



Justice and Home Affairs Committee

Corrected oral evidence: General Ministry of Justice issues

Wednesday 15 September 2021

10.30 am

[Watch the meeting](#)

Members present: Baroness Hamwee (The Chair); Lord Blunkett; Baroness Chakrabarti; Lord Dholakia; Baroness Hallett; Lord Hunt of Wirral; Baroness Kennedy of The Shaws; Baroness Pidding; Baroness Primarolo; Lord Ricketts; Baroness Sanderson of Welton; Baroness Shackleton of Belgravia.

Evidence Session No. 1

Heard in Public

Questions 1 - 17

Witness

[I](#): Rt Hon Robert Buckland QC MP, Lord Chancellor and Secretary of State for Justice.

USE OF THE TRANSCRIPT

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

Examination of witness

Robert Buckland MP.

Q1 The Chair: Good morning, Lord Chancellor. Thank you very much for coming. I will deal with the usual housekeeping things. A transcript is being taken, and you and your officials will have an opportunity to correct it.

I wanted to start by thanking you and your officials, particularly. You have really been keeping us in touch with what you are up to. Sometimes one thinks, “Yes, but what can I do with that letter?”, but it is much better to have it than to not have it, so I am really grateful for that.

You have an hour and a half. We have set questions in the usual way, but we hope to have a few minutes at the end if we and you are succinct in both questions and answers. I hope that this will be the first of many opportunities to meet you, ask you questions, hear what you are doing and how you are responding.

My first question is a fairly general one, I suppose, and we have specific questions on the issues to follow. You have—and we share this—expressed confidence and ambition that the UK remain “a global leader” in the field of international co-operation in private international law. Reputation goes hand in hand with our success here with the performance in the domestic system. We have a backlog of cases waiting to be heard by the courts, and that is growing. Our prisons are very crowded—overcrowded. What is the answer to the tension, the dilemma?

Robert Buckland MP: First, I am afraid the answer from me is a very robust rebuttal of the premise of that tension. The UK and the three jurisdictions of the UK—England and Wales, Scotland and Northern Ireland—have been at the cutting edge in the response to Covid. When you think about the big decision that was made to stop jury trials in late March—although I think Montana restarted jury trials at the same time as us—we were the first jurisdiction in the world to restart jury trials. We got up and running in a way that other jurisdictions, sadly, could not. That was because of not just the dedication of court staff, judges and practitioners, but because we had paved the way with an exponential rise in the use of remote technology.

At the beginning of the pandemic, about 300 or 400 cases across jurisdictions in England and Wales were being heard by telephone or remotely. That figure moved up to an astonishing 20,000 during the pandemic. Just under half of all cases at the moment are still conducted remotely. That scaling up of technology and the provision by my department of hardware and software to help that process was a huge reputational success, frankly, for the jurisdiction.

You are right to talk about case load and backlog. The real test has been in the Crown Court. It is a very mixed picture regionally. In Wales, there is no backlog. In the north, there is no backlog. In the west, there is no backlog. The real challenge comes here in London and the south-east, but for the last several months now case disposals have exceeded receipts, which means that the numbers are not rising. In

the magistrates' court numbers are falling in line with the plan that was published some months ago by HMCTS, with the expectation that we will be back to pre-Covid levels by the end of the year. I accept there are pressures in family and in employment law.

I want to emphasise that there is no restriction from my department on sitting days. We are encouraging as many courts to sit as possible. We have provided Nightingale courts at scale in the right places in the country, which has really made a difference. Of course, with the changes to the rules in social distancing, we have opened even more courts for juries. Now we are running about 324 jury courts, whereas my target had been just under 300 some months ago.

On overcrowding, I do not recognise that figure. I would be interested to know more about it. My understanding about overcrowding is that about 25% of cells would be regarded in that condition. Of course, Covid has changed many ways in which we work, most notably the way in which prisoners are accommodated, with a reduction in overcrowding and a reduction in prison numbers. I think the numbers are about 78,500, which is the lowest figure in prisons for about 15 years.

I would say, with confidence, that I am more than happy to advocate the leadership that our three jurisdictions can offer the world with regard to conflict of laws, private international law, and reconcile what some might see as a tension but which I see as us leading the way in innovation and change.

The Chair: I know that other Members are going to pick up both these issues. The Bar Council, though, is telling us that coverage overseas about the backlog of cases is detrimental. What do you do about marketing?

Robert Buckland MP: I think we all have to accentuate the positive. I have never shied away, Lady Hamwee, from being honest about the pressures that the system is under. I visit many courts and prisons, and I know there is a reality that does mean that this is a system under pressure, but for us to be too gloom-mongering about it all does nobody any favours whatever. As Lord Chancellor, I am privileged to lead a department that in the last several years has been in receipt of increased revenue allocations from the Treasury, and I am doing my very best to spend that increased money in a sensible way to reinvigorate and regenerate our courts and prison system in a sustainable way.

The Chair: Lord Hunt is not a gloom-monger but has a very pertinent question, I think.

Q2 Lord Hunt of Wirral: Lord Chancellor and Secretary of State for Justice, speaking as a practising solicitor, many of us warmly welcomed your appointment because you do know what is happening on the ground. May I just return to resources for a moment because there are a number of other announcements coming? Of course, you sit in the Cabinet and colleagues are making policy announcements from other departments, such as the creation of new offences, the recruitment of more police officers and the commitment to jail an increasing number of people. As you would

know, that means increasing demand on an already pretty stretched justice system. How do you manage to get involved as the MoJ in planning these policy changes, and how will they be resourced?

Robert Buckland MP: Lord Hunt, that is a very pertinent question. I will be honest with you: I think in the past there has been a bit of a struggle for the Ministry of Justice to get its voice heard as a downstream department. Very often, there has been—I am sure it is not maliciously intended but perhaps unintended—a lack of thought about the consequences for my department. I have made it very clear in Cabinet, and in the Crime and Justice Task Force, which is the Cabinet committee chaired by the Prime Minister, on which the Home Secretary, the Attorney-General, the Policing Minister and I sit, that I cannot do this on my own. In fact, many of the policy decisions made by other departments have consequences for my department. Therefore, decisions need to be made with our involvement and I can assure you that that very much happens in this Government. I will give you examples.

With regard to police numbers, there has been a lot of joint work between us and the Home Office to try to project what impact that might have on the increased number of cases coming through the system. It is right to say that we have reached 10,000 police officers already, by the way, under this increase, and so far we are not seeing the automatic exponential rise that perhaps some people expected. I believe that is because it is not just a question of quantity when it comes to recruitment; it is about the depth and quality of existing investigations or, indeed, the deterrence of crime itself. We are doing our very best to project and predict what impacts that has.

Another example I will give you very briefly is the work done with MHCLG on accommodation. There is some really good work. We are piloting in five probation areas 12-week temporary accommodation, working with MHCLG to make sure that the “home” part of my trio of improvements—and I always talk about “a home, a job, a friend” for prison releases—is being met as far as possible.

There are lots of other examples, Lord Hunt, where I am continuing to make this point that I cannot do this on my own and that, frankly, interventions further upstream will reduce cost for my department.

Lord Hunt of Wirral: Thank you.

The Chair: You said you did not recognise the figure on prison overcrowding. I am sorry, I do not mean this sarcastically, but I gather it came from the MoJ, which said that 49% of prison establishments are overcrowded.

Robert Buckland MP: Well, again, I am not saying that is wrong. Certainly the figure in my mind had been—I think it depends on how you classify it or categorise it. I am more than happy to have a look and, if necessary, we can deal with that in writing.

Q3

Lord Blunkett: My personal thanks to you for the way in which you respond positively and very coherently to queries, including from some of us as individuals.

I would love to take you up—I was going to say—a blind alley, but that is perhaps not the way of describing it, about those on licence and recall, but I am going to ask a bit more about the pressures. You were good enough to describe the family and employment law side of your brief as being under pressure, and you have a consultation out at the moment on alternative dispute resolution. Could you say a few words about the ideas that are coming up and the positives and negatives on those?

Robert Buckland MP: Thank you, Lord Blunkett. I appreciate your kind words.

It is a call for evidence. I know you will appreciate there is a slight difference. What I am trying to do at the moment is to fill some evidential gaps that I think exist there as to the question of the direct impact of alternative dispute resolution mechanisms with regard to the courts system.

The call for evidence is still ongoing, which I have extended for an extra month until the end of October because of stakeholder interest, which in itself is encouraging and will help us fill that gap. Then I would like to consult to see what mechanisms could work and in what scenario that might be so that we are genuinely trying to create a much more integrated system.

Words are important. All of us who are familiar with this issue have used the term ADR—alternative dispute resolution. I want to change that, because I think we need to talk about dispute resolution in a mainstream way. While litigation and the use of our courts is a very solemn and important part of our process, and it is a way in which justice has been delivered for centuries—and we should be proud of that—we know and have seen how disagreements and disputes can be resolved by alternative, different means, which should be seen as no less legitimate. That is why I think government has a role in helping to propagate, if necessary to regulate, and to create as wide and diverse a framework as possible so that non-adversarial routes can be used.

I can think of no better place to do that than in the family courts. Before I specialised in crime, I did public and private family work, and I was always concerned as to whether, despite the best of intentions of the legislature—the Children Act is very clear about the paramountcy principle of children—children were really at the centre of these issues, or were they just pawns in a rather unseemly dispute between adults who could not reconcile their differences privately.

That question still remains now, and I know it is shared by practitioners and the senior judiciary. The work that is being done in the family field by the sector itself deserves more attention and credit. Therefore, I thought it was time now for us to push forward with a call for evidence. I am supported ably by Lord Wolfson, who, as you know, in his previous incarnation as a commercial Silk and barrister, is very knowledgeable in civil law. We think in civil law as well there is a role, and not just by way of arbitration and conciliation. There are other ways and means by which individuals, corporations and companies are now trying to resolve their differences.

Again, I am obviously respectful of the independence of our judges, but I am very encouraged and I note the work that has been done by the current Master of the Rolls and his predecessor to advance a different way of looking at dispute resolution. The stars perhaps are aligning, and it is a moment for us to gather evidence and then to move forward with a credible set of proposals.

Lord Blunkett: May I ask a supplementary? I am wholly on board with you there, having experienced some considerable time ago the adversarial nature of what happens in the family court too often and how damaging that can be. Anything that can avoid that has to be welcomed.

Around that same time, Derry Irvine, Harry Woolf and I all experienced the Red Hook court system in New York and were very enthusiastic. I still believe that, in a wide range of areas, that kind of court system could, in the way you have just been describing, actually find solutions rather than just be a win or lose. To do that, we need to get the legal profession to be able to benchmark success as an outcome rather than a win or a lose, and that will be extremely difficult, will it not?

Robert Buckland MP: Lord Blunkett, I am a little more optimistic than you perhaps about the legal profession. I trust them to want to seek the best outcomes for their clients. I think that the adversarial principle is very important in many respects. Certainly the practitioners I knew and worked with, and I know to this day, will want to seek to achieve the best outcome for their clients, by whatever appropriate means, and very often negotiation will be the best way in which that can be achieved.

For anybody in the profession who is worried about some attempt here by the Government to circumvent the courts or reduce sources of work, this opens up more opportunities for colleagues in the legal profession to do even more, and to resolve even more disputes and cases in different ways.

The Red Hook example is a very good one. We also need to note with encouragement my proposals for problem-solving courts, which are being brought forward in pilot form—in other words, to try to centre the process around the problem rather than trying to shoehorn the problem into the process. I think all of us, whether we are practitioners or not, should be very much up for this approach, which I believe will yield more benefits to everyone.

The Chair: It is not just the legal profession that needs to be convinced, and their clients of course, but litigants in person. Is getting that message over to litigants in person in your thinking in this exercise?

Robert Buckland MP: Very much so, Lady Hamwee. The litigant in person has always been a reality and will be a reality. I know there are debates about the impact of legal aid changes on that and the increase in the numbers of litigants in person in court. Clearly, this ties in with my wider agenda on public legal education, which I have spoken to individual members of the committee about in the past, and how we can not just demystify the process but make the process genuinely more

effective. I can understand why people want their day in court, but really we should be all about results and outcomes here rather than the process.

The Chair: Get over the message that legal proceedings are not always the way to answer the person's particular problem, which may be quite different.

Q4 Baroness Primarolo: Good morning, Lord Chancellor. It is nice to see you again. I wanted to ask a question about trust in the justice system. The relationship between state and citizen is absolutely fundamental in the justice system. We all have to trust it, whether we are directly experiencing it or seeing it from a distance. Nearly half of all adults in Britain believe that the justice system does not prevail over injustice and their experience is not a good one. When you are considering the reforms that we see before us now, and the consultations you have talked about, where do you place this point of trust? Without it, you can change process but it still will not work.

Robert Buckland MP: Thank you, Baroness Primarolo. It is good to see you again, too.

I thought that was a very interesting survey. I noted that particularly among adult males over 65 there seemed to be a lack of trust, but I think we need to look very carefully at what that actually means. Does it mean that we are talking about access to justice, or does it mean something that we are all very familiar with—people telling us that the judges are too soft, that sentences are too soft and that people come to court and are not properly dealt with? I think it is probably a mix. Certainly, from all the doorstep conversations I have had over many years, the latter lack of confidence issue has come across very strongly.

When you look at some of the evidence about that, I can point to the Sentencing Council guidelines and tell people that the average sentence for rape continues to rise. It is up to nearly 10 years' imprisonment now, compared to five or six years at the beginning of the decade. Sentences for serious violence have also risen quite markedly, and sentencing guidelines have in fact increased in severity.

It is a very difficult message to sell. One headline about a particular case that is poorly explained or not understood by a particular media outlet can cause a lack or loss of confidence in the system. That is why I am trying to use the powers that I have administratively to make sure that the judges do not get it in the neck all the time, particularly on issues such as early release. I make no apology for making sure that the system of early release is returned to the position that it was in before 2005. That is why I am making adjustments to the release policy in order to increase that sense of public confidence, because I do talk a lot about confidence in the system.

With regard to access to justice issues, there are a range of points to be made here. There are what I will call the LASPO arguments and issues that we have had over the years, which I absolutely readily accept. But there are also wider issues. Let us say you have a small company and you are owed a debt. Very often, it has been difficult

for those small businesses to access justice because they think, like the Ritz, it is open to all.

There is good news on that front because things like the online money claim system are making it so much easier and straightforward for individuals and companies to make their claims, and, bit by bit, through changes that we can make in terms of digitalisation, we can actually increase that access to justice.

On legal aid itself, just to update the Committee, we are nearing completion of the review of the legal aid means test. It is quite an important issue bearing in mind the number of people who are not eligible at all for legal aid. We are looking at the review. We are looking at the effectiveness of the current means test. I want to publish the review before the end of this year with an accompanying consultation, because, clearly, that issue has, shall we say, not been addressed in recent years, and, as the cost of living moves up, more and more people are left out of the system. Therefore, I want to try to address that.

There is lots more I could say, but in these specific examples I hope I am giving you a really clear insight into how I place trust and confidence as very much part of my thinking when it comes to my duties as Lord Chancellor and Secretary of State.

Baroness Primarolo: That was a very comprehensive answer; thank you. Some of it will need to be unpacked, but not today. I want to pursue this point particularly of access to justice and of confidence in the system, because you rightly identified the issues here, but we still have not drilled down into this question of trust and how key it is. A survey by Vera Baird, the victims' commissioner, identified that a third of victims took the view that they would not report a crime again because of the experience they had of the justice system.

In the two things that you picked up, that falls between it. There is something more fundamental going on, as can be seen in rape cases, with prosecutions going down, even though reporting is going up. Could you say a bit more about this elusive concept—I accept that—of trust and perception that we have a functioning justice system, from qualified judges who are sensitive to the issues, down to access and early intervention to have the right legal advice, which we do not have at the moment?

Robert Buckland MP: You are absolutely right to refer to that victim survey that was published very recently. That comes on top of the work that I have been doing with the rape review. You will recall that I published that back in June/July. I hope the Committee felt that that was me being absolutely frank and honest about what I regarded as a failure. I think it was important for people to hear somebody in my particular role and with my leadership obligations saying that, because I am a great believer in the fact that, if you are going to build trust, or rebuild trust, you have to be honest with people. The system has not worked anywhere near as well as it should have for many, many victims. It is certainly my ambition, and that of the Prime Minister, to see the system being among the best in the world for victims, so that victims feel they are being informed, involved and supported.

Very shortly, I will be publishing the consultation on the proposed victims law, which no doubt will be of great interest to not just the sector but wider society. That will come ahead of the publication of legislation that will, I think, go a huge way to not just enshrining rights in law but to be a visible demonstration of that need to rebuild trust.

In everything I am trying to do in this department, that concept of rebuilding, restoring, revivifying, if you like, recovering trust—I am using lots of “R” words—is really what I am all about.

Q5 **Baroness Kennedy of The Shaws:** Lord Chancellor, it is nice to see you again. I declare of course our common background as practitioners at the Bar.

I too want to pick up on the issue of trust because there is any amount of research that now shows that organisations, companies and institutions all produce better outcomes if they are diverse and inclusive. The statistics for the Ministry of Justice are actually not terribly good: 89% of all MoJ staff self-identify as white. What actions are you taking about that? The figures are even worse when it comes to the senior levels, where 94% of senior officials self-declare as white. That really matters because we know it is by having diversity that you have better outcomes. In homogeneous organisations you often get a more homogeneous sense of what the solution is, whereas better solutions come out of diversity and different kinds of view, different perspectives, having women up there at the top levels and having people of colour. It is a shocking statistic and it does not compare well with other government departments.

Robert Buckland MP: Thank you, Baroness Kennedy. You are right: we have to do better. The principle of delivering justice, running effective and safe and innovative services means that we have got to—it is not a luxury—make sure that we have a diverse workforce, and that everybody who is in the workplace feels fully part of it.

It is right to say that at the senior Civil Service level we still have an issue. I think it is 6%, which is below the national average. It is right to say as of March of last year, looking at the figures I have here with regard to the percentage from a black, Asian or minority-ethnic background, about 14% of other grades of staff were from that background. But it does not stop there.

I can point to some really positive figures on women. Of course, we are now led by a female Permanent Secretary, and, indeed, the proportion of women civil servants is greater than that of men. I am particularly interested in disability. I do not think we identify or recognise that as well as we should.

So that the Committee knows, I have been pushing and will continue to push for much more work on neurodiversity recognition, in particular, within my department, because I think it should be an absolutely friendly environment for people with great gifts but who would be recognised as having some form of impairment, disability or condition.

All that work is going on. With regard to targets, the target that we set at the MoJ is challenging: 14% of new starters in HMPPS are to be from an ethnic-minority background. The latest figure I have for that is that that has risen to 12.9%. I can point to parts of the probation service. For the London probation service I think we are at 20%, which is encouraging. There are pockets of progress, but the overall picture means we have to redouble our efforts. Our race champion, Jerome Glass, who is director-general for policy in the department, is keeping a very close eye on this for me.

The race action plan in the department is about not just a review of our HR policies but embedding the way in which we can get that change. The sponsorship programme that we are piloting for staff with ethnic-minority backgrounds will be expanded further next year. So we are deadly serious about this. We take up the challenge you make very earnestly and we want to change.

Baroness Kennedy of The Shaws: I am really happy to hear you say that, Lord Chancellor. One thing that is happening in the profession is that increasing numbers of young people from ethnic minorities are coming into the law. They do face additional hurdles. I would have thought that the ministry could very successfully be involved in outreach to those young lawyers and that they could have a period working in government to see it from a different perspective. I think there really are opportunities there for you to acquire very talented people. But it means that you have to pay properly people who are legally qualified and who have spent all those years becoming lawyers.

Robert Buckland MP: I agree, Lady Kennedy. Certainly in my previous incarnation as Solicitor-General, I know the Government Legal Department does very well in encouraging young people and people from a diverse background. I am particularly keen to make sure that those lawyers could well be some of our judges of the future. We have not touched directly on that, but you know that that is an abiding concern of mine. We have to make sure that the talent pool for our future judiciary is as wide as possible.

That is why I am particularly keen on the solicitors profession and CILEX as well—the legal executives profession—which again offer huge potential and diversity. I can assure the Committee that that work continues. In fact, I will be meeting the Bar Council and the Law Society this afternoon on the issue of judicial diversity, so that work continues.

Q6 Baroness Shackleton of Belgravia: Lord Chancellor, how very nice to see you again. Thank you so much for coming.

I would like to turn to the Lugano convention. It is very comforting that you have taken responsibility for this, being a lawyer. In my previous Select Committee, the European Union Justice Sub-Committee, we were very underwhelmed by the response of the Parliamentary Under-Secretary of State, who had to check with her officials who was actually dealing with this when we were being told that it was almost a shoo-in. It has turned out not to be a shoo-in, and you very kindly have

been transparent in telling us in a letter that you have been having discussions with your counterparts in Europe. Are you able to share with us who those people are and how those discussions are going?

Robert Buckland MP: Thank you, Lady Shackleton. I am more than happy to update the Committee as to the work that I have been carrying out as part of the continuing negotiations. We still believe that, on balance, acceding to Lugano would be the right outcome for consumers, citizens and businesses, not just here but in the EU. It is that principle of mutuality of interest that I have continued to emphasise with Didier Reynders, the Commissioner, and indeed other member states.

I first spoke to Commissioner Reynders about Lugano when I met him in Zagreb in January 2020, at the last Justice and Home Affairs Committee before we left the EU. We had a cordial discussion. Of course, it was a non-committal one then, but that principle of mutuality is one that I have emphasised with him since. I had a remote meeting with him earlier this year before the note that was sent by the Commission, which said that it was not in a position to recommend membership, which, in my view, still leaves the door open, because it needs a Council resolution and that has not been tabled or decided upon.

Of course, through our sensible, pragmatic and calm arguments, we have already won converts. Switzerland, Norway and Iceland have consented to our accession to Lugano. We believe that we meet all the criteria. With respect to the Commission, we think its arguments that Lugano is tied in hand and foot to the single market are wrong, and they should not be the basis for an objection.

I have worked as hard as I can to talk to a number of member states. I wrote to all my counterparts and I have met specifically with justice colleagues in Germany, Italy, France, Belgium, Ireland, Poland and Greece over the past few months, and indeed the Swiss Justice Minister as well, to talk positively about what Lugano can offer us all.

I must stress, though, that, while Lugano is an important part of our policy, it is not the be-all and end-all. Being outside the Lugano convention, either in the short or the longer term, does not prevent us from being a global leader in conflict of law, private international law. We have the opportunity to have new PIL arrangements and to set new standards and frameworks. I plan to hold a public consultation in the next few months on my 10-year strategy for private international law because it is through engagement with the rest of the world that we can firmly but I think persuasively make the point that, while Lugano would be desirable, we will find other means to work together if that proves not to be achievable.

Baroness Shackleton of Belgravia: Now declaring my interest as a practitioner in the field of matrimonial law, if we leave Lugano, it will leave a massive hole in the enforcement of maintenance orders. I think you answered the question put to you about what happens regarding enforcement before the exit date but not after. Assuming that after the exit date we will have to rely on the Hague convention,

which is messy, costly, and goes to domestic law, what arrangements have you made to support separating families?

When you answer this question, could you cover legal aid? You mentioned legal aid as to means testing, but how about categories of people or categories of application? If you are a maintenance creditor and you have to navigate through messy legal concepts, that is a very difficult thing to do without the help of a lawyer.

The second part that I would like you to think about, if you would, is ADR, which you mentioned. ADR only works if the people who use the law know what the law is.

Robert Buckland MP: I readily agree with that, Lady Shackleton. That is why I talk a lot about not just accessibility as a vague concept but how we educate, how we make it as clear as possible and as understood as possible, because the rule of law is embedded upon consistency and clarity of the law as much as anything else. We all know that the cases that were begun before the end of the transition period are covered by the transitional arrangements.

Baroness Shackleton of Belgravia: There is no problem with them; it is after.

Robert Buckland MP: That is not a problem. It is after and I accept that. The truth is that this, frankly, is a slow-burn issue in many senses. We will not clearly see the potential impact for quite a long time.

I think it is right to say that there is a patchwork. The Commission is only just starting its work on Hague 19 and it will take several years before we get to fruition on that, although I have indicated that we are absolutely ready and willing to look at the important aspects of that.

The reality is that, without the sort of clarity and simplicity that I want to achieve, this is not going to be straightforward. I have to readily accept that. Therefore, I think it is going to be useful and important for my department to continue to engage with the sector, to identify the more immediate challenges and problems, and to work out ways in which we can avoid some of the nightmares happening that you quite rightly are worried about.

I think we have time to do that. I am not complacent about it. I know that, with your expertise, your input will be invaluable, but there will be others in the sector as well with whom my Ministers and I would be more than happy to engage. But at this stage it is about my department continuing to gather evidence about the impacts, being ready, and doing what we judge to be in everybody's interests to try to mitigate some of the impacts of these changes.

Baroness Shackleton of Belgravia: Would you say being ready would include training judges who have probably never done *forum non conveniens* cases and having more courts so that people do not have delays? We talk about nice conciliation, which is excellent because you are so right that most people just want closure; they do not want litigation to go on as the damage increases incrementally. For people who do not understand, judges who are not practised in this, and

waiting lists, it would be a very good use of judicial training to train judges to understand what these transitional periods will result in, what the optics will look like for them, and whether there are enough courts and enough staff enabled to let them function quicker.

Robert Buckland MP: I think you make very proper points. Of course, training is absolutely a matter for the judges. However, resourcing is a matter for me, and I think that working together, as we do through HMCTS, these issues can be anticipated. Of course, I will listen very carefully to representations from the president and other members of the Family Division as to what the impacts would be, and what we need to do to mitigate them.

The Chair: Family law has been very much at the forefront of this discussion about Lugano. There is also concern about human rights issues related to it and the suggestion that, where there are corporate abuses, the Government are concerned to protect British companies in cases being brought in the British courts. I hope you can reassure us that that is very much on your radar.

Robert Buckland MP: It is. The way in which I have emphasised our interest in accession to Lugano is very much based on—I am not thinking, with respect, of the large corporations, which I think will be able to make their own arrangements—those SMEs, those smaller businesses, which will do a degree of trade across borders and might end up in a position where significant loss has occurred and where, therefore, the recognition of judgments and that mutuality is so important.

As I have said, it is not just important for our businesses. It is important for businesses in our neighbouring countries—those that perhaps do more trade with Britain than other member states, which I would have thought would have a direct interest. I am thinking of France. At the moment, the French have not been very supportive of our application. I have engaged with Mr Dupond-Moretti, the Justice Minister. I do not want to put words in his mouth, but I think he could see the pragmatic force of the arguments that I had, even if the French Government are not in a position at the moment to take a view that perhaps our accession would be the right thing to do. But I will persevere and patiently and calmly continue to make the case for as long as I judge it to be expedient.

The Chair: Thank you. We had better not go down the wider political role of our relationship with other countries.

Q7 Lord Ricketts: Thank you very much, Lord Chancellor. Pragmatism from the French is always useful and welcome.

The previous Committee I chaired on justice and security co-operation with the EU reported in March on the outcome of the trade and co-operation agreement and Part 3 for our interest in justice and security. We welcomed what the Government had achieved on extradition arrangements because we thought there was a large degree of continuity with the EAW, which had been one of the success stories of co-operation in the EU on that area.

There were questions at that point about how it would actually work in practice. It was new; it was unprecedented for a non-Schengen area country. The UK had lost access to the Schengen Information System database, and, of course, there is always some scope for judgment by national courts on how they respond to extradition requests. The words on the page looked good, but we were very interested in how it would actually work out in the to and fro of daily life.

What has been the practical experience of these new arrangements? For example, are time limits being respected in the way that extradition requests are handled?

Robert Buckland MP: Thank you, Lord Ricketts. I have to preface my remarks by saying that this is a Home Office responsibility, but I will do my best to assist the Committee as far as I can. The indications thus far are that the new arrangements are working well in practice. We are not at the stage of getting a clear or firm picture regarding the impacts and the outturns of the new arrangements, and, inevitably, any figures that are available will be impacted by Covid-19. Other countries have experienced the same delays and constrictions that we have. Therefore, my ability to give you an absolutely clear and authoritative picture now is, frankly, impaired as a result of that. I think we would need probably a clear year or so without that Covid impact to genuinely begin to understand the picture here.

Of course, there are differences between the numbers of incoming or outgoing cases, and that will fluctuate.

The other point is that it depends where in the process you look at it. For example, receipt of the request might be one test, or the time of arrest, or the time of court appearance, but certainly all the information that I have is that we are satisfied that the system is operating effectively. Of course, we will publish and produce validated data on the numbers of cases, and I will make sure that the Committee receives that information when it is available.

Lord Ricketts: Thank you very much for that. I understand of course that the Home Office takes the lead on the policy issue, but this is part of the functioning of the judicial system and an important part in terms of ensuring that we do not somehow become a safe haven for criminals from EU countries if extradition is difficult.

The only figures that I have seen are from the Bar Council. They suggest that arrests under the 2003 Extradition Act are sharply down since the end of the implementation period with the EU at the end of January, from about 120 or 130 a month to 60 or 70 a month. Some of that may be due to Covid, as you say, but this is comparing the implementation phase with the non-implementation phase. It looks like something is going on, and it would be very interesting to see the data by the end of the year, say, on whether the promise of that set of arrangements is actually being borne out in practice.

Robert Buckland MP: Indeed, Lord Ricketts. I am sure that colleagues at the Home Office, and the NCA as the responsible publishing body, will hear that, and I am sure they will endeavour to publish the data when it is in understandable form.

Q8 **Baroness Sanderson of Welton:** Thank you, Lord Chancellor, for your time today.

In June of this year, the European Commission announced that it had adopted two adequacy decisions for the United Kingdom enabling the free flow of personal data between the UK and the EU. What steps are your department taking to ensure that the UK's data protection framework remains aligned with the EU's? What contingency plans are you making to prepare for the possibility that adequacy decisions may be withdrawn in the event of us striking deals with other countries that the EU does not recognise as offering enough protection?

Robert Buckland MP: Thank you very much, Lady Sanderson, for that question. First, we warmly welcome the EU's adoption of adequacy decisions for us. That clearly has that huge benefit of the free flow of personal data from the EU/EEA to the UK.

As we know, the arrangements now are different with regard to our own domestic data protection laws as to the powers we have to deal with them. I think it is important to remind ourselves that adequacy does not mean exact alignment to EU law. There is no requirement for that. We judge the need for agility and adaptability when it comes to data protection laws, because we are a hub for many data-driven businesses. We absolutely need to respect and maintain very high standards, but we also need to be fleet of foot to adapt to what is an ever-changing and developing landscape.

It is important to remind ourselves of the wider context here. If you look at the adequacy agreements that the EU has with other countries, it is very interesting to see the range. It has adequacy agreements with Argentina, Canada, Israel, Japan, New Zealand, Switzerland, and a range of other small and medium-sized countries—for example, Uruguay in South America. It is important to remember that while our relations and the particular framework between us and the EU is hugely important, bearing in mind the proximity and the exchange of data, it is right to say—and I do not think the EU would disagree with this—that adequacy does not mean absolute slavish adherence to every jot and tittle of regulations that it abides by.

Therefore, I think the proposals that were made recently by my colleague in DCMS, Oliver Dowden, are a really important moment for us, not just to talk about change for change's sake but to really emphasise our reputation for excellence and quality, and to allow the UK to go even further to future-proof our system in a way that everybody would recognise as beneficial.

Baroness Sanderson of Welton: It is basically anticipating that it will not withdraw these; that is the assumption there.

Robert Buckland MP: The point I was making about the range of other countries would suggest that there is—I am going to import an ECHR concept—a margin of appreciation here. It is not about absolutely every “i” and “t”. It is about making sure that we can recognise each other and the fact that we are operating in the same ballpark in a way that means that adequacy will be continually fulfilled.

Baroness Sanderson of Welton: Thank you. Let us hope so.

Q9 Baroness Pidding: Lord Chancellor, the Information Commissioner recently announced a reform of data protection rules that may threaten the free flow of data between the UK and the EU and EU member states. I appreciate that this remit sits within DCMS, but it has significant relevance to the MoJ. What consideration is being given to the algorithmic processing of data and the predictions that result? What consideration is being given to any potential conflict of interest arising from the Commissioner's extended remit?

Robert Buckland MP: Thank you, Lady Pidding. The Government have, of course, stated their intention to consult on reforms to improve our data protection regime, as I was alluding to in my previous answer, but particularly by building on key elements of GDPR. We are, frankly, making it more ambitious, more pro-growth, more innovation-friendly, but with that underpinning based upon the principle of privacy and security. It is important that the Information Commissioner's Office itself is encouraged to be much more proactive in supporting businesses that use data responsibly and is part of that drive for innovation, competition and growth.

It is an important independent guardian of data protection and it does a very vital role, but I think this proactive, almost educational approach would be very welcome. That is why we think our preferred candidate, John Edwards, for the role as Information Commissioner would really help embed that agenda. Frankly, I do not see a conflict between those roles. The important thing is that independence will be maintained, but I see innovation and a proactive growth agenda as very much compatible with the perhaps more traditional view about being the guardian of privacy and excellence. We will not grow unless we are excellent.

If we have a system whose integrity is undermined, or whose independence is questioned, investors will think long and hard about wanting to come or invest virtually in the UK, if they are not satisfied that their data, which will have a huge value, among other things, is properly safeguarded. Therefore, I think the proposals that were outlined should not only give additional support to businesses but increase confidence in our ability to create and maintain a system that will encourage growth and strike that important balance when it comes to privacy.

The Chair: Lord Chancellor, on the tasking of the Commissioner, and I am quoting here, "to promote further innovation and economic growth", do you see that as part of the responsibility to protect data? I had wondered whether that was ranked above the protection of data where the two areas of work came. Are you saying you see that as a single exercise?

Robert Buckland MP: I see them as complementary. I certainly do not harbour any concerns or fears that the important role of the regulator would be compromised in any way. There is a huge amount of work to do when it comes to understanding and education about information and data protection. There are still, frankly, a lot of organisations and bodies out there that certainly do not seem, with respect to them, to fully understand it. I think we have all had experiences where that phrase,

“Oh, it’s data protection”, has been used in ways that made some of us—I certainly have—even challenge the particular organisation to say, “What do you mean? I am seeking access to my own data. If you have, for example, a proper password system, that is entirely within the law”.

I am just giving an example of a wider truth here, I think, that exists. I do not want data protection to be a sort of area of mystery. This is becoming more and more fundamental to our lives. There are not just principles of privacy and security for us. There is a value to data, and, frankly, a financial value to it, that we all need to understand, and of course the ethical dimension continues to loom properly large in this area. What we are seeking to do is, yes, widen, but also to balance out some of the important priorities that we view that the role of the Information Commissioner should pay adherence to.

The Chair: As you may know, we are doing work on new technology in the whole area of the application of law, so we will want to think more about this, but thank you very much.

Q10 Baroness Chakrabarti: Good morning, Lord Chancellor. This is quite a useful moment for my question, which follows on from what you were saying about ethical dimensions to new and developing technologies. We have heard in this committee extensive expert evidence reflecting concerns about a possible creep—a sort of unthinking creep, if you like—in relation to the use of advanced technologies. Recent legislation, for example, has extended the use of polygraphs to some domestic abuse and counterterrorism cases.

What scrutiny is there to ensure that these new technologies are reliable and scientifically sound? What knowledge and expertise do your officials in the MoJ, who must in some cases be working with these technologies, have in relation to the tools, how they work, when they should be used, when perhaps they should not be used, how to interpret their outcomes and so on?

Robert Buckland MP: Thank you, Lady Chakrabarti. It is good to see you again. The approach that my department takes to technology is precisely what you and others would expect. It is all about making sure that we are able to take advantage of new developments and innovations to better achieve our objectives, while making sure that these technologies are used in a way that is responsible and proportionate. We recognise that this is a double-edged sword. The evidence and documentation that you allude to, and that my officials are familiar with, demonstrate that, but that does not mean that we should do nothing, in my view. All analytical projects, including those that involve algorithms or advanced data analytics, must follow the Government’s good practice guidance. It is set out in the *Aqua Book*, which provides proportionate assurance that the analysis is robust, fit for purpose and that it is deployed appropriately. The tests are, I think, rigorous and, certainly in the case of my department, applied properly.

With regard to the new Forensic Science Regulator Act, which was passed earlier this year, that regulator will be drafting and consulting on a statutory code of

practice that will allow it to set standards for use of technologies and investigate their use where necessary.

You rightly raise the issue of polygraphs. Having dealt with a number of debates on that issue, and having introduced it myself as part of legislation for domestic abuse and sex offences, it is absolutely important to reiterate the point that the use of polygraphs is only a part of the risk assessment process. To solely rely upon such a device would be wrong. It is, of course, not used for evidential purposes, and again that is a very important distinction to be made that will give the wider public a high degree of confidence that, while fulfilling our duties to protect the public and public safety, for want of a better phrase, the use of polygraphs, governed by primary legislation, is well judged and appropriate.

Baroness Chakrabarti: Briefly following up on that, it is interesting that you gave such particular emphasis to a line between risk assessment on the one hand and evidential matters on the other. Do you think that that is a bright line that will hold, not just in relation to your department, and not just in relation to polygraphs, but in relation to algorithmic technologies and some of this other technology more generally?

Robert Buckland MP: They say that nothing new is under the sun, Lady Chakrabarti, and although the extraordinary range and pace of development in AI and other technologies—facial recognition technology, for example—is pretty breath-taking, we have lived through previous innovations. I think of DNA and the revolutionary change that that brought about. Those of us who were involved with and practised criminal law, and who had leadership responsibilities, will know that there were challenges about the use of DNA. There were no doubt evolutions and refinements in the way in which that evidence was used and presented. I think we have established a position now where, with the highest degree of certainty, such evidence, which was revolutionary and innovative a generation ago, is now part of the natural course of things.

We know that with facial recognition there has been a very important challenge recently. In the light of decisions in court, it is very important that the police consult fully and adopt guidance that is absolutely consistent with all those principles that have to underpin the use of evidence in court and that do not in any way undermine confidence among the public about the use of such technology.

I would say that, certainly in my mind, there are bright lines that I have about certain technologies, but I also have an open mind about other types of technology on the basis of my lived experience of how the system has changed. I think the Forensic Science Regulator is a welcome introduction that gives us a central point of focus to create a national standard that can be applied consistently, in a way that I certainly believe can minimise or prevent the sorts of miscarriages of justice that none of us wants to see.

Q11 Lord Dholakia: Lord Chancellor, let me raise a question about a matter relating to Afghanistan. We hope to see the Home Secretary sometime next month and we will

take up this issue with her. You have a special relationship as Secretary of State in this particular matter.

I want to find out what support has and will be provided to female judges and other Afghan legal professionals and their families in the policy of evacuation and resettlement.

Robert Buckland MP: Thank you, Lord Dholakia. As I was saying to the other place yesterday, my department and I have been working urgently to support work on the relocation and resettlement of people from Afghanistan as part of our broader government effort. Indeed, the Foreign Secretary reported last week that at least nine judges had been relocated so far, and we continue to work to identify and support those people at risk who remain in the country.

On a daily basis, officials and I have been working—and I am grateful for the active support of the legal community; Baroness Kennedy and others have been very proactive in this, and I congratulate and thank them for everything they are doing—to ensure that any cases of vulnerable individuals who are at risk are received by me and immediately sent on and directed to the appropriate parts of government responsible for the resettlement system.

As we know, it is the responsibility of the FCDO and the Ministry of Defence to continue efforts to secure the safe and orderly passage for those eligible to points of departure and travel outside the country. I am acutely conscious, as are my colleagues, of the risk to all judicial colleagues, not just female judges, important and particularly salient though that is, but wider professionals also in the law, and their families, who from some of the communications I have directly received perceive themselves as being, and are, at real risk of danger and harm.

I am very pleased that the Parliamentary Under-Secretary at the Home Office announced the new Afghan citizens' resettlement scheme on Monday. That is now a very clear category for people at risk to come under. The ARAP scheme was covering judges anyway, and I had that assurance at an earlier stage from the Home Secretary. Therefore, we now have a clear basis and we have the schemes available to allow people to come here, to have the right to work, to apply for public funds and social housing as well.

We also recognise that it is not just about the UK. It is about the other countries that are stepping up to the plate, too, and the aspirations of many legal professionals to go to other countries. That is why it is important that we work with other common-law jurisdictions in particular, which I think are part of an international effort to support our judges and legal professionals.

I have to say, Chair, that it is a terrible indictment of the state of affairs that a country such as Afghanistan is facing the loss of such talent, such professionalism and such people, who are the heart of what it is to be a civilised society and a society under the rule of law.

The Chair: I think we all feel this at a number of different levels: as human beings

and as women. There are a lot of women lawyers in the room and, “There but for the grace of ...”, and all that. I am looking at Baroness Kennedy in case she wants to come in on this.

Baroness Kennedy of The Shaws: I met with the Lord Chancellor yesterday and he knows that I have been deeply involved internationally in getting the women judges out—all judges, but particularly the women judges, who are at special risk. In 2013, Afghanistan embraced the convention on eliminating violence against women. Special courts were created with women at their head to deal with violence against women. Those women often had to imprison abusers, many of whom were Taliban or Taliban-like men who beat women in the streets because they were not properly covered or were going out without a chaperone, and so on. As a result, those women are now being targeted, as are the women prosecutors.

Internationally, through the International Bar Association’s Human Rights Institute, we are organising chartered flights, and I am hoping that one might leave within the next 24 hours with a whole set of women judges and their families. It is a very complex business to organise, I can tell you, because of issues over security, of financing safe houses, and of getting people from one place to another. It is proving a complicated operation, but we are doing this for the International Association of Women Judges and for the UK’s Association of Women Judges. I am in touch with everybody throughout the day. The Lord Chancellor knows, I think, that we are doing all that.

Robert Buckland MP: You are, Baroness Kennedy, and I want to pay tribute to Dame Maura McGowan—Mrs Justice McGowan—who has been very proactive in all this. I am grateful for being able to directly communicate with her about it. As you said, Baroness Hamwee, because of the personal relationships that have been created between professionals, this hits at all levels. This is a very human tragedy as much as it is a matter of principle and defence of the rule of law.

The Chair: There are big problems for the humanitarian organisations that are trying to work round what is happening there now.

Q12 **Baroness Hallett:** I too applaud the efforts being made to get people out, particularly the female judges, and the efforts made by Baroness Kennedy, the Lord Chancellor and Dame Maura McGowan. It is an extraordinarily difficult problem.

Lord Chancellor, good morning. It is nice to see you in a different forum.

Robert Buckland MP: Yes indeed, Baroness Hallett.

Baroness Hallett: You have committed to a reform of the right to bring private prosecutions by the end of the year. May I ask two substantive questions? What reforms are you envisaging? Will your review cover prosecutions brought by public or quasi-public authorities such as the Post Office? We all know about the dreadful Post Office scandal and prosecutions, but what many people will not know is what I consider to be the scandal of some planning authorities.

When I was a judge I did two planning appeals, and I can give your officials the details of those cases. In both cases planning authorities had, in the view of the court, brought criminal prosecutions, so people stood in the dock at the Crown Court charged with criminal offences, without due consideration. In one case, a woman was put in the dock on the basis that her name remained on the title to the land that was in issue, over which there was a planning dispute, even though she had nothing to do with it, but her name was still on the title because the mortgage company refused to release her. It was that bad.

There was also the clear indication that both authorities had had financial motivation in bringing the prosecutions. Again, for those who do not know, if a planning authority brings successful enforcement notice proceedings in a criminal court and a Proceeds of Crime Act order is made, the local authority gets 37.5% of the order. I do not know why 37.5%, but that is what it is. I have a real concern, given that and given the Post Office matter, about private prosecutions.

Robert Buckland MP: Thank you, Baroness Hallett. You will recall when I was a law officer that it was one of our specific functions to examine potential private prosecutions referred to us, not so much to examine specific cases but to superintend the CPS, which had the power to take over private prosecutions and conduct them as it saw fit. I am long enough in the tooth to remember the days when I used to prosecute for a number of organisations that were not the CPS. The line of travel over the last 20 years or so has been much more towards the CPS taking responsibility.

In government departments, the DWP now has its cases prosecuted directly by the CPS, and I think a lot of us will remember HMRC. I know that the RSPCA is looking very carefully at its prosecutorial function, and that is a matter for the law officers.

However, it is interesting to note the context in which we operate. Giving it the long view, I think there is a more than respectable argument to say that the right to bring a private prosecution is an ancient one and we should tamper with it only very carefully. In the evolution of our prosecutorial system, it was not until about 1872 that the DPP position was created because of the growth in the number of public prosecutions that had not perhaps historically been the case. Of course, the world has changed and we are in a position where, overwhelmingly, prosecutions are public.

Any prosecution, I think, absolutely has to be in adherence to the highest possible standards, bearing in mind the consequences that can arise for the accused person. We saw that with the Post Office Horizon cases. There are still cases in the system, and I will not comment about those, but the very strong language used by the Court of Appeal demonstrates the gravest miscarriages of justice in those that have already been dealt with.

In light of that, the Justice Select Committee in the Commons produced a very useful report, to which I have responded. In particular, I have decided to adopt two of the recommendations on which my officials are working currently. The two

reforms that we are going to make are, first, to create a register of private prosecutors, which will, for the first time, make it possible to establish just how many cases are being prosecuted in this way, because at the moment we do not know. That work will be completed later this year.

The second reform I will make is to change the arrangements with regard to the recovery of costs from central funds. There definitely is an anomaly there. I think limitation is needed. Whether it is on the basis of existing legal aid rates or perhaps CPS rates is something that we will look at in detail, but the current situation does not seem to me to be equitable.

I have considered, as you will know, other recommendations made by the Committee, but I want to reassure the Committee that, in light of the Post Office prosecutions scenario, we are still considering whether there is any further action we might take to prevent that sort of miscarriage of justice from happening again. There are particular aspects to the Post Office Horizon cases that are somewhat distinguishable from what I would describe as the usual run of private prosecutions, which, frankly, might justify special measures that will improve openness, transparency and compliance with disclosure obligations.

I say this, Baroness Hamwee. The thread through all these cases is, I am afraid, disclosure—Baroness Hallett knows exactly what I am talking about—and the inability of prosecutorial authorities or individuals to really understand what on earth they should be doing when it comes to the disclosure of unused material in criminal proceedings. It has been a bugbear of mine for many years. I am in a position to try to do something about it. We are making some progress.

Baroness Hallett: I am delighted to hear that. It was in fact on my list of things to mention if I got the chance to ask a supplementary question. One of the problems, Lord Chancellor, as I suspect you will know all too well, is that some of these private prosecutors purport to operate according to the CPS's code of conduct. It is there on the CPS's website and they can see it. Unfortunately, they are not necessarily trained in the specialty and they do not understand it. That is why they get things such as disclosure wrong. There are some very experienced police officers who do not understand material that should be disclosed, so I am not surprised.

One of the solutions recommended by the Justice Committee, as I understand it, was that the CPS should at least be notified of every private prosecution. I appreciate that the CPS may say that is going to be more work. If you are going to put people of good character into the dock in the Crown Court, I am afraid the CPS ought to be notified so it can decide whether or not that is where the people should be, in my view. May I urge you to consider that as a possible answer?

Robert Buckland MP: I will. I think the register will give us that database for the first time, so we will know the numbers, and we will know what is happening in the system. I appreciate your point about the immediacy, the here and now, of a case popping up in a list, where nobody is claiming ownership for it and a private prosecutor turns up. It does happen from time to time. As I said, while I do not want

to extinguish the right—I do not think there is any case to do that—as in any public prosecution, the same degree of transparency and accountability needs to be applied, bearing in mind the often very serious consequences. Whether it is the loss of good character or quite a serious sentence, the consequences will be very important for the accused.

The Chair: Baroness Hallett, do you want to continue?

Q13 Baroness Hallett: So many questions, so little time. May I ask questions on two further matters, Lord Chancellor?

The next question is about problem-solving courts. I am afraid I did not alert the Chair to the fact that I wanted to raise this, but it is quite current. I chair the Family Drug and Alcohol Courts National Advisory Board. When you mentioned problem-solving courts earlier, I think most people who have ever been involved in the criminal and family justice system would confirm how important it is to tackle what is very often at the heart of the problems of the family or the person within the criminal justice system, which is usually substance abuse, or something similar.

The family drug and alcohol courts aim to keep families together by tackling the substance abuse of the parents. Of course, that is a win-win for everybody. It is a win-win for the children; it is a win-win for the parents; it is a win-win for the family justice system, because it costs less money; and it is a win-win for the criminal justice system because it may prevent people going there. Will your review of trying to extend problem-solving courts look also at the family drug and alcohol courts?

Robert Buckland MP: Indeed. I do not have the full details here, but my recollection certainly from the last submissions I have looked at is that we are going to press ahead with more pilots. If that has not been done, and I would be surprised if it has not, I will absolutely quality-assure to make sure that that work has been incorporated. We have of course seen previous incarnations, which I thought were extremely promising, where, frankly, a bit of momentum was lost, and I do not blame anybody for that. Bearing in mind it was a manifesto commitment, we are in deadly earnest about the efficacy of this, and I want to see us get on with this programme as quickly as possible.

Q14 Baroness Hallett: My last question, given the time available, goes back to the funding of the justice system. I am delighted to hear you say that the Treasury is giving you more money and that you are working hard to persuade colleagues that the justice system is important. I fear that the justice system has suffered decades of underfunding, so more money now is coming on top of huge cuts to the justice system over the years and, I fear, an ignorance on the part of some—not you—as to how important the justice system is to a functioning democracy. Would you agree that the Ministry of Justice cannot survive with any further cuts and, on the contrary, that the Ministry of Justice needs substantial additional funding?

Robert Buckland MP: We are on the cusp of a very important spending review. That process has just begun. I am now in a position to say, so the roles are reversed, Baroness Hallett: I note your points with interest.

What I will say is that it is tempting, I suppose, after a few years at the helm of a big operational department such as the MoJ, which is one of the biggest in Whitehall—we have nearly 80,000 people working directly or indirectly for us—to view the MoJ as a sort of desiccated series of processes. It is not. Underpinning the MoJ is a set of values that goes to the heart of what it is to be a civilised society. We are about justice. We are about the rule of law. We are about fairness. We are about equality under the law. We are all about the things that differentiate a society such as the United Kingdom and the jurisdictions within it, and other societies such as the one we have, sadly, just been talking about.

I view that responsibility as a hugely important one. I am privileged to have brought quite a few years of professional and practical experience into it, and, as long as I am at the helm, those values will be reflected in everything that we do.

Lord Blunkett: Given the turnover rate for Lord Chancellors and Justice Secretaries, we wish you well.

Robert Buckland MP: Thank you, Lord Blunkett.

The Chair: It is tempting to leave this meeting on that high note, but since we have six or seven minutes according to the clock I would like to give colleagues opportunities to ask any further questions. I have one quite narrow one, but I am looking round.

Baroness Sanderson of Welton: I am sorry but I did not give notice of this.

The Chair: That is fine.

Q15 **Baroness Sanderson of Welton:** Lord Chancellor, where are you with the independent public advocate you talked about post the Hillsborough collapse?

Robert Buckland MP: There is a Back-Bench debate in the Commons on Thursday on that, which Maria Eagle has brought forward. I have engaged very much with her and other parliamentarians on the issue. I have undertaken to carry out some more work on that proposal. I am looking with interest at previous Private Members' Bills that have been introduced on that particular issue. I see that there is a gap. The potential use of that service or that advocate, of course, would only apply to those hopefully mercifully few disasters that affect a wide range of people and families. I have given that undertaking and we continue working upon proposals that I hope will emerge as soon as practicable.

Q16 **Lord Ricketts:** I have a quick question, Lord Chancellor, going back to the issue of data protection and data adequacy. We have to bear in mind that in Part 3 of the Trade and Co-operation Agreement dealing with justice and security there are some specific provisions on data, including that if there is a serious and systemic deficiency in the UK's handling of personal data there could be very serious reductions in co-operation, which could have an impact on security in this country.

I read that the consultation process on reforming the data framework might involve scrapping Article 22 of the GDPR, which is the one about human review of

algorithmic judgments. I am not an expert at all, and I am sure you are not, but that sounds to me like the sort of issue that would really worry people in the EU, particularly in the European Parliament, given their track record of concern about personal data and the impact of data on the individual. It is important to recognise that issue and the risk that we could be running, if we are seen to move in the direction of a serious and systemic deficiency, in the EU's eyes, for justice and security co-operation.

Robert Buckland MP: Lord Ricketts, you are right to say that I do not have in-depth knowledge. What I would say of course is that it is a consultation. It is absolutely right that the Government do not nail their colours to the mast ahead of any responses that we will receive. I hope I have given the Committee maximum reassurance that, while adequacy does not mean slavish adherence to every jot and tittle of EU regulations, there is a world of difference between some variance and the sort of deficiency that would clearly not be in our national interest. I am sure that colleagues in DCMS and elsewhere in government bear that particular important parameter very much in mind.

Q17 Baroness Kennedy of The Shaws: Lord Chancellor, a very distinguished member of the legal profession, and of our House, was given the role of conducting an independent review of judicial review. His report, I think, was very rational, saying that there was nothing substantially wrong with judicial review that could not be dealt with by a number of small tweaks. That review by him does not seem to have received favour. It has been suggested that, if you do not get the right answer the first time, you conduct another review a second time. There is a level of despondency in the legal profession and, I think, in the House about that. Are we going to see still a great assault upon judicial review?

Robert Buckland MP: Baroness Kennedy, with the greatest of respect, you can perhaps be forgiven in your House because you have not seen the Bill yet. The Bill was published at the end of July. It is going to have its Second Reading in my House in the autumn. The Bill has its critics, but I would say that it has received the sort of response from the legal sector that recognises the fact that this is incremental change. I am not seeking a revolution. I am not putting up Aunt Sallys that need to be knocked down. I am simply removing what I regard as a superfluous jurisdiction, the Cart jurisdiction, and at the same time trying to introduce an ouster clause that does the job in a way that does not cause tension between this place and the courts. I think, therefore, that dual purpose is very important.

Secondly, with regard to remedy, again the product of the proposals has not just been as a result of Lord Faulks's excellent report but the closest of consultation with the appropriate people, which would include those responsible for the administration of justice. My strong position is that, true to my characterisation of being a constitutional plumber, the legislation that will come before your Lordships' House will indeed be very true to that metaphor.

The Chair: I am sure that you will find there are critics, in the proper sense of the word, in this House. Lord Chancellor, thank you very much for your time. As it has

just gone 12 o'clock, we ought to let you go and get on with the job. None of us thinks that your department is desiccated.