HOUSE OF COMMONS

Justice Committee

Oral evidence: Work of the Lady Chief Justice, HC 421

Tuesday 26 November 2024

Ordered by the House of Commons to be published on 26 November 2024.

Watch the meeting

Members present: Andy Slaughter (Chair); Josh Babarinde; Mr Alex Barros-Curtis; Pam Cox; Linsey Farnsworth; Sir Ashley Fox; Warinder Juss; Tessa Munt; Mrs Sarah Russell; Mike Tapp.

Questions 1 - 95

Witness

I: Baroness Carr of Walton-on-the-Hill, Lady Chief Justice of England.

Examination of witness

Witness: Baroness Carr of Walton-on-the-Hill.

Chair: Welcome to this public session of the Justice Select Committee, where we are privileged and pleased to have the right honourable Baroness Carr of Walton-on-the-Hill, the Lady Chief Justice of England and Wales, to give evidence to us. Before I formally welcome her, we will begin in the usual way with declarations of interest from Members. Mr Tapp, could we start with you?

Mike Tapp: I previously worked for the National Crime Agency.

Mrs Russell: My interests are as listed on the register; plus I am a member of USDAW and Community. I am on the executive of the Fabian Society. I am a member of the Industrial Law Society and the Employment Lawyers Association, and I hold a current practising certificate as a solicitor.

Warinder Juss: I was previously a solicitor, before becoming an MP. I am an executive council member of the GMB trade union and a member of various APPGs. I think that's about it.

Linsey Farnsworth: I am Linsey Farnsworth. I was a Crown prosecutor for 21 years. I am a member of the FDA union, which is the union for the CPS. I am also a member of other unions, as declared on the website.

Mr Barros-Curtis: Good afternoon. I am Alex Barros-Curtis. I hold a practising certificate as a solicitor, and am a member of the APPG on whistleblowing, and a couple of others, and a member of Unite and GMB.

Josh Babarinde: I am Josh Babarinde, the MP for Eastbourne, and folks will be able to find my interests declared on the register.

Chair: I am Andy Slaughter. I am a non-practising barrister, a member of the GMB and Unite unions and a patron of two relevant organisations, Hammersmith & Fulham law centre and the Upper Room.

Tessa Munt: I am the Member for Wells and Mendip Hills, in Somerset. Everything is declared in the Register of Members' Financial Interests. However, I am also a member of WhistleblowersUK, as a director, and I am part of its APPG. I think I am vice-chair.

Pam Cox: Good afternoon. I am Pam Cox. My interests are as declared on the register.

Sir Ashley Fox: I am Ashley Fox, the Member for Bridgwater. My interests are as declared on the register.

Warinder Juss: I should have mentioned that I renewed my practising certificate this year, but I have not been working as a solicitor.

Q1 **Chair:** Thank you. We very much value our relationship with the senior

judiciary, which is why we are very pleased to have Baroness Carr here today. We shall do things slightly differently to begin with, and hand over to the Lady Chief Justice to make an opening statement to the Committee before we go on to questions.

Baroness Carr of Walton-on-the-Hill: Likewise, we value that relationship very much, Chair.

Good afternoon, and thank you. It is a genuine pleasure to be here this afternoon. As I have said in the past, this Committee plays an important role in ensuring both that the wider public are kept informed and that the Executive and Parliament are held to account. Today gives me the opportunity to speak publicly to the current state of the justice system from the judiciary's perspective, while at the same time, I hope, providing you with the information that you want. I am going to be very brief, because I know that you want to cover a lot of ground.

It was only last January when I appeared before this Committee, but 10 months is a long time in the law. It has been an exceptionally busy year, and although the political landscape has changed, my overarching objectives remain sound: first, to recognise and promote the judiciary's strengths and the value of their work, which we must never overlook or take for granted; secondly, to build judicial unity; and, thirdly, to reduce court and tribunal backlogs while improving timeliness and maintaining quality. Much work has been carried out by the judiciary to progress under each of those three overarching heads: transparency work, parliamentary engagement, international visibility, new or revived initiatives in civil, crime, family and tribunals, with progress on working practices and under One Judiciary; and, of course, my first annual report in Welsh.

We now have a new Administration. It is early days, but I have no doubt that there are exciting opportunities ahead. I am delighted to hear that the rule of law is front and centre of the new Government's commitment, not just that of the Lord Chancellor, but up to, and including, the Prime Minister; but I emphasise that a commitment to the rule of law is not just about respecting constitutional boundaries. That should be taken as read, I suggest. The foundation of the rule of law is a properly funded and properly functioning justice system that delivers for our citizens. Commitment to and compliance with the rule of law is not cost-neutral. Putting it another way, the rule of law is not free. It requires investment.

Investment across the justice system benefits businesses and trade, social welfare and family life, public health and safety, education, housing and equality. I have spent a great deal of time this last year focusing on the importance of the justice system to every aspect of society. The focus cannot be just on crime, though crime may always grab the headlines. In fact, other aspects of the justice system are much more relevant to the vast majority of the population, who will more likely be affected by delays in probate, building or employment disputes, divorce, mortgage payment difficulties, or enforcement problems.

We must celebrate and recognise the areas that are working well—for example, the business and property courts; but I cannot pretend that the picture overall is a rosy one. We have had to grapple with the ongoing prison crisis, which has put immense pressure on the courts and judges. There have been challenges to the rule of law—think of the Horizon legislation—and suggestions of judges fast-tracking riot cases to meet a Government agenda, when listing is a judicial function, to name but a few. We have worked against a backdrop of increasing backlogs, underfunding and staffing issues in both courts and tribunals, crumbling buildings and serious security incidents.

Backlogs, exacerbated by rising demand, in particular in crime, are a constant worry. The practical—not policy—solution, if there is one, lies in a holistic approach across the board: access to justice with available prosecution and defence lawyers, legal advisers, and functioning prison and probation services, not to mention funding to allow the courts to sit efficiently and to capacity. In all jurisdictions, we need experienced, sufficient staff, and IT that works, in buildings that are fit for purpose. Digitisation in civil is incomplete, meaning that only 23% of issued cases will have been digitised by the end of next March, at best. Successful initiatives in family, delivering speedier and more positive outcomes for parents and children, need to be rolled out nationwide. The tribunals, a jurisdiction in massive demand, need basic technology such as recording facilities.

It is important to emphasise what is at stake in not funding the system properly, in terms of not only the daily impact of a lack of resourcing, but the distraction from what should be the real task. That should be planning for, and I would say delivering, a modern, digitised court and tribunal environment fit for the 21st century and truly reflective of our international standing as a global centre of legal excellence. At the moment we are fire-brigading, instead of town planning. Despite all that, the Ministry of Justice is one of the most underfunded Departments across Government, with the resource budget at about £10 billion for this year, and £11.8 billion for next, and that includes prisons. It is a tiny fraction of what is spent on other critical public services.

In the midst of all these pieces there is one positive constant: the resilience and dedication of the judges and magistrates, to whom I pay tribute. Their handling of the summer riot cases is but one of many examples of that, and I hope you will take the opportunity, as you carry out your work, to meet as many of them as possible. Whatever lies ahead, the public, the Executive and Parliament can rest assured of the judiciary's and my personal commitment to doing the best that we can with the resources that are made available to us.

Q2 **Chair:** Thank you very much indeed, and thank you for being so clear in those opening comments. As you probably know, the Committee has visited two courts in the last two weeks: Snaresbrook Crown court and Central London county court. I think we would echo some of your

comments from those visits; we saw exceptional staff working in extremely difficult conditions. I am sure that those are areas we would like to pursue in our questioning.

If I may begin with one or two questions, clearly the concordat for this year has been a hot topic; we will go on to talk about the question of sitting days. The Lord Chancellor told the House of Commons on 17 October that the concordat process for 2024-25 "has not worked as it should". Do you agree and, if so, why do you think it has not worked? What can we do about it?

Baroness Carr of Walton-on-the-Hill: Would it help, Chair—tell me if it wouldn't—if I explained how the concordat process works, or are you familiar with it?

Q3 **Chair:** We may be familiar with it, but I think it might be helpful.

Baroness Carr of Walton-on-the-Hill: I would like very much to come to your question in a moment, because there is a clear public interest in everybody understanding the correct position. In simple terms, the concordat process is the method through which the financial settlement for the judiciary, courts and tribunals is agreed between me, the Senior President of Tribunals, and the Lord Chancellor. The process was established under the Constitutional Reform Act 2005. Very simplistically, the Ministry of Justice negotiates with the Treasury to secure a budget. It then decides from that budget what it is going to offer HMCTS. HMCTS receives the offer and provides me and the Senior President of Tribunals with independent advice as to the robustness and acceptability of that offer. It is a really important constitutional buffer between the judiciary and the Ministry of Justice and the Lord Chancellor that there is that independent advice from HMCTS.

If we agree, we reach an agreement under the concordat that is written, setting out, among other things, the number of sitting days. It is a complex process, but the fundamental point to understand as to why it works the way it does is that it helps to manage the balance between the independence of the judiciary, the fact that Government hold the purse strings, and the Lord Chancellor's statutory duty to ensure the efficient and effective running of the system. As I know you all know, section 1 of the Courts Act 2003 imposes on the Lord Chancellor an absolute and unqualified duty to ensure efficient and effective systems to support the carrying out of the business of the courts. That obligation is then reflected in the oath that she takes under section 17 of the Constitutional Reform Act 2005. It balances all those bits of the jigsaw together to achieve an outcome with, as I say, that essential constitutional buffer in the middle.

The year runs from April to April. I would like to explain, unless there are questions now, what happened in '24-'25. The short answer to your question, Chair, is that the offer is never made and by definition, therefore, the agreement is never reached, until well into the financial

year. This year the offer was not made until June—of course, it was the old Administration—and agreement was not reached until June. The latest it has been agreed, I think, is possibly July, even August, but in the last six years, as far as I am aware, the concordat agreement has never been reached before the year itself starts. That is the short answer to what goes wrong.

I want to talk next, unless anybody would like to ask a question at this stage, about what has happened this year, which was your question, Chair. Before answering on what happened in 2024-25, it is important to explain first the impact of the decision not to allow the Crown courts to sit to capacity. As I said, there is a clear public and operational interest in this question.

The short position is that the current sitting day allocation is 106,500 days. It transpires that we can sit 113,000 days, so there is a shortfall of around 6,500. The decision to limit us to the 106,500 has frankly had a drastic effect across the board. You may have heard about some of it when you visited Snaresbrook. Resident judges have had to take fixed cases out of their lists. They have had to cancel recorder bookings and remove vacancies. To be very clear, the cases that are being taken out of the lists are cases that were ready to be heard before next April—cases with judges, staff, courts, advocates, witnesses and complainants available. Their removals are accompanied by long delays, sometimes of years. This has been a most distressing time for witnesses, police, CPS, advocates, court staff and judges alike.

Resident judges, the lead judges for Crown courts, report to me on listed trials, including cases of serious violence against the person and RASSO cases, coming out of fixed lists. Those cases were ready to be heard and will certainly not be coming back before, I think, late ’25-26, or going into 2027. We have courtrooms and some entire courts stopped running for significant periods, and salaried judges not sitting—that is full-time judges not sitting—because there are no sitting days. There are really important ancillary impacts that you may already be thinking about. Think about criminal barristers who have cases taken away from them when the criminal Bar is already suffering. Equally concerning for me are the fee-paid judges—the recorders—having their bookings cancelled. They run practices, and have set the time aside: the booking is cancelled and they become very disenchanted. I am going to have to work hard to keep them on side, so to speak.

You probably want some real-life examples. I am going to take three courts from the west country. In Bristol, hundreds of fixed trials are being removed and a number of backers are also being released; those are cases that are backed—fixed for behind the fixed trials. I am told that on average 40% of courtrooms are not open in any given week. Bristol was dedicating certain courts to RASSO cases. That is no longer possible. In Taunton, next quarter, only one of two courts will be running, and there are only 60 sitting days available from January to March, to conduct 76

trials currently listed, needing 265 days. Truro is going to shut one day a week until March 2025.

Before answering the "How did we get here?" question again, I will emphasise the obvious. This is not about saving anything. It is not about saving money. You are deferring the cost and, indeed, increasing it. You are increasing it because inflation will mean that everything costs more and because barristers and the CPS will have to redo the work they had done to be ready for trial, because the case will be stale. That is not even to touch on the acute social cost. You have all been reading in the newspaper what the attrition rate is for delay. That particularly affects RASSO cases, where complainants simply do not have confidence in the system any more, and walk away from what may be very legitimate and serious complaints. You are not saving anything by putting these cases down the road.

How did we get here? I hope that we have explained the April-to-April budget system. As you will imagine, if you cast your minds back to covid, jury trials stopped. They started again in about mid-2020. Since then, the Crown court judges have, to use the vernacular, been working their socks off. They have been working as hard as they possibly can. With jury trials coming back in 2020, 2021, 2022 and 2023, the lists in '24 and '25 are filling up through those endeavours.

We get the concordat agreement in June 2024 and the figure agreed is 106,000. The concordat agreement says this is a minimum figure—a floor and not a ceiling. You may want to ask me about previous years' allocations, Chair; 106,000 is a fixed figure as a floor, not a ceiling and a minimum. At the time when the concordat was agreed, our understanding was that that was more or less the maximum capacity for the courts. The previous year we sat at 107,700, which was an all-time high.

The 106,000 is fixed as a floor, not a ceiling, and we understood that to be on the basis that it was the maximum capacity. Come August, HMCTS tells us we can actually sit to 113,000 or thereabouts. That is news to us. We now have a new Administration, and I emphasise of course that the concordat was agreed with the previous Administration. The new Administration have arrived with a very clear and public commitment to cutting Crown court backlogs. In the light of the information from HMCTS, inevitably there were conversations about whether the Ministry of Justice wanted to fund the courts so as to allow them to sit to capacity in crime. The decision was taken not to fund them so as to sit to capacity. An additional 500 days were found, but that was from within HMCTS allocation, so no additional funding. That is where we are and that is why we are now taking the drastic action that we are taking across the Crown court estate. It is a very distressing situation.

I agree wholeheartedly with the Lord Chancellor that the concordat has not worked well. The central reason is that it is agreed too late in the

day. In a way, though, I would say it does not really matter why we are here. There was an opportunity to sit to maximum capacity at 113,000 and it was not taken. That is a fact; but I am committed, with the Lord Chancellor, to making sure that the concordat process works better this year. We will aim to seek agreement. We may not agree, of course, but we will certainly aim to seek agreement in good time before the relevant April-to-April year starts. It will come as no surprise to the Committee that I will be pressing the case to allow the Crown courts to sit to maximum capacity under the concordat agreement that we hope to reach in good time for the next year.

Q4 **Chair:** Thank you. That is very comprehensive, and it may have covered some other questions we were going to ask, but may I ask one more, about what hopes you have? I am assuming—tell me if I am wrong—that it is too late to correct the position in this financial year.

Baroness Carr of Walton-on-the-Hill: Yes, as I understand it, the position is that there are no more days now. On the lateness you are spot-on, Chair, because it is not like a tap that you can switch on and off. When those cases have been taken out of the list, you cannot pick up the phone and say, "We're all on again," because people have moved on. You are probably right, Chair, that the die has been cast for the next three months, for the very reason you identify. I am not saying that there couldn't be some cases, or some improvements, that we could claw back, but for the big cases, certainly, it is probably too late.

Q5 **Chair:** Have you got any more hope for the next financial year, and the one after that? Where are we in relation to '25-'26 and '26-'27?

Baroness Carr of Walton-on-the-Hill: I have no indication from the Ministry of Justice or the Lord Chancellor. My understanding is that they are considering their position and what the offer will be.

Q6 **Mrs Russell:** Were you given an explanation of why the decision had been taken to go down from 113,000?

Baroness Carr of Walton-on-the-Hill: To be clear and entirely fair to the Lord Chancellor, as I hope I always am, there was never an agreement to go to 113,000. The concordat agreement was 106,000. There was no suggestion that one would ever go under that. The option was to go up to 113,000. Obviously, I don't talk about private discussions between me and the Lord Chancellor. An educated guess would be that it is funding; it is budgetary.

Q7 **Mike Tapp:** Is there scope to plan for more than just one financial year?

Baroness Carr of Walton-on-the-Hill: Yes. It is difficult. Part of the difficulty of the process is that you are already making assumptions for what the next year will bring, as part of the negotiation. You can see how difficult it is, because they are predictions as to what will happen in the future. I can see that predicting for more than a year in what is a very volatile state could be quite tricky; after all, we are talking about tribunal

and family sitting days, as well. On things like capital it is much easier. Indeed, I would be looking for five to 10-year programmes. For the sitting days, it is not impossible and it might be something to think about. I can see where you might be coming from, if you are looking at listing cases years down the line; but at the moment it is an annual process. I don't think anybody has thought beyond that for the sitting days.

Sitting days by themselves are quite an unusual measurement, a rather blunt tool. I think we need to work on the definition of a sitting day, because, as we move to doing more and more work outside court, particularly in civil and family, the idea that a civil judge's sitting day should be measured by time in court is frankly risible, isn't it? We are trying to keep cases out of court. We are trying to case manage and make sensible directions to bring people together and find resolution.

Chair: If I may interrupt, we were asked that question by one of our members, Neil Shastri-Hurst, who isn't here today: what is a sitting day? It is a strange unit of measurement, which we may not be used to. How does it interact with the judiciary's responsibility for listing?

Q8 **Linsey Farnsworth:** Our member who is not here asked me to ask you why sitting days are the unit.

Baroness Carr of Walton-on-the-Hill: You are new, and I am new. Literally, I arrived and said, "What is this?" I can only imagine it is a historic tool. It does not sit well with a modern judicial system. Frankly, I would love to start with the question, "What is an effective and efficient court system in crime?" That is the obligation of the Lord Chancellor. Then I would want to work out, "Have we got the capacity; how do you bridge the gap?" Here I am with my sitting days, and I am working very hard, and have made real progress, on getting agreement that we have to find a consistent definition of sitting days. There has been inconsistency in the definition, as well as in the application of whatever it is you think you are applying.

The sitting day, for my money, has to include as a bare minimum all work that is case-related. All the training and all the leadership can perhaps go in an "other business" box. It is just as important. But the sitting day has to be defined in a way that captures or gets closer to capturing what a 21st century judge really does. I hope that the member would at least have enjoyed some of that answer.

Q9 **Sir Ashley Fox:** You have described the wasted costs of reducing the number of sitting days and cancelling trials, and the distress to victims and witnesses, but presumably the Lord Chancellor took that decision ostensibly to save money in this financial year. Do you know how much money she has saved this financial year?

Baroness Carr of Walton-on-the-Hill: No, I don't.

Q10 **Sir Ashley Fox:** It is extraordinary, isn't it?

Baroness Carr of Walton-on-the-Hill: I can ask. That is as far as it goes. I have no sight, the other side of the line, as to precisely what the modelling is.

Q11 **Sir Ashley Fox:** It seems that you are being told to cancel a great many trials, and being given no indication of what the saving will be.

Baroness Carr of Walton-on-the-Hill: Yes. It is not my budget. It is not my job to allocate the budget in that way.

Q12 **Chair:** You have said the reason must be that the money is not there. There is no other reason.

Baroness Carr of Walton-on-the-Hill: Yes. It is not for me to answer for the Lord Chancellor.

Chair: We will ask her in a couple of weeks.

Q13 **Tessa Munt:** I had a number of questions I wanted to ask, and you have answered most of them, but I wondered, in the light of your comments before Sir Ashley's questions, what your preferred metrics for measurement would be, or is it the adaptation of the metric you have? Is there any other way you would prefer?

Baroness Carr of Walton-on-the-Hill: The closest I could get, if I had a blank piece of paper, would be—Ms Cox was nodding—to ask what an efficient and effective system looks like. It goes back to what I said in part of my presentation: post digitisation, what does a modern judicial system look like, and how do we fund it? I'm not sure you would then necessarily even be looking at sitting days; you would look at something completely different. It is a very good question, because it is very easy to knock skittles down without coming up with a solution.

My step one is to give the sitting day a consistent definition applied consistently. That is all I have at the moment. I am not going to change this overnight. Secondly, I would stand back and take a deep breath, and ask whether there should be a completely different metric, or perhaps no metric at all, in that sense; perhaps a budget. We need to know, looking forward to what I was saying about the future, how many judges we need, where we need them and what they should be doing post-digitisation, when digitisation is fully complete. They are big questions, yes.

Q14 **Tessa Munt:** That sort of leads to my next question. We might have seen evidence of a moderate level of chaos around data, and digitisation, as you say, might not be a complete thing or it might be slightly over the horizon for some areas of the system. Where would the priority be for you, in terms of capturing data? Clearly, there are lots of areas that don't have any consistent data.

Baroness Carr of Walton-on-the-Hill: My data for today, as you probably know, is unpublished data in crime, so it is historical data, which isn't terribly helpful for you.

The honest answer, and you are going to think it is not a helpful one, is that I cannot think of a jurisdiction that does not need accurate data. I can point to every jurisdiction—they all slightly irritate me, which is probably not the sort of thing I should be saying. In civil, for example, looking at getting to trial is a hopeless metric because we all know—there are many civil experts here—that 90% or more of cases settle in civil, so going to trial is not a metric. It is not a useful measure of anything. Equally, disposal rates are not a useful measure of anything. It is actually timeliness that matters. I could dispose of 10 consent orders in three minutes, and I would be hitting a fantastic score without being remotely helpful in the grander scheme of things on the bigger cases.

We have some good work going on trying to work out what the proper and useful metrics really are. The other thing about civil, which you may have picked up from Central London but perhaps not, is that the metrics deal with delay without breaking down whether the delay is in the document reaching the court office, to the judge. The judge can turn it round in 24 hours. I am not saying we all do, but you can and yet your delay will still be 18 months.

We have to break all that down and get on top of the data to make sure it is reliable and to make sure we are asking the right questions. People talk about disposals and I say, "We're not making sausages. We're not producing cars at the end of a belt." It is a far more complex picture than that. It is understood by the Committee, which is very helpful, that it is really timeliness, including in crime, that matters, rather than disposal rates.

Q15 **Tessa Munt:** Thank you for mentioning Bristol, which is in my part of the world. People go to Bristol or to Taunton because there is nothing in between. There is very little flexibility. People very often have to leave the day before if they are using public transport to get to court for 10 o'clock. It is fairly desperate. You mentioned the additional costs in future years for things like the delays in Bristol, or the removal of sitting days in Bristol. You referred a little to that.

Baroness Carr of Walton-on-the-Hill: Pushing it down the line.

Q16 **Tessa Munt:** Has anyone done some work on what those costs might be? I was thinking about post-2025 cases that are going to be shunted.

Baroness Carr of Walton-on-the-Hill: I am being told that bail rape cases are now going off for two years or more. As you will know, the custody time limit cases are different, but bail rape cases are going off for two years or more now. Sorry, I interrupted you.

Q17 **Tessa Munt:** No; it's fine. Exactly—you have probably answered the question.

Baroness Carr of Walton-on-the-Hill: The recorder of Bristol has been magnificent over the last three years. This is a very difficult pill. As I say, it is not about blame; it is about where we are. The decision has been

taken. He has also led on some really important RASSO work. If you remember, in Bristol he was running a dedicated court for RASSO, which, in big courts, can work. It does not work in smaller courts, but it can really work in big courts.

Q18 **Tessa Munt:** I think the official figures were produced in December 2023 for the outstanding cases in the Crown court. It was up at 67,500 and a bit. When are the next set of figures? What do you think is going to happen?

Baroness Carr of Walton-on-the-Hill: Imminently. We can only go on published statistics. The best figure I have for you is the published one by the Crown court, so Linsey will be happy—or not happy. The Crown court caseload, as identified in March 2020-22, was 72,262. That was the open Crown court caseload. If you compare that to 2022, it was 67,716. I don't think anybody would criticise me for saying that it has probably got bigger and not smaller, but you must wait for the published statistics that are properly audited and available for public consumption. As I say, I think that is an official figure that I can refer to.

Tessa Munt: Thank you, Baroness Carr.

Q19 **Josh Babarinde:** I have been privy to some correspondence from judges and court workers who are deeply concerned about the reduction in sitting days. It would be good to get an idea from you of the extent to which the judiciary, and indeed court workers, were consulted about that decision.

Baroness Carr of Walton-on-the-Hill: In discharge of my operational duty I kept them as informed as I could.

Q20 **Josh Babarinde:** Are you able to expand on that?

Baroness Carr of Walton-on-the-Hill: I pay tribute to Lord Justice Edis as the outgoing senior presiding judge who dealt with this in August and his immediate successor, Lord Justice Green, the senior presiding judge now, who is dealing with the situation as we sit here. When the issue was drawn to my attention, I told them what I could, which was that we had a potential problem and that if we were not allowed to sit to capacity, they would have to adjust their lists. I tried to support them as well as I could in that, as did the senior presiding judge, and indeed the President of the King's Bench Division and everybody involved in the criminal justice system at senior judicial level. At the end of the day, they have done an astonishing job in very difficult times, knowing their own courts better than anybody else but with support from us.

Q21 **Josh Babarinde:** I agree that the work of those justice and court workers, in the context of an environment that was not of their shaping, must be commended. To clarify, you and the rest of the judiciary were not consulted, by the sound of it. You were informed and you personally—

Baroness Carr of Walton-on-the-Hill: We were told by HMCTS about the problem, in the sense that the lists were fixed so that we could sit to 113,000 days. HMCTS informed us of that. As soon as we knew of that, there were discussions as to whether or not there would be funding to go up to the 113,000 or maximum capacity. The decision was taken not to do that, and then I and the senior judiciary informed the judges. It was not really a question of being consulted. It was HMCTS telling us all, the Ministry of Justice and me, of the situation. There were discussions then about what to do about it, which obviously included discussions about funding to 113,000. The decision was communicated to me that the funding would not be available, and then I passed the information on to the judges. I was totally in the loop of what was happening, if you see what I mean.

Q22 **Josh Babarinde:** To what extent do you feel that you were listened to?

Baroness Carr of Walton-on-the-Hill: I am sure I was listened to.

Q23 **Warinder Juss:** Baroness Carr, I know that in civil litigation the emphasis is always on keeping cases out of court and concentrating on negotiation and mediation. Can a similar approach be made in any way with criminal cases? Is there any way that they can be kept out of court?

Baroness Carr of Walton-on-the-Hill: The closest we get to that is with early guilty pleas. In all jurisdictions there is one common theme for efficiency, and that is front-loading, early disposal and as consensually as possible. You see that, and we can talk about it in Pathfinder. We can talk about it in Public Law online and we can talk about it in FDAC. We can talk about it in automatic referral to mediation of small claims, which is ongoing. In crime, the closest you get is with early guilty pleas. Everything that we have been doing in recent years in crime is focused on getting early guilty pleas where they are appropriate.

With the police and the CPS, it is all about file quality. It is getting maximum disclosure to the defendant as soon as possible, and then giving the defendant access to proper legal advice, so legal aid for lawyers, so that the individual feels confident and able to take an informed and properly advised decision as to whether or not to plead guilty. That is the key to unlock so many things. Front-loading—in civil you use your pre-action protocol and settle things out of court. Pathfinder—make it less adversarial in family. That is a constant theme across the board. That would be my answer in crime.

Obviously, by definition, mediation in crime is not really a principle that can apply, but early guilty pleas certainly can. Rolling it out from early guilty pleas, it is owning case files early on and having continuity of case file ownership in the prosecution so that issues can be narrowed and disputes can be resolved. Although guilt or innocence will not be agreed, we can at least reduce the ambit of the issues, the extent to which disclosure needs to be made and how many applications there are so that we are as efficient and tight as we properly can be. The judge can then

case-manage at the pre-trial preparation hearing, which is the first hearing in the Crown court, make sure that everybody is on their game and that we are using as few days as possible.

Q24 **Linsey Farnsworth:** I want to come in here in relation to the drive for early guilty pleas. I am very familiar with it, as you can imagine. With the current situation on the backlog, we know the effect on victims and witnesses of crime in terms of the likelihood of them attending court if a case is listed very far into the future. What are your views on defendants not pleading guilty at an early opportunity because the delay incentivises them not to?

Baroness Carr of Walton-on-the-Hill: It is all a vicious circle. One of the things that I hope we all walk away from this afternoon understanding is the interconnected nature of everything. If you look at a day in the life of the criminal justice system, you start with the police and the CPS, to the defence advocate, the defendant, the court usher and probation services. It is all joined up. You are absolutely right that the effect of delay on early guilty pleas is palpable.

Somebody who hears that their trial is two years away, particularly in a RASSO or similar type of case, rather than if they were facing trial next week, or perhaps more realistically in the next six to 12 months, might take a different view: "Well, in two years' time anything could happen, let alone three". You are absolutely right that it has a really important impact on that as well.

Q25 **Linsey Farnsworth:** I want to focus on the Crown court, as you can imagine, and in particular Crown court efficiency. I was looking at the figures. In 2023, in the halcyon days, we had 111,996 sitting days and disposed of 21,026 cases.

Baroness Carr of Walton-on-the-Hill: For 2023?

Q26 **Linsey Farnsworth:** For 2023, the figures that I was given—

Baroness Carr of Walton-on-the-Hill: It was 99,304 for 2023 in the Crown court; 20,000 can't be right. Sorry.

Q27 **Linsey Farnsworth:** That's fine. Those were the figures we were provided with.

Baroness Carr of Walton-on-the-Hill: Are you talking about disposals?

Q28 **Linsey Farnsworth:** There were 111,996 sitting days in 2023 and 21,026 cases were disposed of. That is what we have been told.

Baroness Carr of Walton-on-the-Hill: Well, here we go. This is probably not the best way to spend our time. The allocation in 2022-23 was 105,000 and we sat 100,625. In 2023-24 the allocation was 102,300 and we sat 107,700. Disposals in 2022 were 91,730 something and in 2023, 99,304. The 20,000 cannot be right. Am I right, Chair?

Q29 **Chair:** I think we have a fairly basic data conflict here. We are talking

calendar years, and I think you are talking financial years.

Baroness Carr of Walton-on-the-Hill: But it still cannot be 20,000.

Q30 **Chair:** You still do not think it is 20,000.

Baroness Carr of Walton-on-the-Hill: Anyway, assume you are right.

Q31 **Chair:** It is a good illustration of the problem.

Baroness Carr of Walton-on-the-Hill: Perhaps we can take away from this that it is not necessarily easy.

Q32 **Linsey Farnsworth:** I will generalise in that case. My question was getting at the fact that there seem to be occasions when there were as many sitting days in comparative years, but there was a disparity in the number of cases disposed of. The question is about those differences and what is affecting the disposal of cases, notwithstanding that the sitting days were equal in those years.

Baroness Carr of Walton-on-the-Hill: Perhaps take away from it what might affect different disposal rates. What type of case—presumably we are out of covid here—and the number of remand prisoners can often have a massive impact because, of course, custody time-limit cases have to take priority. As I say, it would be the type of cases. I am not aware, and I don't feel on the ground, that there is a massive discrepancy in disposal performance, as it were, although I actually think the better measure is timeliness, and that again has stayed pretty constant.

I would love to talk to you about Crown court efficiency and the work that we are doing there. One of the things I am keen to leave you with the impression of is how ambitious and progressive I am prepared to be, and how ready I am to look at better ways of doing things, perhaps building on the work that we are already doing. I do not want you to walk away from this afternoon thinking that we are just doing the cases as they come in as best we can. There is so much more work going on within the judiciary. The resident judge at Snaresbrook may have talked about some of that. There really is some exciting work going on in terms of Crown court efficiency that is relevant.

I am not aware of any massive difference in performance in the Crown courts over the relevant years. The things that have got worse are, obviously, the prisons and, therefore, late deliveries, with all the impacts that has. If you, for example, get early release, you are going to get more pressure on probation services. Therefore, you will have less access to probation officers for pre-sentence reports and things like that. It is all connected. I will have a think about it, if I may, but I don't think that there is any reason for you to be concerned about something dramatic happening between one year and another in terms of either the way the courts have been operating or anything else.

You know about all the work that has been going on in the criminal efficiency space. My predecessor, Lord Burnett, set up the Crown court

efficiency group, which we are now going to extend to become the criminal court efficiency group, bringing in the magistrates who, of course, do over 90% of criminal work. The work that has been done in that group has been transformational. It really came to the fore in the riots. Anyway, you have not asked me about that, but I am happy to talk about it.

Q33 **Linsey Farnsworth:** Thank you. I want to talk about ineffective trials, what might increase rates of ineffective trials and what challenges you have in the courts at the moment. What is the cause of ineffective trials in the main, from your perspective?

Baroness Carr of Walton-on-the-Hill: We start with the fact that what we really want here is accurate data. It is out of date. I am sure you have been told that the current metric for ineffective trial rates counts every case that does not get on on day one of a week as an ineffective trial, even if it gets on on day two. A day's delay is unwelcome, but most of us would think that if a trial still got on in the right week and completed, it was probably an effective trial. Putting that cautionary note to one side, the answer is multifactorial, as you identify. Part of it is to do with judicial listing. I don't know if you have heard of his honour Judge Martin Edmunds KC at Isleworth. He is an extraordinary Crown court judge. He is carrying out a wholesale listing review, looking at Crown court listing practices and whether or not we can improve them to reduce the ineffective trial rate.

You will understand, Ms Farnsworth, that the balance is so difficult. We do not want to have empty courts, so we have to have backers for when the first trial goes, but we also do not want to over-list. It is getting that balance right. It is an art and not a science that is at the heart of it. Certainly, listing is one thing.

The multifactorial additional aspects are late deliveries, lack of advocates, late collections, witnesses not turning up, defendants being ill and the defence not being ready. It is everything in there. I do not think there is one stand-out factor in the reliable data we have yet that I can identify, but it is certainly something that has been a target ever since I arrived. It is something that we need to improve on. We need to work at how to improve it, but not everything is in our control.

Q34 **Linsey Farnsworth:** Is the ineffective rate increasing?

Baroness Carr of Walton-on-the-Hill: No. I don't know which published figures I am allowed to use. I can confidently say that it has not increased. It may have gone down, though not dramatically.

Q35 **Linsey Farnsworth:** You mentioned that if a case was listed for a Monday and it did not start until the Tuesday or the Wednesday, that is counted as ineffective.

Baroness Carr of Walton-on-the-Hill: As I understand it. Is that your understanding too, Chair?

Q36 **Chair:** That is what we were told at Snaresbrook.

Baroness Carr of Walton-on-the-Hill: Yes; that is my understanding.

Q37 **Linsey Farnsworth:** They told us that at Snaresbrook, and that that might be confusing the figures in terms of the real picture.

Baroness Carr of Walton-on-the-Hill: Making it much worse than it is.

Q38 **Linsey Farnsworth:** As a Crown prosecutor, I would have said that if we got started on a Tuesday we were doing well. That would be a successful case for me and not an ineffective case. It is interesting that it would go down as an ineffective case. Thank you for that.

Baroness Carr of Walton-on-the-Hill: Again, picking up on one of my themes, it is still something where I hope there are things that the judiciary can do better with, and I am not shy of recognising that. I am keen that we do everything we can. I am very open to ideas and suggestions. That is a really important attitude for the judiciary as a whole. I think we are often seen as a bit of a block, and we really are not. We are there to be open-minded. You have seen at least one resident judge. They know their patch so well and are so dedicated. If anybody thinks that we are just sitting there not ready to be open to criticism or change, it would not be fair or right.

Q39 **Chair:** Do you look at comparative efficiency at different court centres?

Baroness Carr of Walton-on-the-Hill: We do. You may already have been struck by some of the data you have seen, Chair, about regional variations. They are enormous. In all jurisdictions that is because every court operates in a community, whether it is the local CAFCASS, local probation or local prisons. One size does not necessarily fit all.

We definitely need overarching national principles for consistency, good governance and efficiency, so that you can see the nation as a whole; but you will find regional variations. Sometimes it is because one judge is not doing a great job, but very often it is actually because the local authority in that particular court is not functioning well. That will directly impact on family performance, for example, or probation services. Sometimes it can be as basic as how close your prison is. In London the vans do a route. They can cover a number of courts, and sometimes you can mix and match. If one cell goes down, you have another court quite close by. In certain places in the north-east and north-west that is absolutely not the case.

It is very important—if this is what was behind your question, Chair—not to say, "This court has an ineffective trial rate of 3% and this court has an ineffective trial rate of 20%, so this court must be performing better than that court." It is not that simple. You need to look at the complete picture and dig down quite deep. Sometimes you can say, "Actually, there's no good reason for that being so way behind on this" and interrogate that.

Q40 **Linsey Farnsworth:** I will move on to looking at the remand side of things. You mentioned the challenges of prisoners being brought to court. Are there any other impacts that custody cases are having? We heard at Snaresbrook about bail cases for very serious offences being put back for trial in 2027. They often get bumped back because of custody cases.

Baroness Carr of Walton-on-the-Hill: They have a massive impact. As you know, the remand population is at an all-time high. It is over 17,000 and 20% of the population. Of that 20%, 60% are untried. There are innocent people on remand in prison for potentially long periods of time. Under the custody time limits, as you know better than anybody, a Crown court case must be heard within 26 weeks of reaching the Crown court, in crude terms. That has to happen, or the defendant will be released into the community unless the Crown Prosecution Service gets an extension.

There is statutory provision for that. It is a stringent test. First, the prosecution must have acted with all due diligence. Secondly, there must be good and sufficient cause for extending the custody time limit. It is all very challenging. You may be interested to know that I have been reliably told that it takes half a day for a Crown prosecutor to prepare properly an application for an extension of a custody time limit. That is a considerable resource demand because they are significant applications. They are not rubber-stamped; they are fully argued out. If you are going to be in a position where you have to apply for an extension, it involves a great deal of additional work for everybody.

Q41 **Linsey Farnsworth:** It is the chronology that takes a long time because the cases have been going on for so long. That causes additional work as well.

Baroness Carr of Walton-on-the-Hill: Yes, but really important.

Q42 **Linsey Farnsworth:** Good and sufficient cause has always been something that the CPS have had to concentrate on in their activity. Some of the delay now is just not having the court sitting days and the court listing being so far into the future. Do you have any concerns about good and sufficient cause in relation to the backlogs?

Baroness Carr of Walton-on-the-Hill: That is obviously a matter for each individual judge, who will have to determine on the facts of each individual case whether or not there is good and sufficient cause. As you know, in the context of the prison problem there have been previous reported cases. I think the President of the King's Bench Division delivered a judgment on this involving Bristol Crown court in 2022 that gives some useful guidance. That is off the top of my head and I could be wrong about it. If the applications are made, it will be another issue for the judges to consider carefully.

Q43 **Linsey Farnsworth:** I have one last question in relation to Crown court efficiency and how it fits in with the increased magistrates court sentencing powers. There has been some suggestion that it will free up around 2,000 sitting days each year in the Crown court. Do you agree

with that assessment?

Baroness Carr of Walton-on-the-Hill: I am glad to say that on this occasion our data matches. Very roughly—this is a modelling figure rather than actuality—I am at about 1,950. Is the Committee aware of the chronology of what happened there? Would it help, Chair?

Chair: Yes, please.

Baroness Carr of Walton-on-the-Hill: In May 2022 magistrates' sentencing powers for single either-way offences were increased from six months to 12 months. That was a measure taken by the previous Government to try to reduce the burdens on the Crown court. The prisons then fill up and we get to March 2023. A pause is imposed, so the magistrates are back down to six months. As of November 2024 the pause has been released. The hope is that that will relieve the burden on the Crown courts by approximately 1,950 to 2,000 days. That is the ambition.

Pity the magistrates now. First of all, they have to be retrained, so we spent all the money training them up, and then there is the pause. Secondly, at least for a while, you have to ask yourself, "When is the date of conviction? Which regime am I under? Am I under six months?" It should be a straightforward exercise, but you have another added complication. I welcome the lifting of the pause, and I think the magistrates welcome it.

Q44 **Pam Cox:** I am pleased to hear that the judiciary are at the forefront of reform. It would be really interesting for the Committee to hear more about the work of the Crown court efficiency group. Maybe there are some reports or something that might be shared with us. That would be welcome.

Baroness Carr of Walton-on-the-Hill: Yes. I don't know whether they are open reports, but I can certainly get some material to you. I am grateful for the interest, because it has been something that has been up and running since 2021. There are three prime targets: improving the early guilty rate, reducing the ineffective trial rate and having as few hearings per case as possible. The beauty of the group, and the reason why it is special, is that it is cross-agency. You have everybody in the room. It is making the prison understand what a 15-minute delay in a video-link means to the Crown court judge who has two juries out and 12 sentences. It is bringing people together and helping each other understand how their issues impact on other bits of the system. You have probation, legal aid, CPS, the Bar, the Ministry of Justice, HMCTS and the judges all involved, trying to work together. We have had some notable successes: much better video-links with prisons, for example.

The plan now, loosely and potentially, is certainly to bring in the magistrates. Previously it was the Crown court improvement group and, for all sorts of good reasons, hard and soft, bringing the magistrates into what will become, I hope, a criminal court efficiency group will be good.

For my part, I like to think of it as a day in the life of the criminal justice system. When you put it altogether you think of the usher switching the lights on in the court; the court clerk switching on the screens, the computers and getting everything ready; the jury officer; the Crown court judge; the advocates; the probation and the prosecution, with everybody somehow helping each other to learn from the other and improve, to make things as efficient as possible. There are the prison escort services too. They meet regularly. Senior members of the judiciary go. If you are interested, I would be delighted to invite you to one of the meetings, if the chair was happy with that. I am sure they would be. It is really impressive. It is not standing still.

Q45 **Pam Cox:** We would welcome that. Thank you.

Baroness Carr of Walton-on-the-Hill: I will take that with me.

Q46 **Warinder Juss:** Linked to the issue of sentencing is the problem of repeat offenders. There was a report this morning which posed the question whether repeat offenders should be given longer prison sentences. I had a meeting in my constituency with the local inspector, who said that one of the main problems he was facing was that it is the same people carrying out all the shoplifting offences, the burglaries and the car thefts. Repeat offenders are a major problem for him. He said that a lot of it was due to drug usage. The question that I have for you, Baroness Carr—I don't know whether you will be able to answer this—is, do you have a view as to how we deal with repeat offenders?

Baroness Carr of Walton-on-the-Hill: Yes, I do, but as I am sure the Chair has said, I cannot comment on policy matters because it risks me carrying out my day job, so to speak, or jeopardises that. I am really pleased to see that the sentencing review is up and running. I will, of course, be engaging with the chair. The Sentencing Council will be engaging with the chair. We will be doing everything we can to support the sentencing review when they look at various options, to help inform them on the practical consequences and the operational aspects of any proposals they have. I do not think it is for me, as the President of the Courts, to talk about what I think are probably policy issues, but I totally understand your interest and I am sure it is something that the sentencing review will be looking at.

Q47 **Josh Babarinde:** We have spoken a lot about the Crown court backlog and reform. When you were last here in January, you spoke about the need for radical reform to take place, which might involve things like fewer either-way cases or the establishment of an intermediate court that involved a blend of judges and lay magistrates. Are you still of the view that those kinds of measures might be necessary to reform the system, with a view to bringing the backlog down?

Baroness Carr of Walton-on-the-Hill: Preparing for today, I went right back to the Runciman review in 1991. Do you remember that? We had the Auld review in 2001. We had the Leveson efficiency review in 2015.

The previous Administration talked about a Royal Commission in 2019. I am on record as saying that I welcome the new Administration taking a big deep breath and a holistic view of the criminal justice system. It is not for me to suggest what radical options there might be, but I certainly support taking a good, long, hard look at all available options.

I gave the Kalisher lecture in March, where you can see some of my thoughts. Fundamentally, these are matters of policy for Government. If they choose to look at some of the radical options, as you describe them, then in line with what I said previously, we will be very willing to engage, support, consider and input as appropriate for the judiciary.

Q48 **Josh Babarinde:** That was going to be my next question. It sounds like the existence of some kind of vehicle that is a safe way for you to be able to input without publicly jeopardising your position might be—

Baroness Carr of Walton-on-the-Hill: As I say, my job is just to help with the operational aspects and the practical implications of any particular proposal. It is for Government to come up with the big policy ideas. I have encouraged, and continue to encourage, the new Administration to take this great opportunity.

I started by talking about exciting opportunities to stand back, take a deep breath and make bold decisions, if that is what they think is the right thing to do. So many people have looked at the system. The market is quite crowded. Certainly, I am open to progress and change if it is well evidenced and well thought-through. I do not want things to be rushed. We have waited long enough. It is important that we do not rush. These are big issues. Whatever is decided may be controversial, so it needs to be done well and thoughtfully. I can absolutely understand if there is an appetite on the part of the Government to take a look at these issues.

Q49 **Josh Babarinde:** If, hypothetically, a Royal Commission was set up to explore the issues, would you feel in your role that that could be a vehicle that could enable you to engage and feed in your insights?

Baroness Carr of Walton-on-the-Hill: Yes; I can feed in my insights from a practical point of view. I do not think the establishment of a Royal Commission would change my constitutional position, which is always to let Executive and Parliament legislate to drive policy forward, and for me, as the leader of the independent judiciary, to implement, advise and input on operational and practical matters.

Q50 **Josh Babarinde:** I want to move to another branch of the reform agenda, which is around physical facilities. It is pretty well documented that there are some serious challenges. An umbrella one I would like to ask about is this. In light of the fact that we are going to see magistrates taking on more cases, do you feel that in order to meet that demand, we need more magistrates courts open again? In my constituency in Eastbourne, we lost our magistrates court some years ago. It was, in my view, a pretty damaging thing for our town. Do you feel as though we

need to re-establish some of those courts to meet the demand?

Baroness Carr of Walton-on-the-Hill: I certainly think that is part of the overall discussion we were having earlier about where we should be starting, what it should look like and what efficient and effective means. I often think of the judiciary and the courts as a pinch point in an hourglass. We are not like a business. We cannot close for business. We are not like a restaurant that can say, "Our tables are full, so we won't take any more reservations." We are completely susceptible to the work that comes in.

If the pinch point is like that, you can have however many immigration cases you want or however many criminal cases you want. We only have so many judges, so many courts and so many magistrates to deal with the work. Just because there is more work does not mean that the work can be done. I don't like to talk about hierarchy, but if the direction of travel is downwards or to the magistrates, clearly, somebody is going to have to look at capacity in the magistrates courts to do that. One of the really important points to make, as we have been talking about big ideas, is that what we cannot let happen in the here and now is to let big ideas mask the critical state of underfunding. Big ideas cannot divert us from what is happening now. That is the first obvious point.

The second obvious point is that if there are big ideas, and if the decision taken by the Executive and Parliament is to follow them, it is going to cost a lot of money to do it properly. People need to get ready for that if it is going to happen. We have seen reform. We can see what happens and what works well and what does not. As I say, it is really important that we are forward-looking and progressive, but it is just as important, if not more important right now given some of the things we have been talking about, that we do not let that distract us from the immediate problems and the people we are trying to serve: the families, the defendants and the complainants in the justice system. We must do right by all of them as best we can.

I am keen that the two run in parallel, as it were, but we cannot get carried away with big ideas that may hopefully perhaps deliver down the line—with an enormous amount of investment—to take us away from what we need to grapple with now. We cannot avoid what is going on now and the funding difficulties that we are experiencing.

Q51 **Josh Babarinde:** I agree with taking a parallel approach. It sounds to me that if additional resources were to be made available to rebuild magistrates courts, like Eastbourne magistrates court, that would not be unwelcome from the perspective of the judiciary.

Baroness Carr of Walton-on-the-Hill: Not in any particular location, I am afraid. I would need to take advice on that. I certainly think the estate needs looking at. There are some great buildings that are underused. As with some of the policy ideas you have been mentioning, we have a huge estate. It is wild and unwieldy, with hundreds of courts

and tribunals, ranging from the Victorian law courts in Birmingham to the state of the art Rolls Building in London. We should be having a rationalisation as part of the national audit. How many judges do we need, doing what, where and when, post-digitisation?

I am afraid I am wary of committing to a particular project, if you will forgive me. In broad terms, on your point: if there is more work for the magistracy, do we need to look at capacity? Without a shadow of a doubt.

Q52 **Josh Babarinde:** The people of Eastbourne will remain on the edge of their seats. I want to ask about the facilities in those buildings and what they are kitted out with. There are some serious challenges, especially when it comes to things like screens. Are they bright enough for juries to see? Are the acoustics in court good enough? We have heard stories of lights needing to be turned off in court for people to be able to see the screens, which means that folks cannot take notes.

Baroness Carr of Walton-on-the-Hill: And judges turning their computers round and leaning over. Yes.

Q53 **Josh Babarinde:** Exactly. What do you think needs to be done to address what is clearly a failure in the technology to meet the needs of the justice system?

Baroness Carr of Walton-on-the-Hill: Considered, rationalised, deep-rooted investment. If digitisation is the way to go, as it clearly is in civil and other areas, and in crime, I would have thought there must be scope for greater use of digitisation for certain hearings. The quality is essential. We don't have time today to talk about section 28, which is pre-recorded examination-in-chief and cross-examination of witnesses and the evidence that it is not as effective before a jury. Imagine it being played through a small, scratched, unclear screen. The public are entitled to have a view on that. You have seen the quality of some of the kit yourself and the size of the screens. They are tiny, aren't they? Even with my glasses on, I struggle to see. That won't do. I am told that in Finland it is a cinema-sized screen. We need to improve the investment. Digitisation is not just a word or a thing that you can do. Quality is everything if the public are to have the confidence that they should in the justice system.

Q54 **Josh Babarinde:** In your opening remarks you mentioned that upholding the rule of law requires investment. Throughout some of what you have shared with us, that is a theme that keeps coming back. One area in which there are campaigners who have campaigned for investment is when it comes to court transcripts, particularly for victims who want to see what has been said. I speak as someone who was a victim in a Crown court trial, when it was impossible, because of the financial barriers, to get a transcript of what happened and why decisions might have been made that were made. Do you feel that the failure of our system to provide that at the moment to victims, and indeed others, represents a

falling short of upholding the rule of law?

Baroness Carr of Walton-on-the-Hill: It is a complicated area. It is not as simple as you might think. You would imagine that it is easy to get a transcript. It is not actually. There is no transcript produced at the time for lots of hearings, and a judge often has to approve a transcript, sometimes many months after the event. Of course, if you want a transcript of a hearing, that will involve a judge or somebody sitting for days and days in a court that will have to be set aside for the exercise to prepare the transcript.

In answer to your question, I think there is movement on this and there are some new policies. The Government have brought in new procedures for allowing access to transcripts. I understand the desire for access, but you need to look at the resource implications, particularly in terms of judicial time for that, and getting the balance right in the current climate. It is almost a question of degree. Are you asking for a transcript of five days of evidence? Obviously in the higher courts, for something like sentencing remarks, judges will be able to give you a written set of sentencing remarks at the time. The real problem is when you are doing six or seven sentences in a day. You won't have anything that you can share in terms of notes, and it can become incredibly time-consuming to provide transcripts of all of those.

I understand the concerns and the desire for access. As you know, I am a passionate advocate for transparency and open justice. It is the practical consequences and difficulties that can arise that perhaps inhibit it from being quite as easy as you would like.

Q55 **Josh Babarinde:** To what extent have you explored using artificial intelligence?

Baroness Carr of Walton-on-the-Hill: This is an obvious area where we could begin to use AI.

Q56 **Josh Babarinde:** By begin, do you mean it is not being used at all in that respect?

Baroness Carr of Walton-on-the-Hill: I don't think so. If I am wrong about that, I will follow up on it. I am pretty sure. I am in an AI working group. There is lots of work going on with AI, but I am not aware that we have got far enough or so far that we are allowing AI to look at transcripts yet, but it is obvious, as it is for interpretation. We spend a lot of money on interpreters. These are areas where AI could provide some exciting opportunities for the future.

Q57 **Josh Babarinde:** What would you say are the blockers? We have spoken a lot about capacity being stuck. Without underestimating the scale of the job to be done, using artificial intelligence, or deploying it in some way, shape or form, feels like it could be a relatively quick win, compared to some of the alternatives.

Baroness Carr of Walton-on-the-Hill: I am not aware that there is any blocker. There are people who know much more about this than me. There may be all sorts of GDPR problems or confidentiality problems. There may be system problems. It may well be a pure IT problem. I don't know, but I assure you that AI is being looked at very much in the sort of space you are identifying. I agree with you.

Q58 **Josh Babarinde:** To reassure victims, survivors and indeed others, can you give some essence of a deadline or a target by which—

Baroness Carr of Walton-on-the-Hill: AI? No. It is a huge topic, so I am afraid I cannot. Sorry.

Chair: I am aware that we are still on crime, and we have a mile to go.

Q59 **Tessa Munt:** I want to ask about a middle stage before we get to full transcripts using AI. I am aware that, for example, in the employment tribunals in some cases there has been guidance that says that they should be open and people can now watch those cases. Is it not possible to release a recording? I know that some cases do not have that facility. I don't understand what the reason is. I wondered whether, in fact, it would be possible for these things to be recorded and issued as a recording.

Baroness Carr of Walton-on-the-Hill: Is it right that they release recordings in the employment tribunal?

Q60 **Tessa Munt:** They don't, no, but you can watch them.

Baroness Carr of Walton-on-the-Hill: I suspect that part of the problem—we have so much to talk about—is the difficulty over security and social media and what people can do with recordings if they are unrestricted. There will often be reporting restrictions for all of those cases. That is something we have not talked about. In the sorts of cases that you may be talking about, there will inevitably be reporting restrictions. That is part of the complicated process of deciding what you release, how you release it and in what terms you release it. You would have to redact it to anonymise victims and so on.

Q61 **Tessa Munt:** Very often, it is victims who want precisely that information. It should be possible, since it is on Zoom or whatever the equivalent is, to release the information as a recorded file to the victim. Then the victim can choose whether they wish to have it transcribed themselves using AI or whatever. In terms of access—

Baroness Carr of Walton-on-the-Hill: We can certainly have a look at it. The difficulty–

Q62 **Tessa Munt:** I get the difficulties; I will leave it with you.

Baroness Carr of Walton-on-the-Hill: It is really interesting, and we have spent some time talking about it. I am struggling to remember the precise detail of some of the complications. I think that some of the complications arise out of the reporting restrictions. It is not as simple as

just giving it to the victim, because then what? I hear, and that is very helpful. Let me take your concerns away with me.

Q63 **Chair:** I have a question about civil justice. Josh has just dealt with it, but it is not too strong to say that we were quite shocked by some of the conditions we saw at Snaresbrook and some of the equipment there. When we went to Central London, what most shocked us was the use of paper and the way that that really hampered the way the staff worked. Lifts were not working, so huge numbers of paper files had to be carried up on a daily basis, stored in cupboards—

Baroness Carr of Walton-on-the-Hill: Those roller cupboards, yes.

Q64 **Chair:** And in ordinary filing cabinets. We absolutely admired the way the staff had learned to cope with those conditions. I think you said earlier, Baroness Carr, that it looked like an organisation that was working on fire alarm all the time. It must be hugely stressful for people in that situation. What is your solution to that problem, so far as the civil courts are concerned? You mentioned a lack of digitisation earlier on. Are there other deficiencies that need to be made up before we can move to what would be a smoother running operation?

Baroness Carr of Walton-on-the-Hill: Digitisation will never completely eradicate the need for sufficient staff. By definition, it needs really good functioning IT. As you know, the Master of the Rolls is, and has been for many years, a passionate advocate. He has done a magnificent job of hammering home the importance of digitisation. It is vital to the progress of civil justice. We can see it. The data is there on this occasion. In the online civil money claim, for example, it is 29 weeks to get directions on a case issued down to 9.2 weeks. Everywhere you look, where digitisation is working, the efficiencies are there to be had. I know that it is a profound disappointment to him, and to all of us, that we have not achieved digitisation in civil. It seems to me that it is the obvious place where the public, particularly the new public coming through, are used to dealing with digitisation. When it works, it works.

What has happened, as you probably know, is that civil digitisation has been de-scoped. Bit by bit, things have been taken out of the programme with the result that, as I said at the beginning, very few cases indeed are going to be fully digitised. Central London was all paper. Other courts are in the worst of all worlds. They have CaseMan, which is the old electronic system, a bit of digitisation and paper. It is a hybrid system which is utterly chaotic, going through a central sorting centre in Northampton that has had significant problems with delays. What should be such a simple system just isn't. To take examples of what has been de-scoped, Chair, if it is anything other than a money or damages claim—for example, if you want a declaration or an injunction—you come out of online civil money claim. If you have more than three parties, you come out of the system. Bulk claims are not in there. There is so much. We have to press that home.

To repeat what I said at the beginning, we must improve the understanding of those who hold the purse strings of the importance of civil to the vast majority of the population. The figures are stunning: 10 million to 15 million civil, family and tribunal disputes every year and 1.7 million cases every year in the county court. Civil justice underpins every aspect of society. It travels out into health, businesses and all the rest of it.

Q65 **Chair:** Exactly. There is a caveat on figures, as always, particularly in civil, but those I have show that for quarter two of this year the mean time for small claims to go to court is almost a year, and for multi fast-track cases it is 80 weeks. I think we are going to get the quarter three data in a week or two.

Baroness Carr of Walton-on-the-Hill: I have the same stats.

Q66 **Chair:** What is the strategy for getting that down?

Baroness Carr of Walton-on-the-Hill: There is a lot of work going on within the current strictures, in terms of best management. We have new things like automatic referral of small claims to mediation, reducing the number of court hearings and all that sort of thing, but I'm afraid that fundamentally it is as simple as digitisation. We just need to get cracking. I can see no argument against it apart from funding. The travel out of the benefit of that in efficiencies is enormous.

Q67 **Chair:** Is it just funding?

Baroness Carr of Walton-on-the-Hill: I am told that it would take £15 million to get bulk claims digitised. That would be massive. That is warrants, TV licences and all those huge numbers of civil claims.

Q68 **Chair:** Why hasn't it been done so far?

Baroness Carr of Walton-on-the-Hill: I don't know.

Chair: We are up against time, so I am going to move to Pam Cox and family.

Q69 **Pam Cox:** Thank you. We will move to family justice for my questions. I will start with public law and then go back to private law. You mentioned the Pathfinder courts earlier in your remarks. There is a pilot that I understand has been very successful. What are the plans to roll out Pathfinder courts?

Baroness Carr of Walton-on-the-Hill: I got it wrong, by the way, when I started out. Pathfinder is private law. Public law is Public Law online. Pathfinder is private law. It is private disputes between parents over children. As you rightly say, it started three years ago. It started in north Wales, Bournemouth, Cardiff and Birmingham, and Swansea at the end of March, and it will start in Leeds if we get funding for it.

Before telling you why it works, this is an area where, happily, we have stunning actual data. Cases are being done in 21.8 weeks as opposed to

38.9 weeks when they go all the way. There is hardcore data. It is a very good example of what Mr Juss was mentioning, which is early resolution. It is as simple as having a child impact report from CAFCASS at the very beginning. Rather than having the CAFCASS report right at the end of the process, when it is going to its full final hearing, parents who are starting out on this bit of their journey see the report from CAFCASS saying, "This is the effect it's having on the child", and they go, "Do we really want to go through that? Wouldn't it be better for the child for us to agree arrangements?" The results are staggering.

I went to the opening of the legal year in Wales, right out in Haverfordwest. One of the judges there, her honour Judge Gaynor Lloyd, has been pioneering it and gave a demonstration to everybody on a graph as to how it works. It is so simple. It really works and it needs to be rolled out. There is no evidence base on which not to roll it out. It will be a purely budgetary decision.

Q70 **Pam Cox:** Is there a plan to roll it out?

Baroness Carr of Walton-on-the-Hill: Yes, in Leeds if we get funding. We want to roll it out nationwide to every family court, and so do the judges.

Q71 **Pam Cox:** In terms of other innovations in that space on the public law front, I know that people have different views on family, drug and alcohol courts. I will not ask you for your own views on them. In using the court as a problem-solving space for children, what might be the way forward with those?

Baroness Carr of Walton-on-the-Hill: FDAC is amazing. I had a morning in FDAC two weeks ago. It is transformational. They are family drug and alcohol abuse courts. It is basically a judge-led opportunity to work with a person's social workers, supporters and psychologists to give them a chance in a short frame of time to work through their problems and see whether or not, at the end of that process, the child does not have to be adopted or whether or not the child can come back into the custody of the parent. It is transformational. There is hardcore evidence that for every £1 spent on an FDAC team the taxpayer saves £3.20. It is revolutionary. It needs local authority funding at the moment, which has been patchy; it comes and goes. Again, rather like Pathfinder, you can point to the evidence and see that it works. It is early resolution, so it is part of the overall picture of early resolution. The President of the Family Division, who has led so many extraordinary new initiatives with vim and vigour, has suggested that perhaps the D and A might stand for "domestic abuse" and not "drug and alcohol". Is there scope for rolling out that sort of pilot or concept outside the drug and alcohol unit, because it really works? It is very humbling.

The Manchester magistrates have just received a King's Award for their early problem-solving courts with women. I sat in on one of those. Extraordinary women, who were almost mute on day one, come in and

you cannot stop them talking after week six. It is transformational to see the work that can be done by judges and magistrates with people who, if at all possible, should not be in the court system at all. FDAC is great. Thank you for mentioning it.

Q72 **Pam Cox:** Thank you for raising the possible connection with domestic violence cases. We are on day two of 16 days of international action against violence against women and girls. That might be a very interesting route to pursue. My final question is on the average length of a private family law case. In March 2024, it was about 44 weeks. Is that a sustainable figure? What are the plans?

Baroness Carr of Walton-on-the-Hill: In private law or public law?

Q73 **Pam Cox:** Average case length in private family law is 43.9 weeks. How might we get that figure down, in your view?

Baroness Carr of Walton-on-the-Hill: I would say Pathfinder in private law. Again, I don't know where that statistic comes from. I am not doubting it. In Cardiff I think the backlogs are down, with Pathfinder, from 1,300 to 83. There are 280 live cases, with only 70 live for over nine weeks. Pathfinder, front-loading as few hearings as possible and making every hearing count are some of the things that are happening in public law as well. All of it is in the same direction of travel.

Q74 **Mrs Russell:** You mentioned in respect of Pathfinder a list of courts that sounded to me mostly like they were in the south and Wales. You referred to Leeds as a potential further roll-out, and then you talked a bit about Manchester. Both in civil and potentially in criminal, what I have seen across the public sector since I have become an MP is that things often seem to be completely different in London. The quality of services or the way things work is totally different in London. The further you get from London in any direction, but frankly particularly towards the north, often stuff just doesn't go there. The quality of services that my constituents in the north of England receive is, accordingly, completely different and, bluntly, often infinitely worse. If you get information about regional disparities, across civil and criminal, do you feel that things are being moved forward at an even rate? Are regional areas getting what they need?

Baroness Carr of Walton-on-the-Hill: Yes, regional justice is incredibly important. I will take as an example the regional business and property courts. We have just opened new regional business and property courts in Leeds and Manchester. I think local justice is very important. I understand that sometimes things feel very London-centric. There is certainly nothing deliberate about it.

Q75 **Mrs Russell:** I am sure that is true.

Baroness Carr of Walton-on-the-Hill: It is an awareness and a sense. I was a presider on the Midlands circuit; Lincoln, Newark, Birmingham and Worcester were all my courts. I will take that away to think about it,

but I want to assure you of my commitment that it should not be lottery justice. It should be justice for all, and it should be the same justice. Where there are regional variations, often with FDAC, which is local authority funded, it can be because you have a particularly bad local authority. I think Kent FDAC closed. The funding was suddenly pulled.

The courts in Manchester, Leeds and Liverpool are enormous and functioning well. They are certainly very busy. I would not want there to be an impression that there is any desire. If we are not looking after the north enough, we need to think about it.

Q76 **Mrs Russell:** Moving to tribunals, you have very much pioneered the One Judiciary reforms. What more do you need for there to be more cross-deployment of judges between courts and tribunals? What can we do to help?

Baroness Carr of Walton-on-the-Hill: One Judiciary is very important. It is about bringing the courts and tribunals together to make better use of resources, so there is a strong efficiency drive to it. Harmonising working practices so that we get the best out of everybody while respecting our differences is also a diversity and inclusion culture. Tribunal judges have not necessarily had the respect that they deserve in some quarters. That is an important thing for me to work on, alongside the Senior President of the Tribunals, who is passionate about One Judiciary.

I have spoken in the past, and I spoke in January, about the need for legislation to bring about a healthier leadership structure which is more consistent with One Judiciary, whereby the Senior President of the Tribunals becomes a head of division, and I sit on top. He acts, as I say, as a head of division in that way. Tribunals have led the way in many ways. It was tribunals that first came up with the idea of a virtual region, which has been a fantastic development that we are rolling out in civil and family. If one court basically has capacity and another court is bursting, we can go into the virtual region and redistribute the work digitally. That is a fantastic idea.

One Judiciary is an incredibly important part of the future of a 21st century, fit-for-purpose, judicial system, all the more so when we look at what is happening to the tribunals at the moment. The tribunals are the most vulnerable part of our justice system when it comes to policy change and new legislation. We can see that right here and now with immigration and asylum, renters' rights, new property legislation, mental health cases and workers' rights. All of that is going to affect the tribunals, so the demand on them will be enormous. When we were short of district judges in civil, for example, we were able to cross-deploy employment judges across. It is flexibility of deployment and feeling like we are all part of one system. If you are a judge at a certain level, it doesn't really matter where you sit, or if you are a circuit judge. I think that is important.

Q77 **Chair:** Do you ever feel that you are asking too much of some of the judiciary?

Baroness Carr of Walton-on-the-Hill: Yes.

Q78 **Chair:** The reason I say that is that there are not many professions where you would be asked to work across the piece in the same way. Clearly, for some judges, not only can they do it but they like doing it. Are you forcing everyone down that route?

Baroness Carr of Walton-on-the-Hill: Nobody would ever be forced to cross-deploy. On a broader point—going away from your point, if I may—there is something I would like to say. You make a very good point, which is that the morale of judges in certain jurisdictions is very low, for reasons you may be able to imagine. In some areas we have been marched up the hill and down the hill. Take Rwanda as an example and training magistrates. We have been up the hill and down the hill, and so on. Part of my role is to support the judges through what is still a very uncertain time for them, in terms both of policy—everybody has ideas about what we might do, and that is quite unsettling—and of money, because we don't know what is going to happen.

I am a firm believer of every now and then saying, "Actually, maybe we should just leave them alone for a bit and let them settle down." The problem is that we are not able to because of the figures that we have been talking about. Part of my role will be to support judges in these challenging times. Sometimes, maybe that means holding back for a bit.

Q79 **Mrs Russell:** You talked about the fact that you foresee significant increases in the workloads of the tribunals. Do you have any information about resources to go with that?

Baroness Carr of Walton-on-the-Hill: No. We have talked in all sorts of jurisdictions about the interconnected nature of the different parts. It is Government responsibility, whenever they look at a new policy change, to look at judicial capacity and the effect it will have on judicial capacity. I would take that as read.

In the last quarter we have seen an 82% increase in cases in first-tier tribunal immigration and asylum. That is huge. What we are doing, as much as we are allowed to, is recruiting new judges, but the numbers are small. We have 150 fee-paid judges who will not be in post, at the earliest, until autumn 2025. We have a competition for some salaried judges as well. Again, I don't see any of those new judges coming online, after training, until well into the autumn of next year. Going back to the hourglass, you can increase the ask, but you are not going to make the width of the hourglass at its pinch point any bigger unless you increase capacity, and that does not happen overnight. I think that is understood by Government. You cannot make these big policy decisions without being acutely aware of the downstream impact.

Q80 **Warinder Juss:** I want to ask you some questions about judicial

capacity, the make-up of the judiciary and diversity within the judicial profession. You mentioned that there is competition for judges at the moment. When we were at the Central London county court last week, I raised that question. One of the issues raised was that there is a bit of a recruitment crisis. We know we need more circuit judges for criminal cases and district judges for civil and family cases. What are the challenges? Why is there a difficulty in recruiting judges?

Baroness Carr of Walton-on-the-Hill: There are different problems in different areas. The real problems, as you rightly identify, are salaried district judges, salaried Crown court judges and salaried employment tribunal judges, to take examples. We have seen significant shortfalls in all those competitions, even though we have had massive outreach, particularly, for example, for salaried district judges where there is an acute need. We fell short in crime as well.

One of the problems is that London and the south-east is very expensive. We have a challenge in recruiting full-time district judges to London and the south-east. The other challenges are what you have been hearing about: the conditions of the buildings, the stress and the workloads that judges are working under. Again, it is multifactorial. It is a real problem, and we have to address it. We are going to have perhaps a major review with the salaries review board. I would like to look at the possibility of legislation, to look at how we calibrate the terms and conditions between salaried and fee-paid judges. For example, a fee-paid judge gets their travel expenses and accommodation paid. A full-time judge living in London does not. I am personally a firm believer that the backbone of a modern 21st century English and Welsh judiciary should be made up of salaried judges. In civil, for example, it is 50:50. In the tribunals I think it is 30:70, 30 salaried and 70 fee-paid. That is not the right balance.

Obviously, I advocate the joys of a full-time salaried judicial position, which are many. For people who like leadership positions or are truly committed, full-on public servants, there is no better job. Of course, there are many opportunities that you would not have as a fee-paid judge. It is a real problem that we face.

Q81 **Warinder Juss:** Are there any problems in terms of the applicants not being of the required high standard?

Baroness Carr of Walton-on-the-Hill: The appointments are all on merit. Nobody will be appointed who does not meet the merit standard. That is incredibly important. I don't think there is a quality problem by definition because you would not be appointed if you did not meet the standard. The balance between salaried and fee-paid is a really tricky problem. Fee-paid judges are incredibly useful and important, and they do great work. They fill a business need, but in my view they should not be the backbone of the justice system overall.

Q82 **Warinder Juss:** I want to ask you a question about fee-paid judges and salaried judges, but before I come to that I have a couple of questions

about the actual make-up of the judiciary. Five per cent. of senior judges—High Court and above—are non-barristers. They are mostly solicitors. When it comes to district judges and deputy district judges, non-barristers amount to something like 55%. Why is it that we get barristers who reach the higher positions in the judiciary and not, say, solicitors?

Baroness Carr of Walton-on-the-Hill: The question is why we do not have more solicitors at the top?

Warinder Juss: Yes.

Baroness Carr of Walton-on-the-Hill: I think we have at least one solicitor in the Court of Appeal. I have been working flat-out with solicitors, if I am allowed to say that—well, I just have. I am doing quite well. In the last three months I have had three full-on sessions with magic circle firms, as well as working with the Law Society more generally. Over 20% of the Chancery Division is now made up of former solicitors, which I am really excited about. That is quite a statistic. I am sure you have better things to do than read my talk to the London Solicitors Litigation Association on Thursday night.

Q83 **Chair:** I am looking forward to it.

Baroness Carr of Walton-on-the-Hill: Good. Perhaps you can put some of that out, Chair. I am thoroughly committed. It is front page of the *Law Gazette* as well, if you read that. I am absolutely committed, and I think we are making real progress.

As with women, ethnic minorities and black people, the reason why more people are not getting to the top at the moment and why they are not there yet is that it is a pipeline. We need to work at getting the right people in from the very beginning and tracking and supporting them all the way through, so that we have a judiciary that is properly reflective of our society and as diverse as possible. In my lecture I speak of all the transferrable skills and all the benefits that solicitors can bring to the Bench, because they are many. Of course, in the tribunals there are more or as many solicitors. I cannot remember what the statistics are. It is 59% solicitors and 41%—

Q84 **Chair:** You are not going to resolve your problem of salaried judges though. You are talking about people who might do some fee-paid work.

Baroness Carr of Walton-on-the-Hill: No, I am talking about full-time, salaried judges.

Q85 **Chair:** Recruiting from magic circle firms?

Baroness Carr of Walton-on-the-Hill: You are quite right. Overall, I must be taking into account fee-paid judges here. Yes, I am.

Q86 **Chair:** You mentioned that they found time to do pro bono work.

Baroness Carr of Walton-on-the-Hill: That was a good dig, Chair.

Q87 **Chair:** You don't want them not to do the pro bono.

Baroness Carr of Walton-on-the-Hill: No, but what I hear from magic circle firms is, "Well, our best people are so busy and making us so much money that we can't possibly release them to do a six-week sitting." I am trying to appeal to their broader social consciences to understand that just as they can do pro bono work, so they can contribute to society in a broader way by allowing their solicitors to become members of the judiciary.

Q88 **Warinder Juss:** If I read your article, I might be able to get the answer to the next question. When it comes to ethnic minority background judges, 14% of district judges in magistrates courts are from ethnic minorities. I hope these figures are right. When it comes to deputy High Court judges, 13% are from ethnic minority backgrounds. When we look at more senior appointments, the percentages are much lower.

Baroness Carr of Walton-on-the-Hill: Yes. It is a similar answer. You always need to remember that you need to compare the statistics with the eligible pool. It is not a percentage to be taken in isolation. It is to compare the number of people in the judiciary from the eligible pool of applicants.

We have been making slow progress with Asian and mixed ethnic minority judges, and far less good progress with black judges in particular. That, as you know, was one of my particular priorities this year under our diversity and inclusion strategy. We have a long way to go, but we are listening. Part of what we need to do is listen more to black judges' experiences and why they feel they are not progressing more, or whether there are things that we could do that we are not doing. We have very good engagement with them. We are involved with all sorts of relevant organisations. We have lots of reverse mentoring, lots of shadowing schemes and all the rest of it, but we are not making the progress that I would like to see. I don't think it is an easy issue to resolve, but I am not going to give up on it. We will get there, but it is the pipeline thing. It is just making slow progress through.

We have made really good progress with women. I know that is not necessarily a big news story any more, but in 10 years we have improved proportions by 10% to 14% in certain jurisdictions. We are going in the right direction, and we will never give up. It is just a question of working at it. It is not good, and I think everybody would like to see a better situation.

Q89 **Warinder Juss:** Thank you for that; it is reassuring. I have one final question. In January, you mentioned to the Committee that you wanted to review the terms and conditions of salaried judges and fee-paid judges. Are there any disadvantages that you see in having fee-paid judges in crime, civil and family cases?

Baroness Carr of Walton-on-the-Hill: No disadvantages at all. As I said, they do a really important job. They allow us to fill our business

needs. I was a fee-paid judge, and then I became a full-time judge. It is a very good training ground to see whether you enjoy judging and want to take it all the way through. They do a fantastic job; they are very important. It is just that we cannot have them running the courts, for all sorts of reasons. They do not do box work; they do not take on leadership roles; and they will not be able to sit for three or four weeks, let alone more than that, on the big cases. I hope that answers your question.

Warinder Juss: Yes. Thank you.

Q90 **Linsey Farnsworth:** I want to take you back to the recruitment of salaried judges. I have a question that has two elements, in terms of increasing your pool of people. You talked about working with the magic circle firms to try to get more solicitors. Are you working with any other pools of people, such as law centres, high street practices or—

Baroness Carr of Walton-on-the-Hill: Yes. I have been working absolutely flat out with the Law Society. I am sorry to cut across you. The reason why I mentioned the magic circle firms is that that is where we have made the least progress. They have been my target group. Of course, because I was a business and property court judge, a commercial court judge and all the rest of it, I am well placed to understand their world and speak to them, I hope, with conviction. The reason I singled them out is that every year, all the time, we reach out to solicitors across the nation in all practices. I work very closely with CILEX, with the Law Society and of course through the Judicial Diversity Forum, where we all come together and discuss the issues.

Q91 **Linsey Farnsworth:** Thank you; that is very reassuring. The second part of the question is about females. Are there any schemes that will expedite increasing the number of female judges? For example, with female bishops in the House of Lords, as I understand it—Andy will correct me if I am wrong—they were ringfencing the next appointment of a bishop to the Lords for a female because they need to increase the numbers.

Baroness Carr of Walton-on-the-Hill: I don't think we would ever do that. It is not something I would ever support. For me, it does not fit with a merit-based appointments process. What I will say is that we have a lot of very targeted outreach, which has remarkably good results in terms of success rates with applications for judicial appointment. Women, and indeed all minorities, are supported through that process. Current or retired judges give one-to-one bespoke, tailored advice through the process, on what level to enter and all the rest of it. The ringfencing, as you put it, is something that I am not comfortable with, at least at the moment.

Q92 **Chair:** We are nearly there. I have a couple of questions, if I may. There is a lot of talk about conduct and regulation, perhaps more than there used to be. That is across all the professions, with the Bar inquiry into

bullying. There were 27 complaints upheld by the Judicial Conduct Investigations Office, according to their recent annual report.

Baroness Carr of Walton-on-the-Hill: Twenty-seven complaints of?

Q93 **Chair:** There were 27 complaints upheld against judicial office holders for inappropriate behaviour or comments. That is a small number in terms of the overall judiciary, but do you have any concerns that standards may have slipped? We also have a lot more litigants in person in court. Very sadly, we have had some violent attacks on judges. Those things must be of concern to you. How would you put that into perspective?

Baroness Carr of Walton-on-the-Hill: I am a passionate supporter of an open and transparent disciplinary system. As you know, I come from a disciplinary background. I was chair of the Bar Standards Board Conduct Committee and the chair of the working group that brought in the recent revisions to the disciplinary rules and regulations that are operated by the JCIO. I suspect that the accurate answer to your question is, in part, no, because an increase in complaints is simply the product of a more open and transparent disciplinary system, which is a good thing. If complaints are made and they are well founded, that is a good thing because it holds us to account. In terms of standards slipping, I suspect that the stresses and the strains on individual judges may at times take their toll. That may be part of the reason. I would not necessarily see that as standards slipping as much as circumstances changing and affecting the way people behave.

What I am absolutely clear about is that I will not tolerate bullying, harassment or inappropriate behaviour. Where it is established, it will be acted on. You can see from the complaints and their transparent outcomes—you now get details—that that is what will happen. The Lord Chancellor and I take our responsibilities for discipline very seriously. We discuss cases together. It is an independent process. Sometimes it could be a bit quicker than it is, and it is not always completely perfect. No system is completely perfect, but it is robust and effective. As you say, 2% to 3% of complaints per year are upheld, which is not a lot in the grand scheme of things.

Q94 **Chair:** In those rare cases where disciplinary action needs to be taken, or even removal from office, do you think the system works? I am thinking of cases to do with coroners, for example, where it proves to be very difficult to take steps. Do you think we need to look at the way the process works?

Baroness Carr of Walton-on-the-Hill: As with everything, I am always open to looking at ways of making it better. Advocates and solicitors have informal and formal channels of raising a complaint. Informal is face to face directly, and I can see that that is difficult. It could also be through your head of chambers, or your senior partner, to the judge's leadership judge, or more formal processes. There are also things like Talk to Spot, which I think you probably know about, Chair. That is the Bar's

complaints line or counselling line. The Bar Council and I work very closely, looking at themes and trends.

It is a sensitive area, and it is really important. You know about the statement of expected behaviour that we brought in in January 2022, which is now an intrinsic part of the guide to judicial conduct. I do not think any judge is in any doubt as to my position on bullying, harassment and inappropriate behaviour.

Q95 **Chair:** Thank you very much. We had other questions, but I am not going to run this any longer. You have been extraordinarily generous with your time. I think we are all very grateful for the insight that you have given us today. We would like you to come back at some future date.

Baroness Carr of Walton-on-the-Hill: As I anticipated I would, I have found it a very engaging and helpful debate. I am really keen to give you everything that you feel you need. I will do my best to give you accurate, reliable and objective as I can answers to your extremely insightful questions.

We are going to extend an invitation to Ms Cox to come to the CCIG. There is, as you know, an open invitation to all members of the Committee to come and visit us in the Royal Courts of Justice on an information-gathering exercise at any time, or for a cup of tea. You know that we see the parliamentary Clerks from time to time. We are going to the Senedd to do the same in Wales. I am really keen to support you and to recognise, as I did at the outset, the importance of your work. You are in a very important area of civil society in the context of the rule of law. Thank you for everything that you do, and good luck.

Chair: Thank you very much, Baroness Carr.