



Science and Technology Committee

Corrected oral evidence: Forensic science: follow-up

Tuesday 13 January 2026

10.15 am

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Members present: Lord Mair (The Chair); Lord Berkeley; Lord Borwick; Lord Drayson; Lord Lucas; Baroness Neuberger; Baroness Neville-Jones; Baroness Northover; Lord Ranger of Northwood; Viscount Stansgate; Baroness Walmsley; Baroness Willis of Summertown; Baroness Young of Old Scone.

Also present: Lord Burnett of Maldon.

Evidence Session No. 10

Heard in Public

Questions 130 - 142

Witnesses

Sarah Sackman KC MP, Minister for Courts and Legal Services, Ministry of Justice; Christina Pride, Deputy Director for Criminal Appeals Policy and Miscarriages of Justice, Ministry of Justice.

USE OF THE TRANSCRIPT

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

Examination of witnesses

Sarah Sackman and Christina Pride.

Q130 The Chair: Good morning and welcome to the Select Committee on Science and Technology. We are undertaking an inquiry on forensic science and the criminal justice system, and we are pleased to welcome as our witnesses Sarah Sackman KC MP, the Minister for Courts and Legal Services in the Ministry of Justice, and her colleague Christina Pride, deputy director, criminal appeals policy and miscarriages of justice. We are very pleased to have both of you here. As you both know, this inquiry is following up on an inquiry that we did about seven years ago. This is really all about ensuring that there is a properly functioning forensic science system. I think we all agree that that is critical for the effectiveness of our criminal justice system, yet responsibility for ensuring that we have this seems to fall between the 43 police forces, the regulator, the market, the Home Office, the courts and indeed the Ministry of Justice.

As you know, we spoke to the Home Office Minister Sarah Jones last week, and she made it clear that the Home Office takes the lead in responsibility for the forensic science system. However, we are concerned that the Ministry of Justice should have a significant role to play in forensic science in the UK, obviously because it concerns the defence and achieving criminal justice. Perhaps you could start by setting out for us what mechanisms exist for you to co-ordinate with the Home Office and ensure that the Ministry of Justice has a real voice in this area. As you probably know, there used to be a forensic science steering group. Our question really is: are there any active co-ordination mechanisms that exist now?

Sarah Sackman: I welcome the work of this committee. In shining a light and providing scrutiny on how forensic services operate in this country, the committee is performing a vital function, and the continuity with the work that the predecessor committee performed in 2019 is vital because it shows what progress has been made and where that progress has been lacking. In bringing together the various witnesses, it provides some impetus for both evidencing and building upon the cross-departmental work that is necessary.

Home Office Minister Sarah Jones was correct in saying that the Home Office properly leads on this. In terms of the wider reforms to policing that the Home Office is currently undertaking, it is right that, when it comes to responsibility for funding the regulatory framework that governs forensic services, the Home Office takes the lead. However, you are right that the Ministry of Justice has a part to play in this. Our role here is perhaps threefold. The first is in our responsibility to the proper and fair operation of our court system and the way in which forensic evidence can support that. Ensuring that the system is sustainable and operates fairly and with integrity to support the achievement and determination of just outcomes in criminal trials is vital. The second concerns the relationship

that the MoJ holds in funding the Legal Aid Agency and the way in which that supports the funding available to defence solicitors when it comes to engaging experts to provide that evidence to the criminal justice system. The third is the wider set of relationships, for which we hold the responsibility, with the independent judiciary and with the CPS. Of course they operate independently of Government, but we hold those relationships so we can assist and support the Home Office in that co-ordinating function.

To conclude my opening before I turn to Christina, for us as a still relatively new Government—although we cannot rest on that fact for too long—the work of this committee is valuable because, during the reform to policing in conjunction with the reform taking place within the criminal justice system and the transformation programme being undertaken in the Legal Aid Agency, it is vital that we do not neglect this important issue. We must ensure and, where necessary, strengthen the co-ordinating mechanisms between our department, the Home Office and other criminal justice partners, so thank you for shining a light on that. I will turn to Christina to explain in more detail what co-ordinating mechanisms there are.

Christina Pride: Thank you. My team is responsible for ensuring that the voice of the defence, the courts and the judiciary is heard in the work that the Home Office is doing. I sit on their steering group and officials in my team sit on the groups that sit below that at working level. I work closely with the Home Office, although I am relatively new in post so have only recently started building those relationships. I spoke to Christophe Prince last week and I have spoken to the new national forensics director as part of a wider meeting just before Christmas. So I am building those relationships at the moment, but I sit on the relevant steering group and the team are responsible for engaging with the Home Office on this.

The Chair: How long have you held the position that you currently have?

Christina Pride: I started before Christmas. I think it was the middle of November.

The Chair: So pretty recent.

Christina Pride: Pretty recent.

Q131 **Baroness Young of Old Scone:** We have had evidence from the Westminster Commission on Forensic Science, drawing on the report that it produced in June last year highlighting some of the issues in forensics. It has not yet had a response from the Government, although when we spoke to Sarah Jones last week she said she had read the report. Is that a report that you have drawn on and studied for your aspects of oversight of the forensic science system?

Sarah Sackman: I just want to check that you are referring to the report that was produced by the APPG on Miscarriages of Justice.

The Chair: Yes.

Sarah Sackman: I am familiar with the report and its findings and recommendations as they pertain to matters concerning the Ministry of Justice. Those broke down into two areas, one of which I failed to mention in my opening response to the Chair, in addition to what it highlighted about the Legal Aid Agency and its role in ensuring, broadly speaking, parity of arms between prosecution access to forensic experts and defence access, and there are of course recommendations in the report relating to miscarriages of justice and the role of the CCRC. I suppose the short answer is yes, I am familiar with that and our responsibility in relation to supporting the work of the CCRC so that it can embed forensic services and science into its investigations and look into miscarriages of justice, which is really important. Some of those recommendations have already been taken forward in the approach that the MoJ and the Government are giving to the CCRC under its new leadership.

Baroness Young of Old Scone: So will you be making a response to the report, or does that not happen because it is an APPG?

Sarah Sackman: I do not know that we would routinely make a formal response to an APPG report. That is not to minimise its value; as I said, it has been taken up within the department and acted upon. To give you an example, and we may come on to this, the forensic opportunities programme that we are funding within the CCRC and the wider work that we have been encouraging within it draw inspiration from that report. While we have not provided a formal response, that does not mean we are passive or dismissive in relation to its findings—far from it. In so far as it builds on the report that this committee produced in 2019, it has significant value in adding to the nation and Parliament’s understanding of where forensic services stand and where the shortcomings in the service lie.

Baroness Young of Old Scone: We have tried hard to find a Minister who has the word “forensic” in their portfolio description but there is not one. Do you think there should be one? Where should it be?

Sarah Sackman: That is a good question. I will be candid with the committee because, since I am the Minister with responsibility for courts, questions about criminal law policy and the interrelationship with the Legal Aid Agency and legal aid policy, for which I am responsible, clearly bring this area within scope. Quite possibly, specifying forensic services as lying within a particular Minister’s portfolio would be of assistance because that would draw additional focus to an area that, incredibly important though it is, can get subsumed within other areas. So that is a great question, and it is something that could be of value. The first thing one does when one comes into any ministerial role is look at the long list—in my case, an incredibly long list—of things that come within your portfolio, and then you decide how much time you can allocate to each of those things. You cannot give everything your priority, but the omission

of such a label perhaps speaks to the relative lack of focus that this area has received from successive Governments. That is a really good question.

Q132 **Lord Drayson:** Building on that point, Minister, your responsibilities in your Ministry of Justice role include your mission to kick-start economic growth. We have heard that the provision of forensic science services in the private sector is in crisis. In that context, do you feel a responsibility?

Sarah Sackman: First and foremost, I see my responsibility in relation to forensic services as being one of justice and fairness. It is about supporting just outcomes within the criminal justice system. I do not see it as a growth measure, although it may indirectly support economic growth if we have a sustainable and dynamic sector and market. Primarily, though, this is about getting it right and ensuring that there is fairness and parity between different sides in the criminal justice system. It is about getting to the truth. So that is my focus: is there an adequate supply of expertise, is it properly funded and does it operate within structures that are supportive of fair outcomes? I do not look at this as I do parts of our legal services industry that have a more commercial bent. For example, we are looking at updating our arbitration legal framework to make us more competitive with international jurisdictions; that is where I focus when I focus on growth. This, however, is about evidence in criminal trials, and it has to be fair and sustainable and retained in a proper way, so that if there are questions over whether justice has been properly administered then cases can be reinvestigated in a proper, fair and timely fashion. That is my primary focus, not growth.

The Chair: That leads naturally on to the question from Lord Burnett.

Lord Burnett of Maldon: Christina worked in the Judicial Office for many years so we know each other well. I must start by saying that I have to leave at about 10.50 for another committee. There is no discourtesy intended.

Sarah Sackman: None taken.

Q133 **Lord Burnett of Maldon:** In your answer to Lord Drayson, you indicated that you regard it as part of your function to ensure an adequate supply of forensic scientists—that is, across the range of disciplines that are needed in cases—and that they are properly funded. That is in the context of the defence. The prosecution, through the police and also by purchasing from private suppliers, have access to forensic scientists. The arrangement for defendants is more ad hoc, if I can put it that way. Unusually, we have had a unanimity of view in the evidence before us: from lawyers, that the arrangements for defendants are inadequate and lead to inequality of arms; from academics who train forensic scientists, that that is true; and, as it happens, from the main commercial supplier of forensics, that there is inequality of arms. Concern has been expressed to us that, because of the ad hoc way in which this operates, there is a danger that it is going to wither, particularly because the arrangements for paying defence forensic experts are so different from those for paying

prosecution experts—often, one would hope, the same experts.

In general terms, I would be grateful if you could explain how you are going about ensuring an adequate supply that is properly funded, perhaps pointing to the funding in particular. We have heard that the Legal Aid Agency pays only a fraction—over a half—per hour of the fee paid by the prosecution for forensic scientists. It is no surprise, at least to me, that it is very difficult to secure defence forensic scientists in some disciplines. I should say, having recently had my car serviced—a very modest car, I emphasise—I know that the hourly rate paid to forensic scientists by legal aid is a good deal less than the hourly rate charged by a perfectly normal garage to service a normal car. So there are two specific questions: the first regards adequate supply and funding, and the second is whether you can justify the difference in rates being paid by the prosecution and the defence.

Sarah Sackman: I will answer that as best as I can. To start with, there are two important principles that need to guide our approach to this, and then I will happily get into the specifics of how much we pay and how we keep that under review. The process by which we pay people is also important; as any sole operator or small business will tell you, the timeliness of payments is an important component of the sustainability of any market. It is all very well being paid at X or Y rate, but how quickly you are paid is important as well.

The first principle concerns the phrase that we have both used, “parity of arms”. That is not an absolute concept but in broad terms, yes, parity is important if justice is to be administered on a level playing field. The ability of the defence to access forensic experts with the requisite expertise and of the requisite quality is important. The second principle is that it has to be about quality as well. We can have lots of forensic experts, but they have to be up to scratch and capable of meeting the demands that particular cases place on them, particularly when we know that DNA technology and others are becoming more and more sophisticated.

In terms of the funding, we currently pay experts £104 an hour outside London and £83 an hour if they are within London. That is based on historic rates that are of some vintage, dating back to 2013, but they reflect a significant 50% uplift that took place when Lord Bellamy conducted his review of legal aid rates across the board in 2022. On paper—I accept that this is on paper rather than the evidence that you have heard—that is commensurate with the CPS guideline rates, which range from £47 an hour to £100 an hour, although we know that in reality the amount paid can significantly exceed that amount.

I should also make clear that, under the system that the Legal Aid Agency operates, if a case is particularly complex or requires more than that, then applications can be made to the agency for additional case funding, and on a case-by-case basis that will be granted. I spoke to officials at the Legal Aid Agency who told me that they considered that those rates were capable of sustaining the existing market, and that the

demand for forensic experts from defence was capable of being met at that rate.

Lord Burnett of Maldon: How do they know?

Sarah Sackman: Based on their constant interactions with providers. They are in constant communication with them. Whether through general contract management or through payments, they will be speaking to providers, who, as is often the case, might say, "We're having difficulty securing an expert", or, "We're having difficulty with X or Y payments". They are in constant communication. That is not to say that I am dismissive of what this committee is reporting in its question to me. Indeed, in preparation for this session, I said to officials that it is not sufficient for us to base our view about the adequacy of supply on what providers may or may not be telling us. It is important that within government we proactively seek out views to understand the health or otherwise of the market, and that is something that is in train.

Lord Burnett of Maldon: Forgive my interrupting you, but could you tell us about that something that is in train? What does it mean, and when did it start?

Sarah Sackman: It means that, as part of the work that the Ministry of Justice will be taking forward in its conversations with the Home Office as part of the ongoing review that we undertake routinely of legal aid rates, particular focus is placed on the adequacy of the rates that we are currently paying. As part of that review, I have given the steer that it will be necessary to look at the strength or weaknesses of the market and the ability of the market to meet the demands. As I said, the MoJ and the LAA do not currently take the view that there are cases where the need for an expert is going unmet at these rates; there is no evidence of that. However, I have given the clear steer that, as part of our general review of rates—you will know that we are undertaking, and have already begun to take decisions on, uplifts in rates for criminal work for solicitors and barristers; that is public domain—this forms part of that. We do not have the results of that yet, but I am happy to report back to the committee once that work has been completed. My point is that we do not necessarily accept the conclusion that the need is not capable of being met at these rates. However, I accept that if you do not ask the question and find out for yourself and collect that data then you cannot be sure that you are right about that.

I want to say something about the timeliness of payments but I know that others want to come in, so I can hold off on commenting and address points on this topic.

The Chair: Could I ask you to clarify one point? You explained that the legal aid rate outside London is £104 an hour but inside London it is £83 an hour, which on one level seems surprising. Can you explain the thinking behind that?

Sarah Sackman: I questioned that myself, since ordinarily you would expect it to be the other way round because so often one gets London weighting. I asked the same question and the answer that I got, which I will give to you, is that, because there is a greater supply of experts within the London area, the demand is capable of being met at that rate.

The Chair: I see.

Sarah Sackman: It may be that outside London the relative paucity of experts, additional travel time and so on are reflected in the higher rate.

Q134 **Baroness Walmsley:** Minister, I refer you back to your conversation with the Legal Aid Agency. Some of our witnesses might have given the Mandy Rice-Davies response: "They would say that, wouldn't they?" A defence solicitor has to get three tenders before they can get funding from the Legal Aid Agency, and then they have to take the lowest one. Putting aside the fact that there may not be three companies that can give those prices, given that one of the external suppliers takes 86% of the market, that requirement does not make it not easy for defence solicitors to comply with the requirements of the Legal Aid Agency, and it certainly does not encourage the market if you have to go for the lowest common denominator. We have to assume that all the experts who are taken on to give this advice to the defence are up to the standard required by the regulator. Although you are saying that there is no evidence that there is not enough supply, the situation is staggering, is it not? It is only just making it, and it is certainly not encouraging the market.

Sarah Sackman: I am grateful for that intervention, which touches on the role that the Legal Aid Agency plays in facilitating access to forensic experts and indeed supporting the market through its processes, not simply through rate-setting and the area that you touch on. The approval process is one of the areas that have undergone some change recently. You are right that formerly one of the requirements that the Legal Aid Agency made on providers was the provision of three alternative quotes. That has changed so that providers are now required to submit their application for approval. If it looks out of kilter with usual rates and the LAA's assessment of the market, then they might be asked to provide one alternative quote.

We recognise that the process that previously existed, which you have described, was cumbersome. Before I came to this place, I practised at the self-employed Bar and undertook some legal aid work, and I came to understand that, regrettably, legal aid providers spend a lot of their time not servicing their clients but dealing with the administration of their practices, very often generated by the processes of the Legal Aid Agency. Seeing that from the other side now, I want to see us make that process easier, so the new approach is about looking at the individual merits of the case and the quote as it relates to that case. Now, as well as not requiring alternative quotes except in exceptional circumstances, the Legal Aid Agency is providing better guidance for how to streamline the approval process for providers, because we recognise that it has

historically been unwieldy and that simply adds to the cost of doing business. You are right to highlight that, and we have to look at how we can make things easier.

Baroness Walmsley: So that is ongoing work. Is there a target for getting it sorted?

Sarah Sackman: We have transitioned to the new approval process, and the drafting and implementation of better guidance to aid the approval process is work in progress. I am not going to put a firm deadline on it, but, again, the work of this committee in highlighting the need for it will help.

The Chair: Minister, just before Lord Burnett has to depart, he has a question about streamlining.

Q135 **Lord Burnett of Maldon:** I know that Baroness Walmsley also has an interest in this. First, I need to ask: do you understand what we mean by streamlining reports?

Sarah Sackman: Is this the point about the CPS approach of a streamlined report?

The Chair: Yes.

Lord Burnett of Maldon: We have heard that in many instances a streamlined report is prepared, which is really a headline summary of the evidence, often without giving any detail of the nature of the underlying scientific investigations or even indicating who precisely did what. The observations that we have heard suggest that it presents the defence with a real difficulty in trying to get behind the streamlined summary to understand whether the conclusions set out in that summary are valid or should be investigated further and challenged. As we have heard, this has a couple of consequences. First, it very much depends on the underlying experience and expertise of the defence lawyer whether they can see behind what is in the streamlined report. The point was also made that it sometimes leads to further forensic investigation, including by scientists being paid by the Legal Aid Fund, that turns out to be unnecessary.

Sarah Sackman: I understand the process as it stands. The Ministry of Justice does not decide or determine how streamlined forensic reporting is applied, and obviously we do not make decisions on an individual level. Stepping back, the process could have real utility in doing what it says on the tin: streamlining the documents and focusing forensic testing where it is really needed. Improvements to the operation of that process would need to be considered in collaboration with the CPS, which bears responsibility for how that procedure is overseen. We have an interest in that to the extent that you have highlighted—if in fact it is not streamlining it but is actually generating additional costs to the public purse and the Legal Aid Agency, then it is not performing its function—but really the responsibility for it lies with the CPS.

Lord Burnett of Maldon: I am sure Baroness Walmsley is going to pursue this issue a little further but, if everyone would forgive me, I must go now.

Q136 **Baroness Northover:** Leaving the question of process and going back to the level of legal aid, you said in answer to Baroness Young that you had seen the Westminster commission report, and it sounded as if in effect you had drawn out the things that related to your area of expertise. You say that you are not picking up that there is a problem with the funding of legal aid in this area, yet the commission notes that the current legal aid rates severely restrict defence experts, making it difficult to provide sufficient assistance and so on, that there is a risk of miscarriage of justice because of that, and that there is not equality of arms, which is what Lord Burnett was asking about. The underfunding on one side compared with the other is a central criticism coming from the Westminster commission, yet when you referred to the Westminster commission you did not seem to adequately address this central part, and you have indicated that your own investigations within the MoJ do not bear it out. I cannot see how these two things square.

Sarah Sackman: We entered government in the summer of 2024. To zoom out for a moment, we inherited a very difficult situation in legal aid generally—highly vulnerable systems that, as you know, have been subjected to a criminal cyber attack, which essentially resulted in the whole legal aid digital system being switched off for six months. We kept the show on the road, but that points to the vulnerability of the system we inherited. We also know that, in civil legal aid, solicitors had not received a pay rise since 1996, while the challenges in criminal legal aid are well documented. I do not say all this to deflect from a very good question, but I want to put it in the context of how we have had to prioritise addressing the challenges at the Legal Aid Agency. The way that I have prioritised it is, first, to rescue the system and transform the legal aid platform, which we have done. We have restored the systems and we have built back better, although there is more to do. I say this because it will have an indirect positive effect on the people we are talking about, the experts in forensics, because it is supporting the providers and their ability to do their work. We have prioritised investment in criminal legal aid of an additional £92 million for both solicitors and advocates and fee uplifts for civil legal aid.

I have picked my priorities. It is fair to say that we have not revisited the rates for forensic experts. It is a fundamental demand: you need an expert, subject to the regulator and its quality requirements, to be able to service these cases. The amount that we are spending overall has remained steady so, via providers, we are paying these experts to do this work and these criminal trials are happening. That is not to say that your observation, drawing on the observation of the Westminster commission, is not one that I need to take away and challenge the department and the LAA to look at again.

However, I have to be candid that, within a tough fiscal environment, we are investing more broadly in the legal aid system, I have to pick my priorities, and where we have started is on stabilising and rescuing the systems and investing in criminal legal aid. It may be that after this committee reports I will have my next priority clearly in focus, but I wanted to be candid about the broader challenges and the way in which that in itself can sustain the operation in which forensic experts are operating. If I have a system that has keeled over or I have got criminal solicitors withdrawing from the market, that too damages the sustainability of the market in forensic experts and the ability to discharge this vital work in our criminal justice system.

Q137 Baroness Young of Old Scone: I am keen that the Minister gives us her account of the improvements in the way that people are paid, because that is also a problem. If they are only paid at the end of the case, that could take for ever.

Sarah Sackman: Thank you for the opportunity to address that. We know from any context that the timeliness of payment is so important. Talk to any small business and they will tell you that their ability to get paid on time is critical. Again, I want to be candid with the committee: there are things that the Legal Aid Agency can control but there are factors outside our control where the provider, the legal aid solicitor, makes choices about when they are going to pay third parties. At the moment, it is possible for solicitors to seek prior authority for certain legal aid work that encompasses forensic services. From the legal aid end of that, we are turning around applications for prior authority within two days to enable that work to happen. In addition to that, solicitors can submit interim claims in Crown Court cases. We know, not least because of the delays in the court, which I will be addressing later today at the Justice Select Committee, that many of those cases can take an awfully long time, and the availability of that route to make interim claims and get some payment of money into the pockets of forensic experts is an important opportunity. Where those claims are made by solicitors, the Legal Aid Agency is turning that around between one to three days, which is a snappy turnaround time.

The issue arises in whether solicitors avail themselves of that opportunity or whether, as many do, they choose to submit one invoice at the end of the case, which would include the expert's fee. If that happens, then of course payment will come later. In circumstances where solicitors choose to do that, the Legal Aid Agency seeks to meet payments within 30 days of the invoice being submitted, because that will be the whole case so there is probably more work to be done to go through and check it.

Stepping back, I consider the mechanisms that we have for prior authority interim claims in Crown Court cases and the turnaround time to be reasonable, as are the operational targets that we are meeting at our end, but of course it is not solely in our hands. When the solicitor chooses to make the claims or put in the invoices is their responsibility, and that we do not control. If they do not invoice for all the bits of the case and

there are things that are left that we need to query, that makes it difficult and results in slower payment to the third-party expert.

Baroness Young of Old Scone: If we are talking about the availability of forensics to the defence and the defendant, the fact that it might not be reimbursed to people within the market for a long time because of the way that solicitors operate indicates to me that the system is not working, even if your element of it is being dealt with as quickly as possible. It will be interesting to see the results of your investigations into how the market feels about this and operates under these circumstances. All I can say is that right now my earnest hope is that I do not commit a crime in the near future, because I do not think I would be getting terrifically good advice if the person who I was getting it from was only going to be paid a few months or years later. If I said that to my garage fixer, he would, frankly, not play a part in the market.

Sarah Sackman: I am sure the Baroness will not be committing a crime any time soon, but I take the point. When I did legal aid work as a barrister, I myself experienced delays in getting paid. I do not think that is unusual. That does not mean it is a desirable situation.

I shall make two quick points. One is that I have to take responsibility for the bit of the system for which I am responsible and, in that, the operations of the Legal Aid Agency are good. That does not mean they are perfect, though, and they can be improved on. One of the areas that we are looking at is whether the interim payment scheme can be extended to magistrates' court cases, because at the moment it exists only for Crown Court cases. My assessment of how we are operating on this particular point is, "Good, but room for improvement". How can we make those improvements?

Secondly, to come back to this point, our wider transformation programme in legal aid regarding the Legal Aid Agency's digital systems is going to make things easier. For so long we have been operating on outdated, clunky IT systems, sometimes having to move towards paper-based systems because the IT was failing us. That all makes life worse for legal aid providers and the experts that they instruct. If we are investing, as we are, £20 million in this first year that we have been in government, with more to come on transformed IT systems, that does not sound very glamorous but it all makes this stuff tick and work better. I recognise the point that you are making, which is that we have to pay people promptly.

Q138 **Baroness Walmsley:** First, to go back to the streamlined reports issue, I ask you to undertake to really have a look at that. Sometimes the defence does not even know which investigations have been carried out, as that is down to the scene of crime officer and the investigating officer, and it is difficult to know whether any additional tests being carried out could have contributed to the defence case.

However, let us leave that aside for the moment. My main question is about what you are going to be talking to the Justice Select Committee about this afternoon, the backlog in the courts. We are all aware that that

is a complex issue with many factors, but I want to give you the opportunity to rehearse one particular aspect of it: whether there is any role in the forensic science situation of the backlog in cases coming before the courts. We are concerned that this situation affects the victims of crime, many of whom in the end drop out and the case falls because they just cannot live with waiting two years for their case to come before the courts. This is a really important area, and where in that complex issue does the element of forensic science sit?

The Chair: To add to Baroness Walmsley's question, we have heard a lot of evidence about the increasing importance of digital forensic science and the complexities of digital forensic science evidence. Is that a factor behind the backlog problem—that it is taking a long time to analyse and, increasingly, to overcome the difficulties of extensive digital forensic evidence?

Sarah Sackman: On Baroness Walmsley's first point, both you and Lord Burnett—and, I am sure, other members of the committee—are focused on how streamlined forensic reporting is or not working. Given that, while, as I say, the operation and individual case level sits with the CPS, this should be an area of focus within the cross-government steering groups. Let us take that away, because clearly there are concerns and obviously, when your report comes out, you will share some of the detail of those concerns so we can look into the specific issues. We will take that away.

In relation to the backlog question, I almost do not know where to begin. It is hard to overstate the severity of the crisis in our courts. We talk a lot in criminal justice about the crisis in prisons, but in some ways the crisis in the courts is no less troubling. If we do not act—this is what I will be talking about later at the JSC—it is going to run completely out of control. The conclusion that the independent review of criminal courts has drawn is that the system is broken, and I am yet to find anyone who has participated in the system—in the judiciary, in the legal profession, victims of crime or those accused of crime—who thinks otherwise.

Stepping back, the questions that you have both highlighted are relevant to how we have got here. I do not want to make a range of political points about underfunding, Covid and one thing and another, because one of the driving factors is that we have not seriously invested in or looked at reforming our criminal justice system since 1971, when the Crown Court was first created.

Demographics, the nature of crime and the technology governing how we investigate it have transformed in that time. For a start, we all go around carrying one of these things—a phone. The amount of information contained on these mini-computers and the advances in DNA technology and forensics, and what that allows us to do in understanding whether a crime has been committed, has been transformed. Along with that, the volume of disclosure, the volume of information and the expertise required both to help the court and to interrogate that evidence has

exploded, yet the system has been starved of funding and has not been reformed to respond to it. We see both a growth in the incoming demand on the system of caseload and a growing complexity of those cases. Brian Leveson said in his report that, since 2000, the length of the average jury trial has doubled, and that will be driven in part by the extent, quantum and complexity of the evidence that is now before judges and juries.

It is right in that context that, as we address the immediate crisis, we look at the broader need for reform and the approach we are taking so that we can design a system that is capable of meeting the demand in a proportionate and timely way—timeliness is an essential ingredient of fairness, and we need to deliver swifter justice for victims—but also one that does not compromise on getting to truth and fairness. Perhaps it has been a missing or underplayed part of the discussion that has so dominated the airwaves about juries, and the principles underpinning that, whether, in thinking of the practical argument, a proportionate, sensible approach to digital forensic services can assist us in speeding up the delivery of justice without obviously compromising on fairness. That is why, to go back to your first question about streamlined forensic reporting, that has to work; if it is not working fairly then it is not working at all, as far as I am concerned. Equally, though, the objective of trying to focus evidence on what is relevant to the determination of the case, and of looking at, where appropriate, the instruction of joint experts between defendants or experts to the court and things like that will mean that we are getting through these cases quicker in what is a new era for how we deliver justice. That will be really important, and perhaps it is something that we in the MoJ can take away as we consider not just the legislative reforms that are going to be necessary but the other important stuff, which is the non-legislative operational work that we are doing on things like listing, video hearings and the use of AI for transcription. Is there a role for fairly and properly looking at the role that forensics can play in helping us to bring down this backlog? Again, as I am saying the answer, I am very grateful for the question.

Q139 Baroness Northover: This follows on about truth, fairness and justice as well as cost, in terms of the cost of miscarriages of justice, not just whether things are true and fair. A conclusion that the Westminster commission came to was on the independence, or the lack of it, of the Forensic Science Service. The commission recommended that, in order to avoid miscarriages of justice, forensic science should be removed from police supervision altogether. People have pointed in particular to the Scottish model, where there is a sterile corridor between the forensic science and the police force, and we would like your views on that. It is the case, as you probably noted, that the Home Office Minister last week was sceptical about going down that route, but if you are going to try to ensure that forensic science is independent, especially given the joint approach that you have just mentioned, how can it be properly independent and trusted if it remains under the supervision of the police, who have a particular task at hand?

Obviously there is police reform going on. Are you involved with the

Home Office when it comes to how something like this might be addressed? Of course, sitting alongside you is someone who has a particular responsibility to try to avoid miscarriages of justice. I ask you first, Minister, about your view of how to make sure that the system is independent when so much of it now is handled by the police.

Sarah Sackman: I take a collegiate approach with my Home Office colleague, as you can imagine, as she is developing and prosecuting the case for police reform in which this will be a relevant matter. We in the Ministry of Justice offer our view, but we stand ready to support in this area in circumstances where, as I said, the Home Office is the lead department for how this can function.

On independence and fairness oversight, as well as the independent judiciary who oversee the way in which forensic experts provide evidence to court, the way in which that evidence is tested in court and the credibility and quality of that evidence and how it is tested by opposing barristers, that provides a mechanism, not for the service itself but for how we can know that evidence is being interrogated and looked at independently.

The other important component in all this is the role of the Criminal Cases Review Commission, the CCRC. Particularly in relation to miscarriages of justice, it has an important role to play. While we give our steer, it is, importantly, independent of the Government. Steps have been taken by the new leadership under Dame Vera Baird, supported by MoJ funding, to set up the Forensic Opportunities Programme to appoint a forensic services adviser, and I believe there is further recruitment on the way, to embed the forensic science culture within the organisation, to harness new opportunities in forensics, to reopen old investigations, and to test the fairness where there are alleged miscarriages of justice. The CCRC has an important role to play there and, because it is independent of Government, it can do so with an independent lens.

What I am saying, and I will defer to Christina to flesh this out, is that, at a point in time when the Home Office is developing its policy and a new model for policing in which the Forensic Science Service will need to interact, we will need to see how that emerges, support it in that and ensure that it is really fit for purpose. However, we must not lose sight of the other parts of the criminal justice landscape—the CCRC and the judiciary itself—that play a part in providing oversight, on an individual-case level but also at a wider level, of how the system is operating and to ensure that it is operating fairly.

Christina Pride: In the work that the Home Office is doing, our focus has very much been on making sure that the voices of the defence, the court and the judiciary are not lost. We have talked quite a lot this morning about parity of arms—equality of arms—and we have been keen to look at how we make sure that is reflected in the work that they are doing. We have not specifically looked at the Scottish model but, as the Minister was saying, as the Home Office goes forward with its review and

the work that it is doing, we will continue to work closely with it to make sure that it works for the courts in terms of fairness that we have identified needs to happen. That is work that we will continue to do with them, rather than work that has already been done.

Baroness Northover: So you might look at the Scottish model.

Christina Pride: I will go away and have a look at it.

Q140 **Viscount Stansgate:** I want to ask a question about evidence storage; we are, after all, in a building that is absolutely stuffed full of archives. We are told that thousands of cases are collapsing due to missing or damaged evidence. When we asked your colleague Sarah Jones about this last week, she seemed open to the possibility that there is a case for dealing with evidence storage centrally, no matter how many different police forces there may prove to be in future. We wondered whether you have done any thinking about this—evidence storage is, if nothing else, vital to the work of the CCRC when it comes to re-examining cases and looking back at evidence that has been stored—and, if so, whether the idea appeals to you and if you might support it.

Sarah Sackman: That is a great question and a great idea. I know that the forensics opportunities programme that we are funding within the CCRC has written to police forces on this subject, because obviously the storage and retention of historic forensic material is critical to the work of the CCRC, and in particular of this programme, which is focused on allegations—or, I should say, convictions—of rape and murder that predate 2016, so storage is vital. Part of that will reveal or support the proposition that you are making, which is that we need consistency across the country in the protocols governing storage, how that is done safely and securely, and for how long. I also know that the CCRC is working with the Forensic Information Database Service to improve how you can search through those databases for its purposes—to identify historic cases or whatever—but again the ability to do that is only as good as the operations and policies governing storage.

Like the Home Office Minister, I too am open to this idea. We are at an inflection point where reform is happening. I have described the crisis in the courts but, as I am fond of saying—and my officials are bored of hearing me say it—a crisis can present an opportunity. I am not suggesting that policing is in crisis, but obviously there is a reform programme there, so let us use it as an opportunity to look at something as fundamental as how forensic evidence is retained, catalogued and searchable it can be, in order to preserve the integrity of the system and enable reinvestigations by institutions like the CCRC, where that is needed. It is a good question and a good idea for me and my colleague to take away and see how we can develop it.

Christina Pride: Obviously this is something that the Home Office is responsible for and looking at, but we will work with it closely to make sure that the processes and the resultant system that is put in place work

for the courts, as the Minister says, to make sure that we have access to the forensics that are needed within the cases.

Viscount Stansgate: In your view, do you have sufficient standing in this area to actively support such an idea in discussions that you have with the Home Office?

Christina Pride: Yes.

Viscount Stansgate: And turn a crisis into an opportunity? Good luck.

Sarah Sackman: I am pleased that the Viscount is adopting my mantra, because we have to be in that position. I know it sounds like a politician's soundbite—I suppose because it is—but it is a useful frame for government departments and individual bodies because we cannot, particularly in a challenging financial environment, simply paper over the cracks. We have to look at these things. As I said at the beginning, the themes that have been surfaced in today's committee, which I imagine will come forward in your eventual report—although I do not want to pre-empt your conclusions—are that a lot of what was identified in 2019 has not changed terribly much. At a point where we are looking at things like policing reform, court reform, changing the culture at the CCRC under new leadership and implementing the Henley review, this is an opportunity. You do not get these opportunities all the time. It may be that they are being catalysed out of crisis, but so be it—let us take the opportunity.

On the point around storage, particularly in the light of the fact that, as you will know, the technology in this area—the ability to store it on more sophisticated databases—will have moved on significantly since 2019, how does that change what we need for the storage, just in terms of physical space? Do you know what I mean? Those are the sorts of things that Christina and her colleagues at the Home Office will be exploring and can take away from the steers that we have been given today. That is a great idea.

Q141 **Baroness Northover:** Can I briefly come back on the Scottish model? Yet again, that is something that is strongly recommended by the Westminster commission. I hope that you read our report. I know there are millions of reports that you might possibly read but, particularly when dealing with the Home Office, having a really good understanding of what they said would be very helpful, including that.

Christina Pride: I take that on board, and I will take that away.

Q142 **Lord Ranger of Northwood:** Minister, it has been good to listen to you; you have sounded thoroughly like a politician, which is good for you. The challenge that I am having is that, not only from the 2019 report but onwards, whoever has been in government, these problems have been building up. You have been in position for a while, and I am interested to hear that you are open to ideas. By now I would be expecting the emergence of some kind of plan from the MoJ, especially if the Home

Office is working on one. I know you say that you and your colleague will work with the Home Office, but what is your plan? From what we are hearing, there is a massive failure in the market. Costs are not meeting the requirement for the fair services that you say you are committed to seeing delivered. The technology, which has been around for a significant period of time, has not been utilised, and you may revert to paper occasionally. All these things have been visible to you for some time now. Do you have a plan already, or are you still waiting to develop something new?

Sarah Sackman: It is important that any plan that we develop has to work with what the Home Office is planning, because it holds the pen, if you like, in the funding and regulation of the service. As I indicated in my earlier answer to Baroness Northover, I have a very clear plan for the Legal Aid Agency in general and for legal aid funding, and I am in the process of prosecuting that plan: the biggest increase in funding for criminal legal aid for over 15 years, the first uplift in civil legal aid since 1996 and, most pertinently for these purposes, the transformation of the digital IT system—not only its support functions but the pathways through which the providers that pay the third-party experts that we are talking about interact with that system. We have top people, including external consultants, working with us to make the application process much more seamless. That is part of my plan.

While I accept that that does not directly pertain to forensic services, where the Home Office is the lead and where we support through the co-ordinating mechanisms that Christina has referred to, it will be a beneficiary of the overarching plan that I have for legal aid, and that is in train. Because of the cyber attack, much of the transformation work on how providers interact with the system was brought forward by two or three years. Not only do I have a plan, but that plan is catalysed and is being put into practice right now. How a legal aid provider, who then pays out to the experts that you are concerned with, experiences the portal and so on has changed literally in the last six months while I have been in post because of the work we have done and the priority we have put on it—a priority, by the way, that previous Governments of different shades simply did not place on legal aid. I understand the challenge, and we have to await and be guided by what the new director for forensic services and the Home Office are setting, because we have to be there to support them. We are an important but junior partner in that endeavour, but in my part of the patch I have got a plan and I am getting on with it.

Lord Ranger of Northwood: Do you feel that the providers who should experience the changes that you have mentioned are actually experiencing those changes and could say, yes, they have seen an improvement?

Sarah Sackman: If they were sitting here, I think you would find them to be a little weary and disgruntled, if I am being honest, the reason being that we have just come out of six months of the system being shut down. However, I know that the services, which are both restored and

improved, have been tested and co-designed with the providers themselves. Accepting the understandable weariness that they will be feeling after six months of contingency systems, paper and slow payments—all of which I acknowledge; I thank them for their patience—if they look objectively at what has been built back and its efficiency and effectiveness, I think they will reflect that it is better than that which existed six months previously.

Lord Ranger of Northwood: I have to say that I have spoken to legal aid, and I have heard the views that you have expressed, and more, about their disappointment. I know you have made much about paying promptly, but this was a huge catastrophe for them in terms of how payments were not being made for work that they were doing, to the point that they have had to completely change their business models to not go out of business. Did you hear that from them?

Sarah Sackman: I did hear that. First of all, it is important to say that this was the result of criminal activity. I am not in any way drawing a direct comparison, but we have seen the way in which commercial businesses, whether M&S or Jaguar Land Rover, have been affected by similar cyber attacks and the detrimental impact that that has had on those businesses. The impact on the LAA was pretty catastrophic, but the department and the LAA worked incredibly hard to keep the show on the road. We brought before the House statutory instruments that enabled us to maintain payments. You are right that some providers modified their business model, but they did not need to; that was a business choice for them. I respect that and, as I said, I thank providers for bearing with us while we built back the system. We enabled claims to be made but, let us be honest, while this was about supporting those providers, the real focus was on making sure that their clients—the people that need the legal aid and are eligible for it—were getting it. No one was prevented from accessing legal aid, despite the whole system shutting down as a result of that attack. That is as it should have been, but I am really proud of what the Legal Aid Agency did in that time, and now I want to see how we can get the system very much back on its feet now that the IT system works.

To return to your original question, “Minister, do you have a plan for this area?”, I absolutely do, but there is no point in writing, as Governments tend to do sometimes, endless reviews and plans on pieces of paper if I cannot effect it in real life. That is why it is so necessary to get the operational building blocks right, and it is why I have chosen, as part of my plan, to build back the system and make sure it is stable and that it functions, and then we can get on with working with providers and experts to make sure that it is operating as smoothly as it can. If it is not turned on then it is not worth the paper it is written on.

The Chair: Minister, we look forward very much to your plan. We are coming to the end of the session now. Thank you very much for being so candid. We have very much appreciated you both coming in and we are grateful to both of you for being witnesses at this session.