction. There are also jurisdiction issues as well.

Baroness Shackleton of Belgravia: There are, but there is a forum conveniens argument about that.

Alex Chalk MP: No, there is. None the less, it does assist with issues of jurisdiction, as well as the proper point about enforcement.

You asked about who we have spoken to. Interestingly, when I was first appointed as Lord Chancellor, I raised this with Didier Reynders, the EU Commissioner. He did not say, "Never", but he said, "Not now". He said that there are certain countries that might not be content with that. I made it my business to speak to every country I could to see whether there was any objection.

I will tell you this now. Have I found a single country with any objection? No, not one. I have asked everyone. The Germans are actively in favour. I spoke to our French friends. I said, "Is there any principled objection to the UK joining Lugano?" and they said no. I continued to make these points to Didier Reynders, first on Zoom, secondly in Japan where I saw him, and thirdly in Riga in Latvia. I will continue to fly the flag for the UK.

Baroness Shackleton of Belgravia: That is excellent. Get his signature.

- Q16 **Baroness Meacher:** Going right back to the beginning of the meeting, you set out your very interesting objectives. Do you agree with the Ministry of Justice objectives? The second of those is to reduce reoffending, which for this committee is rather important. If you agree with those three objectives, which are set out in our papers, do you agree there needs to be very significant funding and focus on treatment orders for the very large numbers of people who commit crimes and who have addictions?

Alex Chalk MP: Yes, I do.

Baroness Meacher: Do you share it with your Ministers?

Alex Chalk MP: I do. I have two points. First, do not forget that since 2010 reoffending has gone down from 32% to 24%. Do not forget that in the last period for which statistics are available the proportion of offenders in work six months post release has doubled. That is critical to driving down reoffending.

To your point, yes, that is why we put an additional £500 million into things like mental health treatment requirements and community treatment requirements, which we are now able to roll out across the country. We want to ensure that the most serious offenders, who are dangerous to the public, are locked away for longer. Those who can be rehabilitated should be rehabilitated. That is what we are all about.

Baroness Meacher: It is obviously working.

Q17 Lord Sandhurst: Lord Chancellor, thank you very much for your care today. On Probation Service workload, Ministry of Justice figures show an overall vacancy rate at the end of June of 29%. Justin Russell, the chief probation officer, said that in two-thirds of the cases they inspected, quality was insufficient. He said that 70% of probation officers interviewed thought their caseloads were unmanageable.

In light of that, first, can the Probation Service cope with an increased workflow? Secondly, what are your recruitment targets for this year and next? Thirdly, what steps are you taking to increase retention?

Alex Chalk MP: Respectfully, those questions are incredibly important, and absolutely essential. I hope I can provide some reassurance about recruitment. In the first of the last three years we recruited 1,000; in the second of those years we recruited 1,500; and in the third we recruited another 1,500. Next year, we are recruiting an additional 500. The only reason it is not more, incidentally, is because with new recruits you need to ensure there is sufficient supervising capacity so that you do not hobble the organisation by having the wrong balance and the wrong mix.

Over the coming years, there will be a strong effort to retain. Incidentally, recent retention figures are improving. The reduction in attrition we have noted in prison officers has also been reflected in probation. If you can retain and upskill those individuals, their experience improves, their capacity improves and their ability to manage dangerous offenders in the community improves as well.

The points you make are absolutely fair. We are completely on it. There are lots of resources going into this area. You will see a recovering and improving Probation Service over the coming months and years.

Lord Sandhurst: You had better run.

Alex Chalk MP: I had better run.

Q18 The Chair: It is not quite noon. I have been advised that, unless I ask this question, we cannot get it into the work we are doing at the moment. I heard recently from someone I know quite well who has a family member who has become a probation

officer. His team is working out of Travelodge offices in awful, unhelpful conditions. Can you say anything about the conditions in which probation officers and the whole Probation Service are working? It seems to me that this would have a big impact on retention.

Alex Chalk MP: I am very disappointed to hear that. If you are minded to write to me, I will look at that personally and get to the bottom of what is going on in that case. It does not sound satisfactory to me at all.

The Chair: The last point, which is very important and which I always try to make when we have MoJ witnesses, is to thank the Ministry. Your officials are notably particularly helpful to us in warning us of what is coming down the track and keeping in touch with us.

Alex Chalk MP: Thank you for saying that. They are a good bunch, if I may say so. They work extremely hard. They are dedicated public servants. It is nice to have that public recognition.

The Chair: You can literally run now. Thank you very much.