



HOUSE OF LORDS

Constitution Committee

Corrected oral evidence: The rule of law

Wednesday 16 July 2025

10.25 am

Watch the meeting

Members present: Lord Strathclyde (The Chair); Lord Beith; Lord Bellamy; Lord Burnett of Maldon; Lord Foulkes of Cumnock; Lord Griffiths of Burry Port; Baroness Hamwee; Baroness Laing of Elderslie; Lord Murphy of Torfaen; Lord Waldegrave of North Hill.

Evidence Session No. 12

Heard in Public

Questions 159 - 175

Witness

I: Rt Hon Sir Geoffrey Vos, Master of the Rolls and Head of Civil Justice in England and Wales.

Examination of witness

Sir Geoffrey Vos.

Q159 **The Chair:** Good morning and welcome to this meeting of the House of Lords Constitution Committee. Today, we hear from Sir Geoffrey Vos, Master of the Rolls and Head of Civil Justice in England and Wales. You are extremely welcome and thank you for taking the time to be with us today. As I think you know, we have been carrying out an inquiry on the rule of law over the course last few months. We have seen many witnesses and are delighted that you have come up towards the end of the process, as that gives us more perspective. We hope that we are able to hone our questions rather more wisely than perhaps we would have in the past. We have seen many legal personalities, including the Lady Chief Justice and others. We have seen members of the police and what I might call ordinary practitioners in giving advice—solicitors, barristers and so on—so we have been getting quite a good view of what is going on, but this evidence-taking session is obviously extremely important to us.

Let me start off with the first question. Overall, how would you assess the state of access to civil justice in England and Wales? What impact does it have on the rule of law?

Sir Geoffrey Vos: Thank you, Chair, and thank you for the invitation to attend the committee. I wonder if I might give you a two-minute introduction before I come to answer that question.

The Chair: Please do.

Sir Geoffrey Vos: I start with an anecdote but one that I think is extremely important. I attended a conference of judges in a south Asian country a few years ago. That country had huge delays in civil justice. An official from Gallup poll explained that more than 50% of those asked in that country how they would resolve a civil dispute with a neighbour replied that they would use self-help, which may involve threats or violence and definitely leads to the breakdown of civil society. It is for that reason that the state's provision of an efficient, quick and economical dispute resolution process is a cornerstone of the rule of law.

I am afraid civil justice is wrongly regarded by many as less important in rule of law terms than criminal or family justice. Actually, more people in our society need to resolve civil disputes, large and small, than have any contact with the criminal or family justice systems. I often say that there are some 15 million such disputes every year. Some of these are very small indeed but they all cause economic and psychological damage to those involved in them. All of you will know how much less productive people are at work when they receive an unwarranted demand from their electricity or gas supplier, as they tap away on their mobile phone in work time, trying to find ways to resolve that small, civil problem.

Now as Head of Civil Justice, I have made it my highest priority to support and promote modernisation of a system that is very hard to

modernise. The large variety of case types which I put into the document I put into you makes it difficult to apply one size fits all to streamlining and digitisation. Nonetheless, in my view we must achieve the goal of bringing civil justice into the 21st century. We must create a system suitable for the people that we all serve. Those people were, for the most part, brought up with mobile phones, tablets and computers. They expect justice to be delivered in the same way as the other services they use every day: in online banking, online shopping and utility bills, to name but a few. To be honest, the piles of paper in our county courts are unacceptable and unsustainable for the future.

For that reason, I have three important priorities to achieve my goal of modernisation of civil justice. And just to head you off at the pass, if I may, they are all achievable without massive government investment. What they need is dedication and collaboration between the judiciary, HMCTS and the Ministry of Justice, and that is something which I now believe is achievable. The three priorities are as follows. First, we need to continue the process that started with reform, so is to get paper out of the county court. We need to move more and more case types on to the new digital platforms we have already built. It can be done. Secondly, we need to replace a system called CE-File, which is currently used for complex cases in the High Court and the business and property courts, with a proper, AI-enabled digital case management system fit for the future. Thirdly, and perhaps closest to my heart, we need to continue with the pre-court digital justice system being created by the Online Procedure Rule Committee, which will allow many more disputes to be speedily and economically resolved online before they enter the court systems at all.

Many other things are being done—and need to be done—to modernise civil justice, including the rationalisation and digitisation of enforcement mechanisms and the expansion of alternative dispute resolution mechanisms. I am sure we can discuss those too. In my view, we need to raise awareness of the importance of civil justice and the importance of access to justice for every person, citizen and small business in our country to the rule of law and to the well-being of our citizens at every level. That is my introduction.

Q160 The Chair: Can I quickly comment on your introduction, which was immensely interesting and extremely well put? You come here with vast experience and knowledge in the judicial space. Nobody disagrees with your three priorities. What is the blockage to achieving all of them?

Sir Geoffrey Vos: A marvellous question, if I may say so. There is no real blockage. Take the replacement of CE-File; there is a project to do that. The discussions are only as to how and how quickly it can be done, but it must be and will be done.

The Chair: It is achievable.

Sir Geoffrey Vos: It is achievable and will be done. I believe that there is funding for it. Getting paper out of the county courts is massively

difficult because of the way in which reform was undertaken. If I had to identify a single reason why it is difficult, it is because nobody started from an understanding of all the multifarious, different and disparate kinds of cases we do in the county court. They are all different. They all take a different amount of time. In one county court—for example, Luton, wherein is the home of easyJet—they have lots of airline delay claims. That is not surprising, but they are of a completely different character from the county court in Birkenhead, where they have what we call stage 3 personal injury claims in the hundreds and maybe even the thousands. If you try to make a one-size-fits-all system, you cannot. You need to tailor the process for civil justice in a very different way from that in which we did it for family justice and the tribunals of various kinds, where the cases tend to be homogeneous: all roughly the same, with the same kinds of parties.

That is the problem. The solution to getting the paper out of the county court is finally on track. We have created these two digital systems, OCMC—online civil money claims, which is effectively for debt claims—and another system for damages claims. They are both very good systems. We now need to expand them. As at today, only about 11% of cases started in the county court go through those systems. We need to expand them so that they can accept many more of the different kinds of county court cases. Again, it is doable. The reason why it has not been done to date in many cases is not indolence, not unwillingness or not even a lack of collaboration. It is that all these types of cases have different archaic rules that apply to them. They have different fees apply to them. The digital system was built for simple debt claims and simple damages claims. It needs to be tweaked and adjusted, or the rules or fees need to be. Then we can bring a whole raft of other types of claims on board.

The third priority is the digital justice system. I would say I am most responsible for that in the sense that, without being stupid about it, it is something I have worked on for a number of years and it is happening. The Judicial Review and Courts Act 2022 gave the legislative background to the Online Procedure Rule Committee, which I chair. Lord Burnett appointed me as its chair; you will be surprised or pleased to hear that I have now been reappointed for another couple of years. We are starting to make rules there. We have had a statutory instrument and will have another, I hope, next year. We are starting to make rules for the online space, which will be transformational, but the even more transformational and exciting thing is that we will bring coherence and integration to pre-court dispute resolution.

With my 15 million cases that I talk about, most of them have to be resolved without a judge. We do not have enough judges to resolve those numbers of disputes. We have online platforms provided by the state, private enterprise and industry but they are not connected or integrated. The OPRC will provide guidance and a framework. If, in looking for a way of resolving your small dispute, you go to the housing ombudsman—let us say it is a claim about a property—and he, because of the statute

under which he was created, cannot deal with it, at the moment he just leaves the claim and says, "I'm sorry, I can't help you". Of course, what he ought to do, and what has to be structured, is to say, "I know that the online official injury portal could help you because your problem is a personal injury claim, so I am going to direct you electronically to that", or, "I can see you need legal advice and I will direct you to online legal advice". Once you get those interconnections in place, which digital makes very easy, you will have a much better structure for resolving those disputes quickly and efficiently.

Q161 The Chair: Thank you very much. That is a very good explanation. Now we will go back to the original question, please.

Sir Geoffrey Vos: Well, the original question is how do I assess the state of access to justice. I think it is improving. People are surprised when they use the new systems that we have put in place and are available by how accessible and easy to use they are, and how they work. We get very good consumer feedback from these new digital systems. They are much quicker than the old paper-based systems but they are not extensive enough, so we need to do what I said earlier to make them much more applicable to everything else.

Access to justice is a work in progress. There are problems, as I identified in my submission to the committee. The main problems are delays in the south-east of England caused by a lack of district judges. The south-east of England and London are not the most popular places to work. It is expensive to live there. District judges who are on a second career often want to go and work elsewhere. But we are addressing that and should have more judges appointed; I think it is slowly, slowly. There are delays in some parts of the country.

The committee needs to understand that I am responsible for 140 county courts around England and Wales and I am the first Master of the Rolls to really make an attempt to visit them all. I do that religiously—literally. When I go round, I see many of those county courts running efficiently, providing dates for small claims within three, four, five or eight weeks of the case coming in. The delays are caused by things like central problems at the central Civil National Business Centre in Northampton, where they had five floors of papers and it took weeks, or sometimes months, to get those cases out to the county court. But once they get to those country courts, they are dealt with efficiently. There are very harmonious relations. We see everything working well—not always in London or in parts of the south-east, where there are major delays within the courts, but those are all being addressed. I would say that it is a patchy picture. I do not think anything is not being addressed. Obviously, there are funding issues in every aspect of society.

Then you asked what impact all this has on the rule of law. As I started by saying, if you cannot get access to justice and the state does not provide a means of resolving your dispute properly and in the way people expect it to be resolved in the modern world, that is a very serious impediment to the rule of law. I do not think we are in that position. We

are not in a position similar to the delays in some other countries. We have a system which is functioning. It is too slow at the moment. Digitisation will make it much quicker. It will become much more accessible. Of course, we will put in place mechanisms to make sure that those who are digitally disadvantaged and cannot use the digital systems are assisted in doing so. There will always be a paper alternative. Overall, I am reasonably optimistic. If my three priorities are achieved in a reasonable timescale—I am looking at two to three years—that will make a meaningful contribution to access to justice and therefore to the rule of law.

The Chair: That is extremely helpful. Thank you very much.

Q162 **Lord Beith:** You talked about getting the paper out of the county court. Is it not also the case that you are really trying to get the county court out of the courtroom? A far smaller proportion of hearings take place, I think, because there are better systems for handling the majority of complaints.

Sir Geoffrey Vos: Yes, I think that is partly true. We always seem to find our courts are pretty full and we even need more. Modern society is interesting. When you do not really have access to justice, people do not bring claims even though they should, but that creates social problems at another end of the spectrum. When you do have a functioning system, even if you resolve millions of claims pre-court, even if you resolve them online or very early on—which is good for the economy and for people's psychological welfare—you still get quite a few that do not settle. Those do come through the system and go to court. Even within our digital justice environment, I would still expect the county courts physically to be as busy as ever, but the system will work better because I always look at it as a funnel. At the top, you have these 15 million cases. They work through the system, most settle and, we hope, are resolved quickly with low cost, but there will always be hard nuts to crack. The better the system, funnily enough, the more eventually filter through. So you still need proper courts, and physical courts. You can have remote hearings—we have a lot of them—but with some cases, you need to see the judge. It is only when you see the judge that the case can be resolved.

Lord Beith: A good district or county court judge can winnow out some of the confusion that arises from a stack of paid lawyers on one side and an individual who does not understand the procedure on the other.

Sir Geoffrey Vos: Or more often two individuals, neither of whom understand the procedure. These days, district judges are fantastically expert. I never cease to be amazed at the quality of our district judges as I go round these courts. They are committed and absolutely dedicated to the work they do. They are jolly good at it, as you say. In many small claims, they have something called a dispute resolution hearing. The parties are nearly always unrepresented. It could be a claim for £900 against a builder, where the parties hate each other because they have fallen out over whether the fence was grey or black—something completely irrelevant to the dispute. They will come into a dispute

resolution hearing and the judge will say, "Look, have you thought that actually you put in only 50 metres of fencing but you are charging for 100? Surely that is a problem for you". They will say, "Oh, really? You are probably right".

Q163 **Lord Beith:** How far can you encourage people to take early legal advice, and from where, to pre-empt some of these circumstances?

Sir Geoffrey Vos: Let me say something about early legal advice. You probably know that the legal aid system in civil justice was reduced very significantly a few years ago and that caused problems. There are fewer lawyers in the county court than there used to be. Where there are lawyers, they tend to be in a particular kind of case, funded by industry. For example, personal injury cases generally have lawyers because of funding mechanisms—though not always. A lot of other cases, such as small claims, do not frequently have them. The problem occurs with needing to go to the judge for that half-hour hearing just to be told that you are claiming for twice as much as you did. That should be dealt with by a lawyer, if it is not obvious to the parties, and you cannot get legal aid funding for that.

What I envision and have suggested is something that I hope will be picked up by the Government in a discernible period of time. That is the provision of legal advice online so that you will first, probably, use a legal advice chatbot, an AI-driven tool. By the way, those work incredibly well. I have tried them myself. I had a legal problem, went to a solicitor and got the answer. Then I thought, "Gosh, I'm talking all the time about AI. I should see whether the same answer comes from my ChatGPT". I went into ChatGPT, asked the question and got the same answer but for rather less money. You can have such a chatbot but many people will not ask the right questions of it. In many cases, it is not the answer that is lacking but the question. Although you can train chatbots to get to the right questions, sometimes people are just not able to understand how to converse. Those people will need to be transmitted to legal advice. Often, I believe, half an hour talking on a screen to a real human being can resolve these problems before you even get to court. I think the best use of legal aid money for civil justice would be to provide such a service. It is not there yet but I know it is being considered.

Q164 **Baroness Hamwee:** You talked about people needing to see the judge—I may not have that verbatim. In other contexts, we hear a lot about having the human in the loop. When you say that, do you mean that they need to have the confidence that there is a human being involved, that they need the authority of a judge, or that they do not have confidence in the system getting the right legal answer—or is it a mixture?

Sir Geoffrey Vos: I think my answer is that it is the first two of those. It is extremely important that they understand and have confidence in the authority of the court. We are very lucky in this country because our court system and its judges are respected—I will not say universally, but in public surveys it normally comes out well over 70% and better than many other sections of society. I think people have confidence in the

court but they get very entrenched in disputes. Years ago, I used to think that this was only us here in the UK and other countries were different and better. Actually, I do a lot of travel and international work judicially. I have worked closely with nearly all European countries because I have been president of the European Network of Councils for the Judiciary and am now Vice-President of the European Law Institute. I go to lots of countries and they are all the same; every country has the same problem. People get entrenched in a dispute and cannot see their way out of it, however simple it is. If they can go to a genuinely independent judge in whom they have confidence, and are told something that is obvious to the judge and may be to any independent third-party observer but is not obvious to them, they will take it from that judge. They may not take it from other people, though they would take it from lawyers as well.

The real question here is how we can get dedicated interventions at the right time quickly enough to resolve people's problems. As I said at the beginning, if we do not, these problems get worse and cause economic damage and drag. People are not productive and are worrying. On the point about banging on the mobile phone when you get a problem, it is quite extraordinary. I am sure you have all seen it in your offices. It goes on for a considerable period, even to resolve the simplest of problems. Not everybody has to go to a judge. Most problems can be dealt with in many of the pre-court ways that already exist and are very effective. Those provide really good, happy solutions for lots of people. But they have to be quick. Then, if the problem is really intractable or the person is very entrenched, ultimately there always has to be a judge available. It is amazing how good those judges are.

Baroness Hamwee: Chair, I would love to pursue this matter but I have one question of clarification about the note. You list 38 types of dispute. Can I check: are those in order or is there any ranking?

Sir Geoffrey Vos: No.

Baroness Hamwee: Good. There are so many professional negligence claims at the top that I was quite worried.

Sir Geoffrey Vos: The reason negligence is at the top is that medical negligence, professional negligence and road traffic accidents are most of the things that people think come to the county court. The real truth is that county courts' and judges' time is spent as much on property claims of various kinds. These can be very small property claims, tenancies and other disputes about ownership of properties. Trusts of Land and Appointment of Trustees Act claims, TOLATA, are one thing. Trusts of land does not sound very interesting but there are loads of them and they are very intractable. There are inheritance Act claims, wills claims, all sorts of things. No, they are not in any order. The thing to understand about this is that as society changes, so does the list. This list will not be applicable in 10 years' time. Here, we have travel claims and travel sickness claims. Those are prevalent at the moment. We have PPI claims. Those are going but will be replaced by something else.

Q165 Lord Bellamy: Following your remarks about an online legal advice system, we have had quite a lot of evidence to the general effect that when people have problems, many are not actually legal problems or they do not know what the problem is. I wonder whether, in terms of triage, you need a sort of first-base advice facility online which can direct people somewhere—a sort of online citizens' advice bureau, a national service of direction. In many cases, it might be a benefits problem or something that is not a legal problem at all.

Sir Geoffrey Vos: I do not think it is feasible for the Government to fund a universal point of entry to dispute resolution. The problem is that it is too complex and there are too many different kinds of disputes. Many, many providers already exist. Citizens Advice available online, Advicenow and law centres are available online. There is legal advice, mediation, ombudsmen and all sorts of people online already. The question is how you triage the people who come with a multifaceted problem.

I always cite Professor Dame Hazel Genn, because I find her work incredibly informative and she has written about this extensively. She gave a Bentham lecture a few years ago in which she explained how every problem is interrelated. When you lose your job, you cannot pay your rent and you lose your home. When you lose your home, you lose your spouse and then you are involved in a cycle of problems, some of which may be legal but many of which will be social. Now, how do you resolve that? You need a lawyer sometimes to find the thread that first needs to be pulled to untangle it. Otherwise, you may try to address, for example, the possession problem, which will not do you any good, when you ought to address the problem with your employer, which might get your job back, which might then mean you earn money again. You may need legal advice for that.

The thing is so multifaceted that one size does not fit all. I have a vision for this. Some really useful work was done by the MoJ on the digital justice system. It found out that people find it helpful and problems are resolved when they can go to a site with which they are familiar, get a bit of legal advice and then be directed to another site. The ecosystem is not as simple as my model of a funnel, where you go through and get to the court if you really cannot resolve it before. The model is much more a whole ecosystem in which you should go for small inputs of legal advice: sometimes, "Go for the resolution of this problem here, and the resolution of that problem there". You should not underestimate the number of providers in the system doing brilliant work. Advicenow is fantastic, as are CAB and ACAS, and so on, but they are not connected. We are trying to create the integrated structure that will make sure that people do not fall through the cracks of the systems' availability .

Q166 Baroness Laing of Elderslie: Sir Geoffrey, you have helpfully answered most of the questions I had thought of and given us a very good picture of what is going on. I am a little sceptical about the idea that legal education could help—a general telling of people in schools how legal advice can be sought, et cetera. You talked about early legal advice. Do you make a distinction between general legal education and specific early

legal advice?

Sir Geoffrey Vos: Yes, they are completely different things, I think. General legal education—what in the good old days we used to call civics at school—was great, I am sure. I remember it. Maybe some members of the committee do, too. I do not think it happens in that way today. It is very good to teach children how life works but you will be amazed how quickly they find out even if you do not teach them. They may not find out how life works in the way you would quite like them to, but they certainly find it out from their mobile devices as soon as they are provided with one.

What I am talking about is the very specific ability to access legal advice online at a point when you have not worked out what your real problem is. People find it very difficult, they are not lawyers and they cannot be expected to find it easy, but they will go online and they will say, “I have got a pain in my foot and don’t know what to do about it. The doctor says it will get better but it’s really upsetting me”. When you question, you find out that they have a pain in their foot because the bailiff slammed the door on their foot, injuring their foot, as they were trying to be expelled from the house. They have lost their home and their real problem is nothing to do with the foot at all. You may think that is a silly example but it actually is not: people do not describe a legal problem in the way that lawyers would like them to, so it is diagnosis that is critically important for dispute resolution.

Baroness Laing of Elderslie: If I may take you further down that line, as a Member of Parliament for 27 years, I held regular constituency surgeries. Those who practise the law at a certain high level would hardly believe the problems that people encounter in their everyday lives which they think are a legal problem and can be resolved by going to court, because they have watched some drama on TV or read a book about Perry Mason—that is a bit old-fashioned, so whoever it may be. They come in to say, “Here is my problem. I want to go to court. Give me advice on this”. In all the years of seeing people who came to me like that, I did not once—not ever—suggest that they went to court. I could always see a better, simpler, cheaper, quicker way of resolving it, or else I told them the truth: “It is irresolvable”. You used the word “entrenched” and spoke of the way people behave.

That brings me to the point about the vexatious or almost vexatious litigant because somebody wants their day in court. My understanding is, and I hope I am not wrong on this, that the online system in the county courts rather brilliantly offers for small debt claims a telephone consultation between the parties with a mediator.

Sir Geoffrey Vos: Mediation.

Baroness Laing of Elderslie: Mediation at an early stage. The important point about this is that it is an early stage. Of course, as you explained, if we clear the blockages at an early stage, then later delays in court will be less of a problem. But the litigant can choose whether to

have that mediation; and I am aware of a particular case that was absolutely straightforward and should have been settled by telephone mediation. That would have been easy but one litigant wanted his day in court, no matter what. He took up an enormous amount of the court's time. I am guessing that mine is not the only example. Is there a good reason for giving a choice over having telephone mediation?

Sir Geoffrey Vos: We do not do so any more. There is now civil automatic referral to mediation; we call it CARM, a rather interesting acronym - civil automatic referral to mediation. Every small claim—below £10,000 at the moment, but it will shortly be extended—is automatically referred to mediation of the kind you described: on the telephone, both parties attending and banging heads together. Very successful. I do not have precise figures in my head but when it was voluntary we used to get an over 50% success rate. But now it is compulsory, we still get a 37% or 38% success rate¹, which is fantastic considering that people who do not want to go to mediation are being required to go. Many more cases are settling by this HMCTS mediation process. As I said, you need multiple interventions because there are always some hard nuts to crack. There are always some who want their day in court, come hell or high water. The truth is that we are doing really well on mediation.

You may know of a case that I decided, called the Churchill v Merthyr Tydfil County Borough Council case, where we decided for the first time—I am afraid in disagreeing with one of my predecessors, Lord Dyson—that it was possible for the court, as a matter of law, to order a party to go to mediation. Now, rather to my surprise, that was two years ago, I sat with the Lady Chief Justice and we decided, effectively, to change the law has been picked up in a way that none of us expected. There is now something called a Churchill order which is regularly made in business and property courts, in the High Court and in the county court, where the judge sees that they have been through all these processes but have not properly been engaging and he or she says, "No. Before you have this case decided by me, which I will decide if you cannot resolve it, you must go to mediation". This is working all over the country and there are fabulous examples.

Baroness Laing of Elderslie: That is such good news. Brilliant.

The Chair: Very good—and a good question. Lord Burnett was going to ask quite a similar one.

Q167 **Lord Burnett of Maldon:** Yes, I was going to ask about alternative dispute resolution and mediation generally. We have moved into that area rather neatly already. Before I formulate a question, could we just put the context a little more clearly? You mentioned in your opening remarks a total of 15 million civil and family disputes a year in the country, but in your note, for which many thanks, you break that down. One needs to remember that, as I think you say, about 5 million of those

¹ Witness note: The latest published statistics from HMCTS show that between April 2024 – January 2025 40% of cases that went to mediation settled.

are resolved by organisations such as eBay and Amazon. I think another 5 million are in the magistrates' court, not the county court, and something like a million and a half county court cases flow into the system. Over 90% of those settle in one way or another, so that is the context. In answering Lady Laing, you explained—if I can put it this way—both ends of the mediation spectrum in the civil courts. There are the low-value claims that get an automatic mediation hearing, sometimes I think with a judge, but is it sometimes with a court official?

Sir Geoffrey Vos: CARM, which is civil automatic referral to mediation, goes to an HMCTS official who is trained to mediate. It is one hour on the telephone and if that does not work, it does not work, but some courts—and we are now trying to harmonise the practice in all civil claims—order a half-hour preliminary hearing. It is what they call a DRH—dispute resolution hearing—where the parties come in and many of the experienced district judges will look at the papers, and you only have to have one look at the papers, and they will say, “You’re claiming for 100 metres of fence and you only built 50”, and that will be the result. The case will go away. They will be struck out sometimes in the dispute resolution hearing, sometimes judgment will be given by consent and so on. There are two sorts in the low-value claims that are widely prevalent but there is also mediation of all types of private kinds, online and elsewhere, which people do use.

Lord Burnett of Maldon: That is really what I wish to explore with you a bit further by crystallising my question into two parts. First, where do you see mediation that is pushed, sponsored or ordered by the courts going in the immediate future—in the next few years? How do you see that working with the commercial mediation and alternative dispute resolution systems, which operate in parallel, and from the very top scale down to fairly small cases as well?

Sir Geoffrey Vos: That is a really interesting and quite difficult question. Mediation providers come in all shapes and sizes. In Ireland, they have a Mediation Act which regulates mediators. We do not have a Mediation Act which does that. Although most of them adhere to strict rules provided by organisations such as CEDR and the Civil Mediation Council, some do not. One issue that has arisen is: when you have a mediator, how do you know that they are really accredited in an appropriate way so that they are going to adhere to proper professional principles?

To come to your question, I think mediation is undoubtedly a critical tool in the box of dispute resolution and it will become more critical as time goes by. Already, there are providers of mediation at all levels; we have discussed the lower levels for small claims in the court, with CARM and also DRH - dispute resolution hearings, but before court there are many structures that allow cases to resolve. There is the official injury portal, which is really designed to resolve small personal injury cases. It does 600,000 cases a year online, only a very small proportion of which eventually go into the court at all. That is a form of mediation because it funnels cases by getting a medical report so that the insurer can look at the medical report and say, “I will offer you £2,000 for this injury”, and it

is resolved immediately. That is not mediation but it has the same effect, so you need to use every possible intervention.

One of the other things that people notice who have been involved in dispute resolution as long as I have—which is quite a long time, I regret to tell you—is that cases cannot all settle at the same point in the case. People are people and they are not all ready to settle a case at the same time; okay, if the case is unwarranted or unreasonable it may be possible to settle it, provided you can get the answer and point out how unreasonable it is. But there are some cases where people fervently believe that something will turn up and they will win at the end of the day, even when they are wrong. We all notice—I am sure Lord Burnett has the same experience—that you need to repeatedly intervene and say, “What about mediation now? Okay, you wouldn't go to mediation then, but maybe now we know more and we have got some more cards in our hand, let's do that”.

I think we as judges, and as a judicial system and as a court system, we absolutely owe it to the parties to use every device, online and offline, to persuade people to settle, because settling, as Lady Laing has said absolutely correctly, is the best advice in every case. Because the chance of winning is always going to be less than 100%, so settling and getting certainty and saving legal costs is for the benefit of all. The system needs to be devoted to getting fair interventions at every stage to resolve as many cases as it possibly can. There will always be some that do not resolve and some that are difficult. I did a case in court yesterday, an appeal which was difficult. It raises a difficult legal question and judges have to decide; maybe even the Supreme Court will have to.

Lord Burnett of Maldon: Chair, I think I should make a couple of declarations at this stage, just for certainty. The first is that Sir Geoffrey and I worked closely on a lot of these issues for three years, when he was Master of the Rolls and I was Lord Chief Justice, and even before that when he was Chancellor of the High Court. Secondly, as it happens, I am a CEDR accredited mediator, which I should declare.

Just to follow up, to what extent do you consider that the resolution of disputes through mediation and other forms of alternative dispute resolution affects the rule of law positively? Are there any negative effects on the rule of law that you can identify?

Sir Geoffrey Vos: It affects the rule of law extremely positively, because dispute resolution is good for our society in all the ways previously mentioned. It can be negative, mediation; all kinds of alternative dispute resolution can be negative, not generally in the contexts that we are talking about, but you have to be extremely careful that people do not forgo real legal rights because they are not properly advised, because of the pressure to mediate and not to use the court system. This happens in family cases, where spouses sometimes give up rights under pressure to mediate, to resolve, to get a solution. And the stronger partner - I do not want to use emotional language - but will sometimes put pressure on the other partner, and that partner will not be properly advised and the

solution will not be fair, which is obviously something you have to be very careful about. We are not talking about family situations, but even in civil situations that can happen. If it happens, it is very negative and inappropriate. We as judges and in the judicial system, we have to be extremely careful to make sure that the effect of pushing everybody to mediation is not to create injustice. I am very conscious of that.

I am pretty clear that what we are doing at the moment has a very low risk of that occurring, but of course there will be cases. We cannot generalise and say that there is no negative effect, so being conscious of it is critical. But coming back to the positives, in my view, resolving civil disputes is incredibly important for our society. It is what I came back to right at the beginning: people forget civil disputes because they are so bound up, if I can say that, with crime and family disputes. Now, there are many many less family disputes than people who are engaged in civil. People all have a problem with the gas board or the electricity board at some stage. They all have a problem with an online supplier, they all have a problem with their bank, they all have a problem with their builder at some stage. We forget the importance of those ordinary problems for ordinary people at our peril if we concentrate on criminal justice, where very few people in our society are unfortunate enough to run into it. Often, they run into it because they are guilty of some crime.

I do think we need to shift the balance to really taking civil justice more seriously. The line that has always been said, and often been true, is that civil justice is the poor relation. It is the poor relation not because people are not really interested, but it is the poor relation because public focus always shifts to the more sensational bits of criminal justice and even family.

The Chair: Thank you very much. Lord Murphy has the next question.

Q168 **Lord Murphy of Torfaen:** Yes, I think Sir Geoffrey has answered part of my question. However, there is perhaps a follow-on to it. You touched on the idea that sometimes relationships in settling disputes are unequal. Some examples of relationships are landlord-tenant, individual-local authority or employer-employee, and sometimes there is not really a fair relationship in terms of settling disputes. They might settle it but is it actually fair, because of the nature of that relationship? This committee was told a few months ago by an earlier witness that "civil justice is not just about resolving disputes" but is "also about vindicating legal rights", and that not all ADR mechanisms allow that to happen.

Sir Geoffrey Vos: I agree. The most important thing to understand is that there is a vast range of different kinds of dispute, with different societal backgrounds, and you cannot generalise. Of course, because we have these millions of disputes which are about gas boards and online suppliers, and which obviously do not give rise to the sort of social imbalance that you are talking about, we concentrate on the large numbers. But we need to be astute, as I said in answer to Lord Burnett, to understand when such problems do arise. You are right employers and employees are unequal, employers will nearly always have legal advice,

employees will very often not. Landlords will normally have legal advice and tenants will often nearly always not. We need to be conscious of that in devising our systems, but I do believe that digitisation and the digital justice system is creating equality rather than a lack of equality.

As I said in my introduction, I think it is really important to understand, young people for whom we are creating this justice system, not for old people like myself, we are creating it for young people who are now coming into their adult lives, with the background that they have had in 2025, not the background that I had, being born in 1955. It is a very big difference. We have to create a justice system for them and they are used to getting everything they want from a phone. I cannot use this machine for everything because of my eyesight; I simply cannot see it, even if I wanted to. But you will have been amazed that your children and grandchildren they do everything on it, however close the work, whatever the detail or the spreadsheet, I cannot see a spreadsheet on one of these. We need to adjust our horizons and be very, very clear that there are cases where imbalance exists and injustice is risked, but that is not an excuse for not trying to solve the many problems that can be solved in the way I described.

Lord Murphy of Torfaen: Thank you very much.

Q169 **Lord Foulkes of Cumnock:** Sir Geoffrey, I am very encouraged by what you said in your initial introduction and your answers to questions. At one point, you said "this country", but you are in charge of civil justice for England and Wales. You might guess that one or two of us here are from Scotland and we live there. This is a United Kingdom Parliament. Are you able to tell us how the situation in sheriff courts and the High Court in Scotland, with the Scottish Civil Justice Council and civil online, compares with the progress that you are making in England and Wales?

Sir Geoffrey Vos: I think we are probably ahead, but I do not know very much about it. I used to have a lot of contacts in Scotland. I do not have so many at the moment, because I have been so busy with my 140 courts in England and Wales, so I am not going to be able to give you a good answer. The digital justice system is a little beyond the legislation and also the reality in Scotland, and probably also in Northern Ireland. But I know that in Ireland they are very enthusiastic about digitisation, because I know the number of invitations I get to go over there to talk to them about it. So I would guess that Northern Ireland is not far behind and I would guess that Scotland will not be far behind.

Lord Foulkes of Cumnock: What would be the protocol for you to advise your counterparts in Scotland and Northern Ireland about what you are doing and whether or not it would be useful from their point of view?

Sir Geoffrey Vos: We have a fair amount of contact but it is mostly not where we discuss, for example, things like we have been discussing today. Probably it should be and I will take away from this the possibility

that we should make contact with a view to discussing it because, as you rightly say, we are a United Kingdom.

Lord Foulkes of Cumnock: Thank you very much. I am very encouraged by your very helpful answer.

The Chair: Sir Geoffrey, we are going to slightly change tone. We have a couple of different questions and Lord Waldegrave is going to ask one.

Q170 **Lord Waldegrave of North Hill:** I have a question about the enforcement working group of your Civil Justice Council, but could I do a footnote on the previous discussion? A lot of solicitors are being replaced by chatbots, so are there any perverse incentives right at the bottom of people seeing fees forgone?

Sir Geoffrey Vos: I do not think so; I think there will be loads of work for solicitors. Life is becoming more complex every day and people find difficulty navigating the legal complexities of life. Solicitors will be needed even when you can get the answer to the question if you ask the chatbot the right question, because people either will not accept it or they think they are an exception and they will need to go and see a solicitor to be told whether they are or not. I think that there will be additional work because, as I say with my AI hat on—because I give I am afraid rather too many lectures about AI and the use of AI in decision-making and in the law—I think it will be in the future, that we will find that lawyers will be front and centre of new technology.

We know that AI is being used in every consumer, financial and industrial sector, we know that, to do everything—engineering, design, building, everything you can think of. That is going to give rise to liability claims, to more work, to new work for solicitors. So yes, when the Luddites were around and we started building railways and factories, everybody thought it was the end of life as we knew it, but actually new opportunities are created by new technology. I am personally not a believer that perverse incentives are created, but we all have to learn. Some of the things I hear about new technology is quite ignorant, because people say, “I’m not learning about it. I’m too old”. Nobody is too old and everybody has to learn. Technology can help everybody in different ways and you are perfectly entitled to say, “I don’t want to use it, I’ve tried”, but then you must accept the consequences in modern life, because we are living in a society where everybody else will be using it.

Q171 **Lord Waldegrave of North Hill:** I go back to my main question, which is based on the quotation from the enforcement working group that enforcement is “a seriously weak aspect of the service provided by the civil courts”. Most people will have had, at some point in their life, the experience of winning a case, and then the enforcement is a different matter because people are very good at evading and delaying, and all the rest of it. How can we make this aspect better? It is important to the rule of law that it is not just the system that works but that you actually get your deserts.

Sir Geoffrey Vos: Yes, of course, looking at the imbalance between the claimants and defendants, many of the defendants are weak and the claimants are strong. The claimants are often utility companies or big corporations seeking to enforce debt. Obviously, they must be able to enforce it, but if you are looking at Lord Murphy's imbalance between weak and strong, it is the person enforced against who is often weaker. No, the systems should be better; do not get me wrong. That is what our Civil Justice Council report says, and it is entirely true.

Unfortunately, the systems have grown up over decades—actually, centuries—and have not been rationalised because it has always been put into the “too difficult” box. We have bailiffs in the county court and bailiffs in the High Court; we have multiple enforcement systems. We have earnings attachments, we have charging orders, we have warrants of control, all of which are governed by different, fairly arcane and historic rules and were invented, by the way, for a different day. The idea that you can enforce a debt by taking somebody's television away is a joke because, when that television has been taken out of that house, it is not worth anything. The only thing that you can do with it is to take it to the dump. In the old days, if you took a television—if indeed you had such a thing as a television—it would have been incredibly valuable second-hand, not so today.

We are looking at a whole panoply of enforcement which is completely different from what it used to be, but the rules were created for the old society in which we used to live, where it mattered if you had a television when you had not paid your debts. The way you do it—I am afraid that you will think that I am a bit of a broken gramophone record, if you remember those—digitisation is the obvious answer. You should be able to get an earnings attachment order digitally, you should be able to get a charging order digitally; you should be able to get a warrant of control, if you really need one, digitally.

You can actually, funnily enough, on the legacy system called Money Claims Online, which was replaced by online Civil Money Claims. One of the reasons why we have not yet moved those 1.2 million bulk claims brought by utilities and large companies against individuals from Money Claims Online into online Civil Money Claims is because we have not got digital enforcement which we need. Absolutely we need it; we need a rational, reformed system, but the trouble is it does require quite a bit of funding. It is complex and it will need rule changes; it probably needs legislative change. I am hoping that the Government will pick this up and will start to devise a system for incremental reform of enforcement.

As far as the rule of law is concerned, it is a limited part of the problem because once you have got your judgment, you can enforce it. It is slower than it should be. It takes much longer and it is extremely frustrating for the user and it should not be, but you do get there in the end. For the rule of law, you have been through the process and have got your judgment, justice has been done, now what you have got to do is to make sure that you are paid.

Lord Waldegrave of North Hill: Are there any statistics—I suppose that it would be difficult to find them—on how many cases where an order has been made are then given up by people or just fail?

Sir Geoffrey Vos: I do not know that answer, but I do know that in possession claims, where enforcement is very common because bailiffs eventually have to go round and evict people from their homes, which is an extremely, by the way, unpleasant part of the whole process, I do know that the court part of the possession claim is nearly always quicker than getting an appointment for the bailiff to enforce the judgment.

Lord Burnett of Maldon: Following up on Lord Waldegrave's question, if I may, about how often the problems arise, do you have a sense of what proportion of money judgments in the county courts actually then need enforcing? In other words, what proportion do people pay and for what proportion is there a need to get an attachment of earnings, a bank account or whatever? I appreciate that getting data out of the county court systems is problematic.

Sir Geoffrey Vos: I have a sense of that, but the figures are misleading because the figures are relevant only if you allocate them to the type of case you are talking about. So if you are talking about utility bills, for example, all those claims will be either brought either in the magistrates' court or as a small claim in the county court on Money Claims Online. I would have thought that those cases often require enforcement, because the reason why people do not pay their utility bills, in most cases, is because they cannot afford to. And therefore they are not going to be able to afford to any more when there is a judgment than when there is not.

What generally happens there is that a warrant of control is issued, which is a silly idea really, because you are going to take possession of chattels which are of no value, as I explained earlier. But the warrant of control works—I have found this out in my visits around the country—in the following way. If you serve a warrant of control and an individual thinks that the television is going to be taken away, you get their attention even if you did not get their attention when you were bringing the claim for the council tax, or whatever it may be. We have county court offices where there are six or eight people who do nothing else but take telephone calls from defendants who have received a warrant of control. They are terrified that the bailiff is going to come round and take their television, because it may not be very valuable to the bailiff but is valuable to them. So they ring up and say, "How can I deal with this?" Then they make an agreement with the court office and an order is made that they are allowed to pay by instalments or however much they can afford. That is what happens very frequently with those kinds of cases.

What happens with other kinds of cases is just different. Personal injury claims are always paid because there is an insurer on the other end. Boundary dispute orders are generally complied with because the people are engaged enough to have the money to fight, and if they lose they will pay. TOLATA claims are normally the same, property claims often the

same because if there is a claim against the landlord, the landlord can afford to pay. You can only answer the question by reference to the type of claim, but where vulnerable people are concerned, vulnerable defendants will often not pay judgments and enforcement will be needed.

- Q172 **Lord Bellamy:** We have been thinking a lot about enforcement from a rule of law perspective, particularly in terms of the criminal law but today, of course, we are talking about civil law. You described the civil justice process as the poor relation. I just wonder if enforcement is not the poor relation of that poor relation, if you see what I mean. I rightly disclose, if I may, my ministerial responsibilities in some of this area up until the last election, where one had some fairly hair-raising stories about how difficult enforcement was in some situations. Either there were not enough bailiffs or the van had broken down, or the body-worn cameras did not work, or whatever it was. Is your general impression that the Government are giving sufficient priority to this aspect of the legal system?

Sir Geoffrey Vos: I think to describe it as the poor relation of the poor relation is not right, only because we talk about civil justice as being the poor relation because of the comparison to public attention that is focused on crime and family. Not because of money really. It is because of the attention to achieving the reforms that are necessary, which I think would be achieved more easily if there was the public focus that there is on crime and family. I do not think that is fair, but it is in the "too difficult" box. Lord Briggs made a report on civil justice in 2016, in which he recommended that the enforcement system should be completely overhauled and modernised. He was right, in my opinion. The Government were interested back in 2016 in doing something and then, as with all initiatives that cost money, somehow it was not prioritised over other things. I have no idea why.

I think it has always been too difficult. It is very dissipated, disparate, and it needs quite a lot of things done which require legislation, which require investment, which require people. All those things are in very short supply. So yes, I would love to see it done. The Civil Justice Council has started the ball rolling, we have not had a formal response. We have? We have a letter I think; anyway, I do not know what that letter says, so I am not going to tell you what we have had. We are certainly not clear as to how things are going to go forward. I know that the Government are thinking of regulating enforcement operatives—bailiffs and so on—but no, I think there is still more work to be done.

The Chair: Lord Griffiths has been very patient. I think we have covered a lot of what he was going to ask but there may be more.

- Q173 **Lord Griffiths of Burry Port:** Indeed, and patience is not my strongest suit. Having a sprightly young man from the 1955 era lecturing old codgers like Lord Foulkes and myself about what old people can and cannot do is something that I will go away and think about. We are two Luddites, really.

There is a reference in the papers that we received to Wales. Lord Foulkes wanted Scotland brought into the picture, but it seems to me that the Single Advice Fund has had such significant success in Wales. It gives advice on “strategically planned services that provide access to all the advice a person requires to resolve their social welfare problems”, and the rest of it. Some 280,000 people have been helped with 1.1 million social welfare problems since January 2020. Wales has only 2 million people in it, so it seems worth noting, from the distant fastnesses of the England and Wales province, as a learning thing that we might pick up on.

My question really ought to be about artificial intelligence. You have been so positive about it. Lord Briggs and I have been in touch with each other. I have read his 2016 report and, from what I remember, it was the funding that became problematic but then Covid came and it got lost in the woodwork, as it were.

I was on the Communications and Digital Committee before I sat on this one when we did a report on digital exclusion. That is a very serious aspect and well worth bearing in mind as we go to digitise various things. Not only are Luddites of my age finding it difficult to cope with the advances; what we discovered in our discussions was that young people who we assume, as you rightly said, live in the digital age—they are born in it and it is natural to them—use them only for things that they are interested in, such as music and various streams of things that they like. In other words, they have no familiarity with exploiting the possibilities and using them to enhance the quality of their lives or defend their rights. This is really a word of caution about an assumption that we can make: that because everything is digital now, that has to be the only colour we paint the future with. Would you feel that I am going somewhere with all this, or is it just the ramblings of a very old man, born “in the year that King Uzziah died”?

Sir Geoffrey Vos: Thank you for that. I accept the admonition willingly. I sometimes do suggest that there are people who are not getting with the programme of modernity, so possibly you are right. As for digital disadvantage, we have done our own work on that in the Civil Justice Council. We are very concerned to make sure that we are not running away with ourselves in digitising stuff and leaving people behind, but the OPRC, the Online Procedure Rule Committee is governed by a statute which makes it clear that you must provide alternative methods for people who are digitally disadvantaged.

The only area in which I would disagree, respectfully, is that I do not think that all young people only use digital methods for streaming music and films. I think they are perfectly capable of using ChatGPT extremely effectively, probably more so than Google, and do. They even use it to see how they can protect or vindicate their legal rights. But of course there are all sorts of people in our society. It is my job as Head of Civil Justice, your job as parliamentarians to protect the rights of all, not to select people we think are worthy of being protected. We must protect

the weak in the way that Lord Murphy was talking about: people who are vulnerable or have less economic and social power than others in society. We must protect the strong, as Lord Waldegrave was saying, who need to enforce judgments. They have been given those judgments because they are owed the money.

I am concerned to ensure that we digitise as much as we can, because it provides a quicker, more efficient and effective resolution of people's disputes, and at more proportionate cost. But where that is not just appropriate, then we should take other steps. I have not come here and said I want to abolish judges, I want to abolish courts, I want to have a situation where people can never see a judge—quite the reverse. Judges are essential to the system that I am seeking to create, but what I do want is a quicker system because speed of resolution will create massive advantages for our economy. Speed and fairness, justice, that is why I went into this job.

Lord Griffiths of Burry Port: You have sold the argument and I accept it. It is just the caveats and the things on its edges. It is interesting, though, that there are aspects of everyday law and everyday life that I am learning only by being a member of this committee. I am thinking of the general public at large: what chance have they got?

Q174 **Lord Beith:** One thing that we have not mentioned is “no win, no fee”, which, following LASPO, has become extremely significant in whether people have access to civil justice. Is there anything you want to say about that?

Sir Geoffrey Vos: We did a big report from the Civil Justice Council on litigation funding, which dealt with the question of litigation funding by investors, by litigation funders, but also with litigation funding by lawyers, which is really “no win, no fee” and damages-based agreements that are funding most personal injury and much other litigation in this country. It is very important, but there is a balance to be struck between the funders and the people who are funded. I commend our report at the Civil Justice Council to this committee, because it is a really detailed and very balanced report, which recommends a level of light-touch regulation of litigation funding, including those that fund litigation by “no win, no fee” or by damages-based agreements.

The whole litigation funding scene has been very complex, very difficult to understand and beset by litigation itself, as you know, culminating in the PACCAR case, which the Civil Justice Council report recommends should be reversed by statute. But it is all part of the dispute resolution scene; I do not think that it is the only game in town. We have to be careful to balance the interests of funders and funded, as well as the interests of claim farmers, if I can call them that, claim managers and claimants, because there are perverse incentives caused by that process. So, I commend our report on litigation funding and I think changes are necessary, but they will all be directed at what I was saying earlier: which is making sure that we do not try to fit everybody into the same box and that we protect the weak.

Q175 **Baroness Hamwee:** Very often, when one starts a conversation about AI, a distinction is made between using it for administrative purposes and, separately, substance. It has struck me this morning that you do not seem to make that distinction. Am I right in thinking that that is your approach?

Sir Geoffrey Vos: That would be a little oversimplified. I think there is not such a bright-line distinction, and even if there were, you would quickly cross the line into using it for substantive purposes. The use of AI is unbelievably complex in the law; it is actually less complex in some other areas. It is perfectly obvious that if you are an engineer and you can do the calculations for a bridge by using AI, then you will learn from experience whether you need to check them or whether they are reliable—and, if they are reliable, what you need to do before you build the bridge to make sure that it does not fall down. In justice, it is rather different. We can use AI as lawyers to get an answer to the problem, “Can I defend the possession claim brought by my landlord because the house has got mould?” We can put that into ChatGPT and it will give you a generic answer. Then you can give it more facts and probably, if it is trained on legal materials, it will give you quite a good answer. Even legal advice, which will be obtained by AI, is in a different category from legal decision-making.

Non-legal decision-making is used an awful lot already. So, I am sure our pensions, our benefits are calculated using an AI programme already, and nobody much objects to that. But, again, when you come to judicial decision-making, I think people would be very surprised to hear that decisions were ever made by an AI programme instead of a judge. This throws up a number of philosophical problems and also legal problems. The first legal problem is whether, if ever – and I emphasise it has not happened and is not proposed to happen – a decision were ever taken by a machine rather than a judge, would that be compliant with Article 6 of the European Convention on Human Rights, which requires the state to provide a decision by an independent and impartial tribunal. Is a machine ever capable of being an independent and impartial tribunal? Discuss: that is the first question for homework. So when you say there is a difference between substantive and administrative, there really is such a difference but in different fields it is a different answer.

The Chair: Sir Geoffrey, that brings our session essentially to an end. Can I thank you very much indeed, on behalf of the committee, for dealing with our questions so thoroughly and candidly? To some extent, we have gone a bit beyond the rule of law but it has been most interesting, so thank you very much. I now call the public session to a close.