

Justice Committee

Oral evidence: [Work of the Crown Prosecution Service](#), HC 669

Tuesday 15 December 2015

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Members present: Robert Neill MP (Chair), Alex Chalk MP, Alberto Costa MP, Philip Davies MP, Mr David Hanson MP, John Howell MP, Dr Rupa Huq MP, Andy McDonald MP, Victoria Prentis MP, and Marie Rimmer MP.

Questions 1–166

Witness: **Alison Saunders CB**, Director of Public Prosecutions, gave evidence.

Q1 Chair: Director, good morning. Thank you very much for coming to give evidence to us. For the usual proprieties, can we make sure that we deal with any declarations of interest from members of the Committee? I think you know that I am a non-practising member of the Bar. There was a time when the CPS used to pay me, but it was a long time ago. There is nothing outstanding, that is for sure.

Victoria Prentis: I am a non-practising barrister. In my time at the Treasury Solicitor's Department, I undertook judicial reviews on behalf of the CPS.

Andy McDonald: I am a non-practising solicitor who used to practise in criminal law a long time ago.

Alex Chalk: I am a practising barrister. I was instructed by the CPS over the course of 14 years, including by some of the divisions we may refer to—special crime and counter-terrorism. I should also mention that I prosecuted in several of the riots cases in 2011, when the DPP was working at CPS London. I was probably instructed by her, so I should make that clear.

Q2 Chair: Thank you. Director, I was interested to see that the last time you were in front of a Select Committee it was the Home Affairs Committee. In terms of your accountability, which is essentially via the Law Officers, how do you see your relationship with this Committee and with Parliament generally?

Alison Saunders: As you say, my accountability is through the Attorney General. He answers questions in the House on behalf of the CPS and superintends us. I am very open to scrutiny. If Parliament wants to scrutinise me, I am more than happy to come to a Committee such as this and answer questions. It is really important that people see how we

operate, and understand how we operate, because sometimes that is not as clear as it should be. I am very happy to come and account to Parliament through Committees such as this, which is obviously very appropriate.

Q3 Chair: What do you think we could do to make it more transparent and to make the public more aware of what the DPP and the CPS do?

Alison Saunders: I suppose it could be done through scrutiny such as this and some of the questions. Sometimes, there seem to be misconceptions around acquittals being a huge issue and a crisis. That is perhaps one of the things that Committees such as yours can examine. That is the way in which the criminal justice system works. An acquittal is not a crisis; it is the criminal justice system working.

Q4 Chair: The worry is when the case gets kicked out at half-time, isn't it?

Alison Saunders: Yes. Those are cases where the judge has decided that there is not sufficient evidence to put before a jury or before the tribunal of fact. They are of more concern. I am pleased to say that the number of those cases has been decreasing, so they are now quite rare. Obviously, we scrutinise them very carefully because of that.

Q5 Chair: Do you have a system for review of every instance where the judge directs an acquittal?

Alison Saunders: Yes, we do. There should be what we call a failed case report—not a great term—which is a report that goes through what the case was about and what happened. Sometimes, things change when people give evidence; that does happen in court. It is around making sure that, if it was foreseeable, we learn the lessons from that and make sure that it does not happen again. That is why we have been successful in reducing the number of judge-directed acquittals across the years.

Q6 Alex Chalk: The CPS publishes annual reports and accounts, doesn't it?

Alison Saunders: Yes.

Q7 Alex Chalk: On the issue of judge-ordered acquittals, they suggest that in the Crown court the figure has gone up by over 1,000 in 2014-15, from 10,916 to 12,615. What is the reason for that?

Alison Saunders: Judge-ordered acquittals are very different from what we have just been talking about. As you know, in judge-directed acquittals, the judge stops the case, because he feels that there is not sufficient to go on. Judge-ordered acquittals are in cases that have gone to the court. They have gone past the point where we can discontinue, which is the administrative way in which we stop cases; I write a letter under section 23 of the Prosecution of Offences Act. Effectively, we have to offer no evidence, so the judge orders the jury, if it is there, to stop the case, but that is at our request.

Q8 Alex Chalk: It does not include successful submissions of no case to answer. Judge-ordered are something completely different.

Alison Saunders: Yes. If it is—

Q9 Alex Chalk: Is it a stay for an abuse?

Alison Saunders: No. It is for cases where perhaps something has happened to the evidence and we have reviewed it again and decided that the code test has changed, so there is no longer a realistic prospect of conviction.

Q10 Alex Chalk: Sure, but the judge wouldn't order that; it is a matter for the prosecution to decide. The judge would not order you to discontinue the case.

Alison Saunders: That is the only way we can stop it. Up to the time of arraignment, we can do a section 23 discontinuance. Beyond that, we cannot.

Q11 Alex Chalk: But it is your decision whether to offer no evidence.

Alison Saunders: It is our decision. That is why it is a judge-ordered acquittal, as opposed to a judge-directed acquittal.

Chair: That sounds—dare I say it?—a little like semantics and, frankly, hiding behind the judge.

Alex Chalk: Exactly.

Chair: If I turn up and say, “I offer no evidence”—I used to do that as an advocate—it is my decision.

Q12 Alex Chalk: That is a CPS decision.

Alison Saunders: It is.

Q13 Chair: It must be. It is not the judge's decision at all.

Alison Saunders: But it is a judge-ordered acquittal. We cannot stop it. There is no power for us to do that.

Q14 Chair: That is deeply misleading, if you forgive my saying so, director.

Alison Saunders: That is the way in which the law works. There is nothing we can do about it.

Q15 Chair: You do not have to use that phrase. I suggest that misleads the public.

Alison Saunders: Perhaps it is around explaining the terminology clearly. The legislation is there; it is very clear.

Q16 Chair: Don't hide behind the legislation.

Alison Saunders: It is a judge-directed acquittal if he stops it and decides that there is no evidence. It is judge ordered if we ask him to do that.

Q17 Chair: But you are asking him to order.

Alison Saunders: Yes.

Q18 Chair: So why not 'fess up to it and say, “It is at our asking.”?

Alison Saunders: We can make that clearer, but it has always been the case. That is the definition of it.

Q19 Chair: I strongly recommend that you do, because that is precisely the sort of problem that sometimes gets the CPS a needlessly bad name.

Alison Saunders: We can look at the annual report and make sure that that is absolutely clear, but I would be most concerned about the judge-directed acquittals—

Q20 Chair: Correct.

Alison Saunders: They are the ones that the judge says should not be there.

Q21 Chair: We agree with you there. That is why, funnily enough, this use of terminology clouds the issue when you have a strong point about directed acquittals, rather than worrying about when you decide, often for very good reasons, to offer no evidence.

Let me come back to another point about the way things are between here and the Committee. You have had some politically sensitive things. I am sure that MPs write to you from time to time—I know I have—about particular cases involving constituents. Is there anything that concerns you about the way you are approached by Members of Parliament?

Alison Saunders: If they are writing on behalf of their constituents in the normal way, that is absolutely fine. It is absolutely right that we are open to challenge and for people to put forward issues for us to look at. We deal with all correspondence in exactly the same way, no matter who writes to us. We look at the case, and, if it is a matter for us and is about our decision making, we answer very clearly. If it is about the police, which in some cases it is, we do no more than pass it over to the police for them to answer, because it is for them to do so. I would not want to stop or inhibit people from writing to us appropriately and correctly.

Q22 Chair: Do you think that it helps if Members of Parliament make it clear that they are taking up an issue on behalf of a constituent, as opposed to broader issues?

Alison Saunders: Yes. It will probably be clearer if we understand on whose behalf they are writing. It is not always clear. Most MPs say, “We write on behalf of our constituent,” and enclose the letter, for example, but it does not always happen.

Q23 Chair: There is always that thing, isn’t there? You might ask on behalf of a constituent for something to be looked at, as opposed to pushing a particular cause, which may or may not be legitimate. Perhaps you should not be dragged into that.

Alison Saunders: Yes. Obviously, we get letters about more generic issues, as opposed to just constituents and their cases. Again, that is absolutely fine.

Q24 Chair: Are there any lessons that you take away for the CPS from the appearance before the Home Affairs Select Committee and the whole business with Lord Brittan and other matters?

Alison Saunders: No. We were commended for our approach and the way in which we adopted it. For me, it reinforced the point that our processes and procedures are absolutely right, to make sure that there is independence and that it is an obvious independence from

any perceived interference. That reinforced for me that we are doing the right thing. It also slightly reinforced for me that the director's charging guidance, which was under scrutiny, is in the right place.

Q25 Chair: What about time? It took an awful long time to resolve some of those issues, didn't it?

Alison Saunders: Yes, and that is very worrying. When cases take a long time from offence to charge or from arrest to charge, they are of concern to us, because the quicker we can deal with issues, the better. Where it is important that we have good relationships with the police, it is around being able to give them early investigative advice—being able to get involved with the investigation as early as possible, without, of course, encroaching on what are investigative matters. It is about making sure that we do what we can as quickly as possible. Equally, I suppose that it is not always within our control, because a lot will be down to police investigation and what the police decide, as operational decisions. That was very much the case in some of the Brittan delay.

Q26 Chair: It is suggested that you are going to have a restructuring, which may reduce the number of regions yet again. Doesn't that make it harder to keep in touch with the police? If you are dealing with five or six police forces, how do you do that?

Alison Saunders: At the moment, we are configured around 13 areas. In some of those areas, there will be more than one police force to have relationships and liaise with. It is really important that we have very good relationships with police forces at all levels—not just with the CCPs and chief constables, but all the way through, down to operational level. We know that those relationships are key to making sure that we can have constructive, frank dialogue about pursuing cases, but we do not direct the police. Our ability to influence is that—our ability to influence. We cannot direct them to do certain things or to cut off investigations at a certain point.

Q27 Chair: I get the sense—to pursue this—that some of the issues that arose at the Home Affairs Select Committee were precisely because the chain of communication was too remote.

Alison Saunders: No. In that case, there was a lot of communication between us and the Metropolitan police at various levels, both at a junior working level and at a more senior level. It was very clear throughout what our view on that case was.

Q28 Chair: They just did not seem to want to take on the fact—you told them about five times, as I recall—that it is not your job to do pre-charge advice.

Alison Saunders: No. We had given pre-charge advice at a very early stage and had reminded them exactly what the threshold was for it to come through for charging advice, which it very clearly never reached, in our view. It is an operational matter for the police if they decide to carry on investigating. As I said, we do not have the power to direct the police, so it is an operational matter for them.

Q29 Chair: When I speak to police officers from time to time—those who are reasonably senior and take decisions—their concern is that the CPS is too remote as it is. Reconfiguration will make it worse, won't it?

Alison Saunders: First, we are not necessarily restructuring. I am sorry; I had gone on to the relationship with the police, because there are two different things here. Concentrating on relationships with the police, one thing we are very keen to ensure is that we have regular dialogue with the police at all levels. I go round and visit all the areas. When I do so, I meet the chief constables. I very rarely get any complaints about lack of co-operation, dialogue and working together at local level. On the whole, relationships with police forces around the country are good. In relation to, for example, RASSO cases—rape and serious sexual assault cases—we have a pilot going with four police forces where we are putting prosecutors into police stations to give early investigative advice, to see how that works. There is more that we can do, because there is always more that we can do, to try to encourage closer working together, but on the whole relationships with police forces are good across the country. I do not get feedback from chief constables that would make me think otherwise.

In relation to the restructuring that you mentioned, we are currently consulting on whether or not we should restructure. It is not a given that we will. The CPS board, which I chair, will make a decision on 27 January. The reason we are looking at it is threefold. First, some of our chief Crown prosecutors have said that they need to have more flexible, resilient areas—bigger areas, effectively. That has come from the chiefs. We had two reviews. One was in relation to our complex casework units, which vary considerably across the country. Some are as small as four or five people. That makes it really difficult if you have somebody on training, somebody on holiday and somebody in court. Some of them are very large. We are looking at the resilience of those. The other was on our area operations centres, which do what we might term the back-room functions—important functions such as communications, finance and performance. Again, we have 13 of those. Some of them have one person doing communications, for example, so it is quite difficult to get resilience there.

We are consulting on two options. One is that we remain as 13 but look at doing something with the CCUs and the area operations centres to make them more resilient. The other is that we look at reducing to six or seven areas, in order to reflect court circuits; we would become coterminous with the court circuits. We have just closed consultation for staff. I have just been around the country talking to staff and external stakeholders about what they think, so that the board can have the best information when it makes the decision in January.

Q30 Alex Chalk: Can I turn to the issue of resources, director? Does the CPS have the resources it needs to prosecute to the standards that we all want?

Alison Saunders: Yes, we think we do, particularly now that we have the CSR settlement. I am not saying that it is easy; let me say that first. Over the last five years, our budget has reduced by 23% or so. Where we have been able to make sure that we maintain or improve the service—we have improved our performance in some areas across those five years—we have taken the majority of the money out of things like IT, by becoming digital, and estates, by closing buildings and reducing the number of buildings we are in. We have reduced our headquarters by about 50% on the non-operational side. When I say non-operational, I mean people who are prosecuting. What will help us, and what we need to deliver going forward, with the spending review, is transforming summary justice,

better case management in the Crown court, which is the equivalent, and continuing digitalisation. Those are all key to being able to maintain our performance.

Q31 Alex Chalk: I want to ask about a specific set of circumstances. I talked about the standards that we all expect. It is not uncommon now in the central criminal court, the most high-profile court in the land, to have a senior junior—in other words, a non-QC—prosecuting a two-handed or even three-handed murder case, and there may not be a permanent CPS presence in court. In other words, that advocate is on their own, prosecuting a very serious case that is important for public faith in the system. Is that satisfactory?

Alison Saunders: No. We have just changed the way in which we deal with our presence in the Crown court, in order to make sure that we have a coverage of two to one for our paralegals in court. We have done the maths to make sure that we can do that. In the difficult cases, in particular—murders, rapes and serious sexual assault cases that are very complex and multi-handed—we have paralegals there at the beginning of the case and at any time that it is necessary for them to be there to take notes.

Q32 Alex Chalk: Is a paralegal good enough?

Alison Saunders: Yes. Our paralegals are extremely experienced and help to prepare the cases, along with the lawyers. Very often they know the case absolutely backwards, as they have prepared it and have worked with counsel in the course of the preparation.

Q33 Alex Chalk: I do not want to press it too far, but let us suppose that a complex issue of disclosure arises—that there is a cut-throat between two defendants and there is a very difficult issue. The judge is breathing down the neck of prosecuting counsel, saying, “Come on, sort this out. I will stay this as an abuse of process if you don’t get on top of this disclosure.” Does that advocate have the resources that he or she needs in order to do justice?

Alison Saunders: First, the paralegal should be there. Secondly, the officer in the case and the disclosure officer should be contactable, and should be around to deal with a lot of the issues. If need be, all cases are allocated to individual lawyers. Those lawyers are not out at court all the time. Unless they happen to be absent through leave, training or some other issue, they should be in the office and contactable, if they are not at court. Over the last 18 months or two years, we have changed to make sure that every Crown court case is allocated to an individual, named lawyer. I say very clearly to judges when I meet them around the country that they have that name—everyone should have it—and, therefore, they know who to contact. In cases such as the one you are explaining, there should have been contact with the lawyer throughout the life of the case. I would be concerned if there were not.

Q34 Chair: Forgive me, director, but it sounds a bit odd. You are an advocate standing up in court, a problem arises and there is nobody sitting behind you. You have to say, “Would you mind rising for a moment, your honour, while I go to ring somebody?” What impression does that give in terms of professionalism?

Alison Saunders: We cannot be in every single courtroom. Nor should we be, because not every single courtroom will have that issue. In those cases, it is about being able to identify issues with counsel, speaking to the advocate—it may be an in-house or an external advocate—and making sure that you are in touch with them. Some things will

arise that you do not know about, but if there are things you know about—if there is a key cross-examination or it is the prosecution case—we should understand that we should be there at that time. We should get better at it, because there are cases where it still happens. That is why we have changed the way in which we rota staff, to make sure that there is two-to-one coverage in court.

Q35 Chair: Forgive me, but two to one means what?

Alison Saunders: One paralegal for every two courtrooms is the rough figure.

Q36 Chair: They are covering two cases going on at the same time, effectively.

Alison Saunders: Yes, but you will not need to be in every single courtroom. It is a waste of resources if you have a very straightforward case where a paralegal is just sitting behind counsel and there is nothing for them to do.

Alex Chalk: My concern is not about very straightforward cases like the theft of a Mars bar, which we all understand; it is where you have an advocate prosecuting a two or three-handed murder at the Bailey. That is really my concern. Anyway, I have made my point and you have responded. I am very grateful for that.

Q37 Alberto Costa: You mentioned the word “paralegal” a number of times. Can I be clear? You talk about paralegals—do you employ any members who are CILEx-approved persons?

Alison Saunders: Yes.

Q38 Alberto Costa: Right. You say that they work alongside lawyers. You do understand that they are qualified lawyers as well.

Alison Saunders: We employ those. They tend to be advocates in the magistrates court.

Q39 Alberto Costa: What do you mean by paralegal? Can you be clear? Is it an unqualified person?

Alison Saunders: Some of them may be qualified—

Q40 Alberto Costa: Qualified as what?

Alison Saunders: Some of them will have law degrees.

Q41 Alberto Costa: By qualified, I mean qualified as an approved person under the Legal Services Act 2007.

Alison Saunders: They have been employed as caseworkers—as paralegals.

Q42 Alberto Costa: By qualified, I mean a qualified approved person, regulated by one of the approved regulators. Do you employ paralegals who are not just solicitors or barristers?

Alison Saunders: Yes.

Q43 Alberto Costa: Who? Which class of professional?

Alison Saunders: Sorry—

Q44 Alberto Costa: Which class of professional who is a qualified lawyer does the CPS employ who is termed a paralegal?

Alison Saunders: We have advocates in the magistrates court, who are CILEx approved—

Q45 Alberto Costa: You have advocates who are CILEx approved.

Alison Saunders: Yes—who present cases in the magistrates court.

Q46 Alberto Costa: Right. You say that you have paralegals working with lawyers, but in fact your CILEx advocates are lawyers.

Alison Saunders: No. They are advocates in the magistrates court. We do not employ our paralegals in the Crown court as lawyers. Some of them, by coincidence, may have qualified as lawyers, but have chosen to go along the caseworker route. They are not employed as lawyers, either barristers or solicitors.

Q47 Alberto Costa: Forgive me, but is a CILEx member who is employed as an advocate a qualified lawyer, in your opinion?

Alison Saunders: They are employed—

Q48 Alberto Costa: Is it yes or no? Are they qualified lawyers, in your opinion, if they are advocates and CILEx members?

Alison Saunders: No, because they are not employed as Crown prosecutors, which is what makes the difference for us.

Q49 Alberto Costa: So you regard them as paralegals.

Alison Saunders: In some ways it does not matter what you call them.

Q50 Alberto Costa: I think it does. There are many regulators out there who all regard themselves as having qualified lawyers. I am just trying to understand what you mean by “paralegals working with lawyers”.

Alison Saunders: The paralegals in the Crown court are non-qualified. They are not employed as lawyers; they are employed as caseworkers who help lawyers. They do lots of things. They prepare the cases, do the bundles and prepare applications for bad character or hearsay, under the supervision of the lawyers. They do not make legal decisions—that is for the lawyers to do—but they help to prepare the cases. They are very experienced. Many of them have worked on Crown court cases for many years, so they are extremely valuable and very good, but they are not employed as lawyers.

In the magistrates court, we have lawyers who present cases. They tend to do trials, make the decisions and do the reviews. We then have lay advocates, effectively, who do the presentation of cases in court, but they cannot make decisions under the Prosecution of Offences Act, because they are not Crown prosecutors. For us, the issue is whether or not you are a Crown prosecutor, because that is what gives you the power under the Prosecution of Offences Act.

Alberto Costa: Thank you.

Alison Saunders: Hopefully that is clearer.

Chair: That is very clear. In my experience, I was very grateful to the very able caseworkers who backed me up in the past.

Q51 Alex Chalk: When they are there, they are great. My question is again on the issue of resources—morale. You have gone on the record to say that morale is not a problem in the CPS, but I want to ask you about sickness. What are the sickness rates? What are you trying to do to bring them down?

Alison Saunders: We are doing a lot to bring them down. I am pleased to say that the latest figures show that they are coming down.

Alex Chalk: Good.

Alison Saunders: We are still above the civil service average, but they are coming down.

Q52 Alex Chalk: Can you assist the Committee? How far above the average are they?

Alison Saunders: I can write to you and send you the facts.

Chair: That would be very helpful.

Alex Chalk: It is important.

Victoria Prentis: It would be helpful to know that as against the Government Legal Service average, which I understand is lower than the civil service average, because the two types of people are quite similar.

Q53 Alex Chalk: There is a real danger in using personal experience, and I do not want to do it in this Committee, but the issue of sickness was very much a problem. I would be interested to hear about that. If the figures are coming down, that is welcome.

The second quick point is about homicide and the way we prosecute the most serious offences. There is general consensus that the CPS does quite a good job in respect of murder and manslaughter, until it gets to vehicle cases—causing death by dangerous driving and causing death by careless driving. There are some really sobering statistics about the victims' families' dissatisfaction. Are those cases not being prosecuted with, dare I say it, the calibre and the resources necessary to ensure that the victims and their families get the service that is required in a homicide case? Is there something in that?

Alison Saunders: No, I do not think so. Let me go back to the sick absence bit, because there is quite a lot in there. We have been doing a lot of work around that. One thing that we have done is make sure that all our managers have gone through a management development programme, at the end of which they are accredited managers. It is quite a lengthy programme, with lots of modules and assessments along the way. Part of that is around helping them to manage sick absence and to make sure that they are bringing people back to work, where possible. That has helped us to reduce the figures. I will send the figures to the Committee later, but they are showing a decrease, which is good.

On staff morale, our employee engagement score in the staff survey has gone up, contrary to the civil service, where it went down. We are closer to the civil service average, although we are not where we should be. I go around the country a lot and talk to staff; I have just completed a round of visits around the country. Staff are pressured and challenged. It is hard for them. They want to do a good job; they believe in what they are doing and are incredibly professional and committed. I am not detecting a major issue with staff morale, I am pleased to say. It could be that they wheel out happy people for me, but I go around the offices to talk to people and pop up in courts unexpectedly to talk to all sorts of people about it. I am not detecting a major issue with morale at all.

Q54 Alex Chalk: Thank you. Before you come on to the business about road traffic, I want to put something to you and give you the opportunity to respond as quickly as possible, because I am concerned that there may be an element of complacency. In February 2015, the report by Her Majesty's CPSI on the investigation and prosecution of fatal road traffic incidents found that the overall standard of communications by the CPS with the bereaved family was poor in 75% of cases and noted that there was no specialist training of prosecutors. Isn't it right that the CPS needs to do a better job in respect of fatal road traffic accidents?

Alison Saunders: We have a standard that we should meet with bereaved families in any case where there is bereavement. We have a higher standard of care, to make sure that we meet them and understand the issues. I hope that we do that in all cases. From what you are saying, I am not sure that necessarily we always get it right. There is much more focus on helping prosecutors to understand some of the issues that they need to understand when they meet bereaved families—it is not easy to do, and some prosecutors are better at it than others—and making sure that we do that. All fatal road traffic accidents should go through a deputy Crown prosecutor for sign-off, whether we are prosecuting them or not. Those deputy Crown prosecutors have been trained. They meet regularly, so that they can talk to one another about issues, including legal issues around fatal road traffic cases. We have our most senior and experienced lawyers working on those cases and signing them off.

Q55 Alex Chalk: So you say, “No problem”—there is no issue.

Alison Saunders: No. I will never say, “No problem.” There is always room for improvement, no matter how good we get.

Q56 Alex Chalk: But you say that there is no greater room for improvement on road traffic fatalities than there is for any other homicides.

Alison Saunders: I do not think so. In some ways, they are far more difficult than a murder case. Quite often, there is a difficulty with the perception of the family and the public around road traffic, the evidence and what you can prosecute for. At the top end—death by careless driving and death by dangerous driving—there is sometimes a grey area where people have very strong views about where it should be placed. Our guidance is very clear, and the inspectorate would say that it is clear. The issue is around its application. Of course, if families are now not satisfied with the decisions in road traffic cases, they can apply to review them, under victims' right to review, if the decision is not to proceed.

Q57 Victoria Prentis: Thinking about the families, one issue is that families are not even being told routinely when court dates are occurring. That is a very significant failing. What steps are you taking to address that?

Alison Saunders: Often, we will not be the ones to tell the families, because part of the witness care there is from the police. One thing that we are doing with the police, following our victim and witness survey, which we published earlier this year, is reviewing the services that we provide around witness care, because there are now very different models across the country and it is not necessarily consistent. My fear is that there may be some duplication or gaps. We need to make sure that we have neither, because neither of us can afford to do that, for victims' and witnesses' sake. We are reviewing the witness care provision with the police. Many areas have police and crime commissioners, who now provide witness care, and how much the CPS is involved varies. That review is ongoing, which is important.

Q58 Chair: Does the victims' law make much difference to that? Your predecessor was quite keen.

Alison Saunders: We have a victims' code, which we have to comply with and should comply with. Although the victims' law would enshrine that and make it even more important, it should not make any difference to the practice.

Q59 Philip Davies: Some of your answers have surprised me, I have to say. I wonder how much time you have spent in court observing your Crown prosecutors.

Alison Saunders: I go as much as I can, which is not as often as it should be. I pop up to court every now and again.

Q60 Philip Davies: What does "every now and again" mean—once a month, once a week or once every six months? What does "every so often" mean?

Alison Saunders: Every few months, probably. It depends. Every now and again, I do a round of visits and try to tag on going to court to watch what is happening there.

Q61 Philip Davies: Unannounced or announced?

Alison Saunders: Unannounced.

Q62 Philip Davies: But you do not go very often. You are not in court very often, seeing what is going on at the chalk face, by the sound of it. The reason I ask is that I got the impression from your earlier answers to Mr Chalk that you were rather complacent about the standards of the CPS. One of the most depressing things that anyone can possibly do is go to court and see the standard of the Crown prosecutors, particularly in the magistrates courts, where often it is little more than a shambles. You see Crown prosecutors reading the case file in court, literally for the first time; clearly they have never even seen the file before. I was sitting there watching when the magistrates called a case. The Crown prosecutor shuffled his papers and said, "No. I do not seem to have the file," and the defence solicitor said, "Here, use mine." That is a shambles. If a victim is sitting there, having come to see their bit of justice being done, what on earth must they think when they see a Crown prosecutor reading out the thing for the first time or not even having the file? Do you not think that you are a bit complacent about the standards of your organisation?

Alison Saunders: No. I have never said that there is nothing we can learn. If you go to the magistrates court now, you will not see prosecutors shuffling papers, because papers are no longer in existence in the magistrates court. The majority of cases are now transferred digitally. We receive over 90% of our cases from the police digitally; we send those to the magistrates courts digitally; and our prosecutors present cases digitally in the magistrates courts. I have seen it. I have talked to many magistrates around the country and they have confirmed that that is what happens. We have changed our processes completely.

Because of transforming summary justice, which is not consistent across the country—let me say that first; I am not being complacent at all—what happens is that those cases are reviewed. If they are going into the guilty plea courts, they are dealt with at first hearing. In some places around the country, less than 3% of cases go off for pre-sentence reports; most of them are dealt with there and then. We can see already from national figures that the number of hearings of guilty plea cases is coming down. It is about 1.3 hearings.

Not guilty plea cases are being dealt with at the first date of hearing, because we are talking to the defence. The defence have had papers, particularly digitally—where we know their addresses and can send them the papers securely—and we are able to list cases for trial. In some areas—not all—we have reports from the magistrates courts and from the police and prosecutors that the number of trials has been reduced by 37%. If we can put that out across the country and have it consistent, it will make a huge difference to the way in which justice is delivered. The number of guilty pleas entered at the first date of hearing is also going up. While performance in the magistrates court is not consistent, it is significantly better.

Q63 Philip Davies: What preparation time do your prosecutors get before prosecuting a case in the magistrates court?

Alison Saunders: It depends on the area. Some areas have advocates who are doing, say, a month at a time in court, pretty much all the time. Those cases are reviewed by lawyers in the office. Some areas have done it in a different way, so that prosecutors review the cases and then take them to court. How easy it is for us to arrange depends slightly on the listings arrangements with the courts.

Q64 Alex Chalk: There are plenty getting them the night before; you have to accept that.

Alison Saunders: I do, absolutely. But these are magistrates court cases that have been reviewed by a lawyer previously. Now, with transforming summary justice, guilty plea cases go to the guilty plea court. They are quite simple to go through and read. If they are not guilty, they have been reviewed by a lawyer, so that at the first date of hearing we can go through them with the magistrates and the defence; we can identify the issues and which witnesses need to be warned, and then it can go off to trial. What we are finding, where it works—it is not as consistent as we would like across the country—is that those cases are getting listings. One area told me that they are getting listings within two weeks, which is quite exceptional. The cases are also reducing in time.

Q65 Philip Davies: When you go around observing, infrequently, what goes on in court, do you ever see prosecutors reading out the case for the first time?

Alison Saunders: Not in the magistrates court, no.

Q66 Philip Davies: My suggestion from today's hearing is that you should spend a bit more time in court, seeing what goes on in the real world. With respect, I think that you are in a bit of a bubble and are probably being told what you want to hear, because every magistrate there is will tell you that there are prosecutors reading out the case for the first time. That is unacceptable, and you really should know about it.

Alison Saunders: I go to court quite frequently. I also talk to magistrates very frequently. I have regular meetings with magistrates chairs, magistrates benches and the Magistrates Association, as well as other colleagues, so I am told very quickly. I also have all sorts of different ways of assessing performance. We have a very large suite of performance measures, which we go through. We have local and national criminal justice boards. I very much hope I am not in a bubble. I do not think that I am, because it is important that I know what is going on, for the reasons that you have just articulated.

Chair: Perhaps you could send us a note on the large suite of performance measures.

Q67 Mr Hanson: My question follows on from Mr Davies's. The last time I was in a magistrates court was over 12 months ago, so it may have changed, but I can back up what Mr Davies said. What is your assessment of the disparity between the time for the prosecution to prepare and the time that the defence has to prepare?

Alison Saunders: That is one of the reasons why transforming summary justice and better case management at the Crown court are important. We need to make sure, and it is important for us and for the justice system, that both sides have the right amount of time to prepare, and the right material. Transforming summary justice is also about making sure that, in cases that will go not guilty, we allow the defence the time to see the papers. If we have their CJSM address, which we do not in all cases, and know who the defence is, which we do not in all cases, we can send them the papers in advance of the hearing. We are doing that in more and more cases, as more defence solicitors come online.

Q68 Victoria Prentis: Do you have statistics for that?

Alison Saunders: No, we do not. Part of the new legal aid contract is that they should have CJSM, which is the secure CJS email account, so that we can send papers to them. Part of the agreement in not guilty cases is that we will send them a summary disclosure. Traditionally, one of the biggest issues has been that, if you can do disclosure early, it allows the defence to look at the papers and prepare for trial. We are now serving disclosure electronically in those cases, where we can, before the first date of hearing.

Alex Chalk: How does that deal with the point that is being raised? The defence might get it for two or three weeks to prepare their case, but it is no good to say, "Oh well, a lawyer looked at this case some time in advance." The key issue is what are we going to do to get the papers earlier to the prosecution advocate who will prosecute the case, cross-examine the defendant, test the evidence and assist the tribunal, so that they can make a fair decision on whether someone is guilty or not guilty? All too often, if we are being honest and transparent about it, they get them the night before, on the morning or, in extreme cases, in court. It is a problem.

Q69 Victoria Prentis: As a corollary to that, the advocate has to get it and then, very often, has to give it to the other side or discuss something. Often, that just does not happen at all.

Alison Saunders: There are a lot of changes going on to make sure that we do exactly that, because it is very important. The criminal procedure rules have been changed to say that advocates must discuss the case and talk about the issues in it before the first date of hearing.

Q70 Chair: Changing the rules does not alter what happens in practice, director. That is the point we are getting at.

Alison Saunders: I understand that, but we start with the rules.

Q71 Chair: I would like to start with the practice, actually.

Alison Saunders: We have changed our practices so that that can happen. There are some issues around how the system currently works—not just us, but what happens if we instruct external advocates and returns, so people get instructed late. Some of that is because of listing practices. Very recently, we had a meeting with the Bar—the CBA and the Bar Council—and senior judiciary to talk about that. There is local work going on to see what we can do. We make sure now, through transforming summary justice and better case management, that we review those papers and talk to the defence beforehand to identify issues.

I was in Liverpool last week and went into court to watch. They were two weeks into better case management and the digital case management system in the Crown court. The resident judge told me that, because of the preparation that had been done, every case that had come into his court in those two weeks had either pleaded guilty and was dealt with or was listed for trial, with all the issues sorted out, so no interim hearings were required. What we see there—I have seen it not just at Liverpool but at other courts, because I can access the app—is judges, defence and prosecution interacting before the first date of hearing to identify issues.

Q72 Alex Chalk: On the issue that was raised by Mr Davies, do you accept that late instruction of trial advocates is an issue that needs to be improved?

Alison Saunders: Absolutely. I have no qualms about saying that.

Q73 Alberto Costa: It goes back to the point that I made earlier. I would like written confirmation from you about the nature and quality of the advocates, the caseworkers and the lawyers who are employed by the CPS. When you refer to a lawyer, I am still unclear as to what you mean by that. When you say, “The lawyers looked at the case,” are you talking about barristers, solicitors, CILEx members or paralegals? Who are you referring to? I would appreciate written confirmation post this hearing as to who is employed by the CPS when it comes to the definition of lawyer? What is meant by that, and what is meant by advocate as well?

Alison Saunders: We can certainly do that. We make no distinction as to whether they are barristers or solicitors. As long as they are qualified and are Crown prosecutors under the Act, we treat them in exactly the same way. That may be where my lack of clarity is coming from.

Chair: I am conscious that that is the case. I am sure that the written breakdown will be helpful to us. Mr Hanson, you wanted to deal with some of the specialist points as well.

Q74 Mr Hanson: Over the past couple of years, we have seen quite a big increase in the number of domestic violence, child abuse, sexual offence and rape cases. We now have the highest volume ever. While generally there is good news on those issues in relation to the level of prosecutions and the increase in prosecution and conviction rates, rape still seems to be a challenging area. We now have a conviction rate of 56.9%. What is your view on that? It seems to be a relatively low conviction rate, compared with other sexual offences.

Alison Saunders: It is. It is lower than the average, which is around the 80% mark. There are all sorts of issues. We are taking more difficult cases to court. When we have analysed what is happening in relation to rape and serious sexual assault, the largest number of cases that do not succeed are jury acquittals, rather than cases with witness issues or what we might term prosecution failure—where we have not got it right. We are taking more difficult cases to court. There are many more non-recent cases, which have their own issues. There are many more cases where people know each other, have met each other or have had previous relationships.

Q75 Mr Hanson: We have a rise overall of 17% in the number of rape cases going to court, yet we have a fall in the number of convictions. There is a big correlation. I am interested in how you plan to improve that.

Alison Saunders: There is a fall in the percentage. The volume has gone up.

Q76 Mr Hanson: Yes, but the fall in the percentage is to 56% this year.

Alison Saunders: Absolutely. The good news is that we are getting more cases through; we are charging more of them and taking more before the court. What we need to do is analyse exactly why the percentage is not as high as it should be. I am not entirely sure what it should be. We do not set targets for what it should be, but we would expect it to be higher.

Q77 Mr Hanson: Have you any initial analysis you could share with the Committee? When we see an increase in the number of cases being taken to court, yet a fall in the number of successful convictions, presumably there is a gap that you are seeking to address. What are the reasons why that is happening, in your assessment?

Alison Saunders: I think it is because the type of cases we are now taking to court are far more challenging. The more challenging cases are the ones where people know each other and have been in a previous relationship, or where there are non-recent allegations, which may be much more difficult to support with other evidence. Those are the most challenging cases that we put before juries, because they tend not to happen in a space where there are other witnesses. They tend to be one person's word against the other.

Q78 Mr Hanson: Is the rise in the number of child abuse cases causing difficulties to you, in terms of capacity?

Alison Saunders: The number of rape and serious sexual assault cases, including child abuse cases, has been an issue for us, because the rise has been so marked that we did not have enough specialist prosecutors to deal with all the cases. We have looked at that and we are in the process of recruiting more lawyers so that our RASSO teams, which deal with those cases, are fully up to staff.

Q79 Mr Hanson: We have also had initial evidence that there are some challenges in relation to hate crime, particularly disability hate crime. I have some figures, separately from the Committee, from the House of Commons Library that show that there has been a fall in the conviction rate for hate crimes in the last two years, from just under 75% to just under 74%. It is small, but it is still a fall in the number of convictions. What are the reasons for that? What are the challenges that you face? Is it a priority for the CPS to deal with—particularly disability hate crimes?

Alison Saunders: It is. We are just about to publish our latest hate crime report, which will appear in January. We have made changes to the way in which we look at hate crime. We now have an assurance process, which started at the beginning of this year. Rather than looking at cases once they have been completed, as we used to do, our co-ordinators look at cases as they go through the process, to make sure that we have flagged them—there is an issue about making sure that both we and the police flag these cases as hate crime, so they get all of the attention that they should—and to make sure that they are going through the process properly as we do it, rather than after the event.

Q80 Mr Hanson: The evidence from the House of Commons Library shows that victim issues, as in failure to attend at court, evidence not supporting the case and victim retracts, are increasing and that is one of the reasons driving the fall in conviction rates. Is that an analysis you would share?

Alison Saunders: Victim issues are always a particular concern, possibly more so in hate crime. Again, that is where it is important that we look at cases as they are live, which is the change that we made since that report—looking at how we can best support victims and witnesses through the process. We have done a lot of training and work around refreshing our guidance and talking to community organisations about how they can help us to understand some of the issues and some of the particular needs of victims and witnesses in those types of cases, so that we can encourage and support them through the process.

Mr Hanson: Okay. We have the terrorism-related prosecution issues—

Chair: Before you move on to that point, I will bring Ms Prentis in again on the victims point, because it follows naturally.

Q81 Victoria Prentis: What steps are you taking to ensure that witnesses are fully supported early on? I am thinking particularly about child sex abuse cases. As Mr Hanson said, we have had a large rise, particularly in my own area of Oxfordshire, where we have had some very high-profile cases. I am concerned that the needs of these very vulnerable children are not addressed through the process. Some of this is the CPS's problem, particularly around the initial interview and the advice given and recorded at initial interview stage. What steps are you taking to ensure that things will be better?

Alison Saunders: Of course, we do not do the initial interviews.

Q82 Victoria Prentis: No, but you give advice about it—or you should give advice about it, possibly.

Alison Saunders: Again, that pretty much depends on how early we are involved in the case by the police. Ordinarily, we will be involved post-interview.

Q83 Victoria Prentis: But you provide advice for the recorded interview, don't you?

Alison Saunders: No, not for the ABEs. Prosecutors are not ordinarily involved, and we are not involved in the questioning; that is a police issue. Where we need to do more, possibly—HMCPSI referred to this—is around giving feedback about the issue.

Q84 Victoria Prentis: That is what I am trying to get at.

Alison Saunders: Quite recently, new guidance was issued; it was one of the recommendations in the Leveson report as well. We have been involved with the guidance that has just been issued to the police about how they obtain best evidence from children or any other vulnerable witness who is ABE'd.

Q85 Victoria Prentis: What steps are you taking to take your responsibilities forward?

Alison Saunders: Part of the RASSO team's role is liaising with the police and making sure that we are giving feedback. It is really difficult. Because of the pressures of the times and the increase in cases, our focus has to be on prosecuting those cases, but we need to make sure that we feed back, where we have had poor interviews—

Q86 Victoria Prentis: Are you confident that you have the resources to do that?

Alison Saunders: We will, moving forward, once we have recruited all the lawyers we need to go into the rape and serious sexual assault units. It is quite challenging until we get all of them in place. We have also done the section 28 pilots, which particularly help child and vulnerable witnesses. We are awaiting evaluation in February, but they have been shown to be hugely successful. They have cut down the length of time, we have had many more guilty pleas post the child or vulnerable witness giving evidence and the cross-examination has been really reduced time-wise. In some cases, it has been as short as 25 minutes, because of the ground rules hearings that happen. Those are things that we would encourage.

Q87 Victoria Prentis: Are you confident that you have the resources to put the effort into that?

Alison Saunders: A national roll-out will be challenging, because it means that we have to prepare the cases much earlier. It is challenging for us and the police, but the benefits hugely outweigh that.

Q88 Victoria Prentis: They are huge. On disability hate crime, I know that Peter Lewis was going to take forward the same sort of actions. What will happen when he is not still employed?

Alison Saunders: I am going to take that over. There have been considerable steps forward in the way in which we deal with rape and serious sexual assault. Perhaps if I take responsibility for hate crime it might help to move that one forward. There are similar issues that we need to address around myths and stereotypes and how we perceive victims and their vulnerabilities.

Q89 Chair: Is there a timeframe for the national roll-out of the specialist training and so on you were talking about?

Alison Saunders: We have already started it. We have already put in place training for hate crime.

Q90 Chair: When do you expect to finish that?

Alison Saunders: We have an assurance process for violence against women and girls. I report every quarter on what is happening, looking at the areas individually and what they are doing. We are going to do the same for hate crime.

Q91 Chair: When do you expect to have completed that process across the piece?

Alison Saunders: It will start in January and go forward from there.

Q92 Chair: When will it finish?

Alison Saunders: That will not finish; it will continue—it will be seen as improvement along the way. It is the same as for violence against women and girls. The assurance happens every quarter. I do not have a stop time.

Q93 Chair: You do not have a particular timeframe to say, “By x date I expect at least every CPS area to have people up to the requisite standards.”

Alison Saunders: We have hate crime co-ordinators in place now. The training should be completed by the middle of next year.

Q94 Mr Hanson: Looking at terrorism-related prosecutions, we had a parliamentary answer from the Solicitor General on 8 July: “All cases where terrorism-related or incitement to hatred offences are being considered are dealt with by Specialist Prosecutors in the Crown Prosecution Service.” How many of those special prosecutors do we have?

Alison Saunders: I do not have the current figure. We are in the process of recruiting, so it changes. I can certainly give you that later today.

Q95 Mr Hanson: How many do you expect to have?

Alison Saunders: We will have two teams of prosecutors, so about 18 prosecutors will be dealing with those cases.

Q96 Mr Hanson: Given that, what is your assessment of the effectiveness of those prosecutors to date? We had a number of individuals prosecuted last year for terrorism-related activity, but I suspect that it is likely to increase and will be a growing area of work. What is your assessment of both the performance currently and the future need?

Alison Saunders: The performance of our counter-terrorism units is extremely high. Our success rate is extremely high. The prosecutors and caseworkers in that division are very experienced and very good. We understand that the numbers have been increasing and we expect them to continue to increase, which is why we are doubling the size of the team. In our spending review, we ring-fenced £4.4 million in order to enable us to do that.

Q97 Mr Hanson: Just so that I am clear about those specialist prosecutors, are terrorism-related offences all that they deal with?

Alison Saunders: They deal with terrorism and incitement to hatred cases.

Q98 Mr Hanson: Is that all they do?

Alison Saunders: Yes.

Q99 John Howell: I want to move you on to the tackling of crime in prisons. We heard about your national protocol. We also heard from the Minister for prisons that this was a key performance indicator for him. How has it affected your ability to handle appropriate crimes in prison?

Alison Saunders: The protocol outlined very clearly where we should approach it, by making sure that we have relationships locally with prisons. For example, in London, where we have the concentration of a number of prisons, we have single points of contact both in the prisons themselves and among our prosecutors, so that if there are issues they can talk to each other pretty quickly. They also have regular meetings throughout the course of the year, so that they can discuss anything that has cropped up during the year that needs to be resolved or discussed. The code makes it very clear that there are public interests. Assuming the evidence is there, if people are in a position of trust and authority and are undertaking a public duty, that is one of the public interest factors that we will take into account. That very much applies to assaults on prison officers or prison staff.

Q100 John Howell: What effect has it had on the number of people who have been prosecuted for undertaking crimes in prison?

Alison Saunders: We do not count that separately, so I cannot tell you whether or not the numbers have gone up. We know of particular examples of cases where we have prosecuted and are prosecuting for assaults in prison, but I cannot tell you whether the numbers have gone up.

Q101 John Howell: Are you going to count them? Are you going to get that information?

Alison Saunders: No, because it is too difficult for us. We count our cases. We can count them by offence code, so we could look for ABH, but it will not tell us whether that was in a prison or anywhere else.

Q102 John Howell: How do you know whether the protocol is working?

Alison Saunders: Because of the regular liaison with prison staff and NOMS, where they can feed back to us. That came about through some concerns from prison staff that cases were not being taken forward.

Q103 John Howell: Surely, a more direct way of doing that is to find out how many crimes you are prosecuting.

Alison Saunders: We just cannot do that from the way in which we record our cases. It does not allow us to do that.

Q104 Chair: Do you mean that it does not tell you where a crime happened?

Alison Saunders: We do not count that through our case management system.

Q105 Chair: Why?

Alison Saunders: It sounds very simple to do. This all sounds very technical, but it means that you have to be able to get somebody to put a flag into our system and put it up. At the moment, we have about 200 different things that prosecutors could fill out on their case management forms. I want to make sure that we are talking to people who know what is going on and can raise concerns with us, and that we are prosecuting those cases, rather than ticking boxes.

Q106 Chair: Perhaps when you write to us you can also give us some details as to how that accounting system works.

Alison Saunders: I can tell you what we cover in our case management system.

Chair: That would be very helpful to us.

Q107 John Howell: Without that information, I cannot see how you can be helping the Minister to achieve what he wants to achieve in the prosecution of crime in prisons.

Alison Saunders: What we can make sure, which we are doing, is that we are talking to those in the Prison Service and the police to make sure that, where cases are raised, they are dealt with properly and we are taking into account the right public interest factors. The feedback that we are getting from them is that generally people think that it is much more effective and that the issues that were raised before are not there.

Q108 John Howell: Can I move you away from prisons to the health service? There has been an increase in the number of assaults on people working in the health service, particularly ambulance staff. Are you aware of that? What are you doing about it?

Alison Saunders: Again, we do not have a separate protocol or category for that, but it would come within the code, because they would be counted as people serving the public and doing a role where they have that responsibility. That is one of the public interest factors in the code that we would take into account.

Q109 John Howell: I do not understand why you cannot get that information and have it to hand. I have been to see the ambulance service working in a neighbouring constituency. The amount of information that they have at their disposal on screens is phenomenal. It would not take very much to add that information to the screen.

Alison Saunders: To their screens?

Q110 John Howell: Yes. It would at least be a starting point for you.

Alison Saunders: Obviously, it is a matter for them if they want to add something to their screens. I can talk about, and have the ability to look at, only our own performance information and the data that we retrieve. There is a lot that people might want us to collect and a lot that might be useful, but there is a limit to how much our current system can do without a great investment of time and money, which we do not have at the moment.

Q111 Andy McDonald: Could I return you to the thorny issue of standards of advocacy? We have had a series of inspectorate reports—in 2009, 2012 and 2015. Sadly, the conclusion is that there has been little change in the quality of advocacy. We have seen the Crown advocate forum established and abandoned; there is no national strategy for deployment of

associate prosecutors; and there is no in-house training for Crown advocate clerks. I do not know what you say about that, but it is more than just the anecdotal evidence of Mr Davies and others. The CPS's own advocacy assessors say that Crown advocates are struggling to cross-examine properly and are tending to present cases, rather than prosecute. Is that something that you recognise and accept? If so, why is it proving so difficult to remedy the problems, which have been identified in so many reports?

Alison Saunders: There have been great improvements in our advocacy.

Q112 Andy McDonald: That is not what the inspectorate says.

Alison Saunders: As we said at the time of the last inspectorate report, we were slightly disappointed, because they did not go and view any of our advocates themselves. What they did was take our advocacy assessments, which we targeted specifically at people we thought might need development, so it was slightly skewed. We deliberately did not spend our advocacy assessments looking at those we thought were good and did well; we looked at those who were not so good and might need some development. Adopting just that gives you a rather skewed result.

We have introduced new quality standards, which make very clear what we expect of our advocates. The assessments are there to help and to develop them. We have an advocacy strategy and are looking at the moment to refresh it. For our lay presenters in the magistrates court, the environment has changed because of transforming summary justice. I gave an undertaking that in not guilty plea cases a prosecutor would be there who could make decisions, which means that the lay advocates cannot present in those cases. They are doing the guilty plea courts. In the Crown courts, we have moved some of our advocates back to doing review and we have reduced the number of our advocates, in accordance with our business needs. If you are an advocate, you need to be doing advocacy regularly. We had some advocates who were not, so most of them have reverted to being senior Crown prosecutors and are doing review work, making sure that they prepare cases. We have been changing the advocacy environment; we have fewer Crown advocates and fewer lay presenters in the magistrates court.

Q113 Andy McDonald: To what extent does the use of independent advocates impact on your ability to develop your in-house talent pool? Is there a tension? Are there any constraints on you?

Alison Saunders: No, the use of external advocates should not do that. It is really healthy to have a mixed economy, using both external and internal advocates. In a lot of the feedback that I now get from judges, they do not make any distinction between internal and external advocates. They will tell me who was good and who was not so good. They do not make any distinction between them, which is a big step forward.

Our training for advocates is enhanced by having both internal and external advocates. Having external advocates leading internal advocates really helps to develop our staff. Likewise, it helps to have that mix. Last night, I was at a launch of the vulnerable witness training, where we are looking not just at how we can do the training for our internal advocates but how we might help external advocates. With the Bar Council, we have also launched our internal prosecution college, which is available to external advocates as well—those we instruct, whether they be solicitors or barristers.

Q114 Alberto Costa: I have a question about salary, in terms of the standard and quality of lawyer who is attracted to your service. How does the salary for Crown advocates compare with that for the Government Legal Department, for example, or local authorities? Where do you set the salary for lawyers to attract them to work for the CPS?

Alison Saunders: I do not know what the salaries for local authority advocates are. We are broadly comparable with the Treasury Solicitor's Department, because effectively it is all civil service set.

Q115 Chair: It is the same scale.

Alison Saunders: Sometimes, a lot depends on what part of the country you are in and, if you are an external advocate, what sort of work you do. In many parts of the country, we have had no problem recruiting; we are recruiting lawyers at the moment. In some parts of the country—often it is particularly the south-east and London—you have difficulty, just because it is London and the south-east.

Q116 Philip Davies: In terms of charging decisions, will you stick to the line that we do not have any form of plea bargaining in the UK?

Alison Saunders: Yes.

Q117 Philip Davies: I am sure that, for cost reasons, the CPS needs to get as many early guilty pleas as possible. The suspicion is that, in effect, you undercharge people in order to get a guilty plea, rather than charge people for the crime they have committed. What do you say to people, particularly in the police, who say that to me?

Alison Saunders: Guilty pleas are not just an issue for us; they are an issue for victims and witnesses and, indeed, for defendants. The earlier you have a guilty plea, the more certainty you have for all those involved in the criminal justice system, so it is beneficial for all.

We do not undercharge just to get a guilty plea. The code is very clear: we charge the offence that reflects the gravity of the offending and allows the court the ability to sentence for that offending. Quite often, I get feedback that is very contradictory. Assault cases are the classic example. Some people say that we overcharge and some people say that we undercharge. What is important is that we get it right and follow the guidance that is set out, which very clearly gives guidance to prosecutors in assault cases as to where they should pitch the offence charge. The early guilty plea rate is going up. We think that that is because we are getting the charges and the evidence right and are talking to the defence at an earlier stage and sending the papers across.

Q118 Philip Davies: What reviews do you personally undertake to satisfy yourself that undercharging does not take place?

Alison Saunders: There are lots of things that we do that satisfy me. I am not saying that we get it right in every single case, but we look at charging decisions. They are reviewed by more senior lawyers and a random sample is taken. One thing that may say to us, "You need to have a look at this," is the early guilty plea rate. There is also the crack trial rate and how many cases crack late. It is around looking at the inspectorate reports as well, to make sure that we are taking on board what they say in their recommendations.

Q119 Philip Davies: You are sitting here today and saying to me that when you charge somebody with an offence and their solicitor says, “My client will plead guilty to a lesser offence,” the CPS does not say, “Oh, go on then,” and will always say, “No, this is the right charge. We’re going to carry on with it.” You are telling me that that scenario does not happen. Lots of people would find that quite an extraordinary claim.

Alison Saunders: As in all things, it is never that simple. It happens in many cases that we say, “No. The evidence quite clearly shows that this was the correct charge. We will proceed with it.” Sometimes the defence will say to us, “Actually, we have this evidence here,” “We have this,” or, “Have you looked at that CCTV?” That impacts on our decision making. That is why it is really important that we talk to the defence and supply the papers that we have at an early stage, so that we can have those discussions.

Q120 Chair: Of course, it is not just a question of undercharging; there is sometimes overcharging on the weak cases. That was something that the inspectorate picked up, wasn’t it? It said that more needed to be done around liaison between yourself and the police to make sure that weak cases were weeded out and charging decisions were of good quality to begin with. What steps have you taken to respond to that recommendation by the inspectorate?

Alison Saunders: We have a charging review, which is going on at the moment and is looking at both how we do charging—the process—and the quality of it. We have our quality assessments, which are done on cases and go into a report. That may identify that there are problems, if there are, with an individual lawyer or a particular type of charging. We look at those across the board. The charging review is looking at things such as whether it is better, given the way we have now changed, with transforming summary justice, for the charging lawyer to review the case, to prepare it for the first date of hearing and to do the discussions with the defence, or whether it is better for us now to put it back into areas, so that they can do the whole thing. There are very mixed views on that, so we are piloting both in different areas to see which is best and which gets the best results.

Q121 Dr Huq: I want to return to something you touched on earlier, which is digitisation. That was one of the less tabloid-hogging aspects of the Leveson inquiry. We have now had 5,000-plus mobile devices rolled out—with a prosecutor app, I believe—which was meant to save £30 million a year. Could you update the Committee on how progress is going, and how you link the CPS with the police, the courts and the defence in this big bang?

Alison Saunders: Absolutely. We rolled out new devices to all prosecutors across the country. We are now getting over 90% of cases transferred to us from the police for the first hearing. In over 90% of cases, we transfer those to the magistrates courts. The ones where that is more difficult are overnight cases, when people are arrested overnight and brought to court the next morning. We are looking at ways in which we can get those transferred digitally. Where we have secure email addresses for defence solicitors or advocates, we transfer papers to them. If prosecution advocates are external, we transfer the papers to them digitally now. We do not send hard-copy briefs, apart from in large cases.

We are working with HMCTS and the judiciary around the digital court system in Crown courts. We have looked at Southwark, Liverpool and Leeds. I have been to all of those and seen the digital case file working in practice, which is quite impressive. It is dependent a

lot on wi-fi. In some courts, we have difficulties with wi-fi, because it drops off for us sometimes, but we are working on that with the Courts Service to make sure that it does not happen. When I was in Liverpool the other day, one of the defence advocates needed telephone data to decide what his basis of plea was going to be. We had it on our case management system, but we were able to upload it to the digital case system, so both he and the judge could see it within 30 seconds or so. Where it works and where we have it in courts, it makes a huge difference.

Q122 Dr Huq: At Crown court level, how much of the casework is still based on paper files? Is it 10%, 80% or 90%?

Alison Saunders: There is much more in the Crown court. We are just beginning the digital process in the Crown court, through the digital case system. The 90% is for magistrates courts. You should not see a prosecutor in a magistrates court—an internal prosecutor, certainly—with papers. In the Crown court, it is the beginning of that process. In the four courts that have the digital case system—Leeds, Liverpool, Southwark and one other that I have forgotten; sorry—when you go there for a preliminary hearing, certainly, they are all digital. In Leeds and Liverpool, the resident judges have said that everyone will be digital—defence, prosecution and judges.

Q123 Dr Huq: What figure would you put on it? In the Crown courts, how much is still paper files?

Alison Saunders: In the Crown court, it is still the majority.

Q124 Dr Huq: Is there a plan B, if stuff does not happen as quickly as we would like?

Alison Saunders: Yes. We also have the common platform, which is being developed with HMCTS. The settlement of £700 million for the Courts Service includes the digital process and the development of the common platform. That will make it much easier, because everything will go into a central store and people can access it. That takes away the need for us to bundle up papers and send them to everyone. They will be able to log in, as you do with iTunes, and find the papers that they need.

Q125 Dr Huq: A bit like our papers for this Committee, in theory. Earlier, you mentioned the transforming summary justice initiative. The word on the street is that digitisation does not work with that. What aspects of it do you think are working? It is more than just digitisation; it is a big joined-up thinking programme.

Alison Saunders: It is an integral part of it. In the magistrates court now, the feedback I get from prosecutors when I talk to them, if we are moving them to the Crown court, is that they do not want to do that, because they lose the ability to do everything digitally. There are examples around the country where we have people working remotely and we send them the work digitally. Many cases from London are prepared in the north-east or the north-west, where we have staff. Through digitalisation, we have been able to move the work to them, rather than moving the staff to the work, which makes a huge difference, both for staff and for us. That is all reliant on the digital process. It is early days—some of them have been going for only three or four weeks—but the feedback on the digital case system that we are getting from judges in the courts that do it is quite remarkable.

Q126 Chair: Talking about joining things up, the inspectorate rather took the view that the local criminal justice partnerships have been a bit of a damp squib so far. What is your assessment of them?

Alison Saunders: It has varied across the country. Some have continued to meet, come what may, and they still work. The National Criminal Justice Board was reinvigorated and reformed, effectively, after the last election. We had one of those meetings yesterday. One thing we are looking at is performance across the geographical areas. That will mean that the local criminal justice boards have to replicate the steer from the national board. It is patchy. There are many good examples where criminal justice boards meet and work very well, and some where perhaps they could do with a little more reinvigoration.

Q127 Chair: From your perspective, what could be done to make them more effective?

Alison Saunders: There needs to be a commitment by all. The National Criminal Justice Board will help with that, because it gives a steer that these meetings are really important to make sure that everybody does what they should do. The fact that we are all reliant on the efficiencies that we should get from transforming summary justice, digitalisation and case management means that we all have to work together to make sure that we deliver on that.

Q128 Andy McDonald: Can I turn your attention to another matter altogether: the doctrine of joint enterprise? The previous Committee made a recommendation that specified data be collected on the use of the joint enterprise doctrine. What is happening about that?

Alison Saunders: Those data will start to be collected from January. It has taken us some time to work through how we are going to collect them. We were able to give you some figures for the last couple of years, which we collated manually. Now we have a system that is looking at identifying and recording centrally joint enterprise murder cases. We are also starting a process whereby we have what we call case management panels for those that are identified as joint enterprise murder cases. A senior lawyer—a chief Crown prosecutor, normally, or a deputy chief Crown prosecutor—will look at those cases with the lawyer and go through them to make sure that they are being brought properly under the joint enterprise rules.

Q129 Andy McDonald: The story is that we are in control of that now; we have better data than we used to have and it will be coming through.

Alison Saunders: We start collecting it from January.

Q130 Andy McDonald: What about prosecutorial practice? Guidance and guidelines were issued on the approach to be taken in those cases. What effect are they having in practice?

Alison Saunders: We thought that the figures we supplied you with for the previous two years reflected that the guidance was being implemented and had made a difference. The reason why we are having the case management panels is just to make sure that that is still the case. Cases will be scrutinised by either the deputy or the chief Crown prosecutor to say, “Is this really a joint enterprise case? Have we got the charging and the level of charging right?” That is able to give the chief reassurance, who can then give me reassurance that that is the case.

Q131 Marie Rimmer: Ms Saunders, what was the purpose of introducing the assessment of maturity into the CPS code when considering culpability?

Alison Saunders: When we talked to some externals, they raised it as an issue. It was one of the factors missing from the code that we thought we should really take into account, particularly for people who just tip into adulthood, when maturity may still be an issue, and we really ought to have a look at how that impacts upon the public interest. If you have somebody who is extremely immature in their behaviours, you might take that into account, depending on the level of the offending and the other public interest factors that are there, but it is certainly something that we ought to consider.

Q132 Marie Rimmer: The alliance concluded that having prosecutors take maturity into consideration has not meant that they do so consistently, and that prosecutors were uneasy with the concept and struggled to explain it when asked. How would you explain that?

Alison Saunders: We have given guidance to prosecutors around the maturity factor. It is in the code. We do not measure individually how many cases take maturity into account. Some of it will depend on the information we get. It is difficult to tell whether we are getting the right information in all cases, because you do not know what you do not have, in some ways. Where we get the information, we should take it into account, in accordance with the code.

Q133 Marie Rimmer: Would you say that very little consideration is given to concern about maturity when making a decision on prosecution? Do you base whether to prosecute purely on the level of criminality? What consideration do you really give maturity? What is the CPS's understanding of it?

Alison Saunders: We get the evidence that we have around maturity from the police file that is supplied to us. Some of it may be around whether the individual is known to the local authority or whether there are issues that have already been highlighted to the police. If we get that information, it should be taken into account, but only once we get to the public interest stage. We need to make sure that there is sufficient evidence first. Of course, we do not have a tick box that says, "We have taken maturity into account," "We have taken this into account," or, "We have taken that into account." It is not quite as scientific as that. The code makes it really clear that all the factors are to be taken into account. Some of them will outweigh others, but it depends on the individual circumstances of each case. We do not measure maturity and how many times we have taken it into account. What we do look at is, did we make the right decision and take into account the right things, both evidentially and on public interest?

Q134 Marie Rimmer: Why not? How do you know that you have taken the right things into consideration? What specific evaluation of the impact of maturity considerations have you completed? Have you done any?

Alison Saunders: No.

Q135 Marie Rimmer: Why not?

Alison Saunders: We have not done anything separately on maturity, because it is part and parcel of the code and looking at each individual decision.

Q136 Marie Rimmer: Is the code explicit enough?

Alison Saunders: Yes, I think it is. Our independent assessments of prosecutorial decisions look at whether they have taken into account the right factors in the code and made the right decisions, both evidentially and on public interest. That is fed back to individual prosecutors.

Q137 Marie Rimmer: What about the interest of the person you are considering, given that neurodevelopmental impairment can impact upon engagement in the legal process? The young adult may not understand, because of brain damage or an accident. How do you satisfy yourself that these people are up to going in front of a court?

Alison Saunders: That is where we are reliant very much on information that is supplied to us either by the police or by the defence. In some cases, the defence may have reports—

Q138 Marie Rimmer: Given that prosecutors say that it is not unusual to receive limited information from the police on a defendant's level of maturity, how can you be satisfied that that is sufficient to proceed and prosecute?

Alison Saunders: We are not investigators. We do not have the ability to commission our own reports, unless somebody—

Q139 Marie Rimmer: How do you raise your concerns? If the police are regularly doing this kind of thing, how do you raise concerns? It seems to me that it falls between the police and the prosecutor. Who ensures that real justice is carried out, based on the level of a person's mental ability to go through it?

Alison Saunders: It is very important that we have that information, wherever it is available. Our main information will come from the police. It depends on whether or not they have records they know about, through local authorities or other people. Likewise, the defence have the opportunity to send us reports or to raise issues, and very often do so in many cases, where that is appropriate. We can then ask the police to investigate those further.

Q140 Marie Rimmer: You are satisfied that that is sufficient, if you do not get enough information from the police, for the defendant to raise enough for you to send it back.

Alison Saunders: I have certainly seen many cases where these issues have been raised. It is difficult to know and for me to say whether there are cases where we do not have that information, because we do not know what we do not have.

Q141 Marie Rimmer: That is why I am confused as to why you have not conducted any specific evaluation of the impact of maturity considerations in legal cases—whether it is your responsibility or the police's—and whether sufficient consideration is given to those. Do you feed that up to anyone?

Alex Chalk: May I give my apologies? I have to go and get a cab. There is no discourtesy intended to the Committee or to the witness.

Chair: Not at all.

Alison Saunders: It is one of those issues we have not looked at specifically. It may be one we consider looking at, but there are a number of ways in which we get that information. Quite often, the defence will raise things that allow us to go back and do our own review.

Q142 Marie Rimmer: A former Solicitor General does not believe that prosecutors have sufficient information to assess maturity. Do you differ from that view?

Alison Saunders: I would not differ from the Solicitor General's view. It is about making sure that we have a constant dialogue with the police around the quality of the information that we get. Where we have concerns, whether they are raised by the defence or because prosecutors look at a case and think, "I just need to ask this question. There needs to be something more here," they have the ability to go back to the police and do that.

Q143 Chair: It was Vera Baird, a former Solicitor General, who made that point. The issue is, in an adversarial system, how much can you be expected to know, how much comes out in the mitigation, very often, and how do you join those two things up?

Alison Saunders: Very often, the defence will raise issues with us, which allows us to go back—

Q144 Chair: Perhaps the point of Ms Rimmer's question is what can we do to make it easier for the defence to do that, without any sort of prejudice going forward?

Alison Saunders: Again, that is partly where earlier contact and better dialogue between prosecutors and defence are important, so that we can raise those issues and have them raised with us at an earlier stage.

Chair: I understand that.

Q145 Alberto Costa: Turning to minority ethnic offenders, the Ministry's recently published statistics on race in the criminal justice system indicate that people within the black ethnic group have the highest rate of prosecution. How do you explain that?

Alison Saunders: We do not pick which cases come to us. We have cases that are investigated and come to us from the police. We look at those in accordance with the code. Everyone's case is assessed in relation to the code, both evidentially and on public interest, in exactly the same way. We had some research some time ago, when concerns had been raised about whether there was discrimination. It is quite old now, but that research, which was external, independent research, showed that there was no bias in our decision making. In order to try to make sure that there is nothing conscious or unconscious, all prosecutors have to go through unconscious bias training—

Q146 Alberto Costa: What does that involve?

Alison Saunders: It involves training, through our prosecution college. All prosecutors go through a training course with assessment at the end, to make sure that there is no unconscious bias.

Q147 Alberto Costa: Yes, but what is involved? I have never come across a course entitled as such. Could you give me a flavour of what it involves?

Alison Saunders: It is through our prosecution college, which is e-learning. I have done it. You are taught what unconscious bias might be and go through a number of different scenarios. You are tested at the end about—

Q148 Alberto Costa: Have you gone through this test?

Alison Saunders: Yes. You go through it and put in your answers. Then it tells you whether or not there is a bias and whether you should review—

Q149 Alberto Costa: What happens if there is bias, if a colleague goes through it?

Alison Saunders: Then you have to go back. Managers should be talking to all their staff about this to make sure that they have done the course and to find out what their assessment was.

Q150 Alberto Costa: It is flagged up to a line manager, if there is bias.

Alison Saunders: Through discussions with the individual. The manager does not get an alert on their computer that says, “Mr Bloggs has done the course and failed.”

Q151 Chair: It does not go on the file, in that sense.

Alison Saunders: No. It is through discussions with your manager.

Q152 Alberto Costa: I see. There is an element of trust. You have this course, which indicates that someone is biased, and it is up to that individual to inform their line manager.

Alison Saunders: Unconsciously biased.

Q153 Alberto Costa: Yes. It indicates that one is unconsciously biased. It is up to the individual who has been detected as being such to inform their line manager.

Alison Saunders: It is about—

Q154 Alberto Costa: Is that yes or no?

Alison Saunders: Yes, because the line manager will not know any other way.

Q155 Alberto Costa: Is that the best system you have to detect potential bias in prosecutors? This is the course that you are offering the Committee as being the course that helps to detect it. Is there not a lack of accountability if it is up to the individual who is going through this e-learning to inform their line manager?

Alison Saunders: There is more than the course. You have to make your decisions in accordance with the code.

Q156 Alberto Costa: Yes, but you have indicated that the course is one of the prime ways—

Alison Saunders: Yes. It is a combination. It is up to each individual to make sure that they are applying the code properly. The whole purpose of this is to make sure that people become aware, because the whole point is that it is unconscious. It makes you aware, if you have that unconscious bias. Of course, then you have to do something about it. One would hope that prosecutors are responsible people who are responsible for their education

and training. They will then do something about it, because the course refers you back. The whole point is to say, “You may not have realised it, but you are biased.” That means that you are now conscious of it and have to do something about it.

Q157 Alberto Costa: The onus is on them to do something about it.

Alison Saunders: The manager will talk to them about it. They will also talk to them about their individual decisions and look at those, so if anything crops up in the course of that—

Q158 Alberto Costa: Given the nature of the question that I asked you, director, and the fact that you referred to the code, do you not think that there is more that you can do as an organisation to ascertain whether or not that bias is seen through in prosecution or whether it is filtered out, as you hope it is?

Alison Saunders: One thing that we have been considering, following the research we did in 2009 that indicated that there was no bias in our decision making, is whether or not we need to look again at doing some more.

Q159 Alberto Costa: That could be because people simply have not reported the outcome of their e-learning to their line managers.

Alison Saunders: Possibly, but that is not the only way of finding out. We did the 2009 research because concerns had been raised, very publicly, about whether or not there was any bias in CPS decision making. That is why we did the research then. It was not the same environment as we are in now, but that is not to say that we should not make sure and that we should not check.

Q160 Alberto Costa: Could I turn to another area? It is deferred prosecution agreements, which I am sure you are familiar with. We noted that the first deferred prosecution agreement was reached in a Serious Fraud Office case at the end of November. Are any DPAs under consideration or negotiation in CPS cases, or will they be primarily for other prosecuting agencies?

Alison Saunders: No, they are as much for the CPS as they are for the SFO. The guidance and all the material around it have been jointly agreed. There is joint guidance and a joint code of practice by both myself and the director of the SFO, which reflects that. What we cannot really tell you—because we are not allowed to, as part of the code—is whether any are under consideration, but they are as much for us as they are for the SFO.

Q161 Chair: On that point, at what level within the CPS is the decision on a DPA likely to be taken? Is it you, basically, as director?

Alison Saunders: It will be through the head of our serious fraud division, which is a headquarters specialist fraud division, but I would expect to be consulted.

Q162 Chair: They would probably come to you with a recommendation, saying, “This is what I am proposing to do.”

Alison Saunders: Yes.

Q163 Alberto Costa: Two weeks ago, MPs sitting around this table were informed by the Government that Daesh does not recognise the border between Syria and Iraq. I am sure that

that organisation does not recognise the border between Scotland and England. Given the discussions that were held yesterday between the Prime Minister and the First Minister of Scotland, what structures are in place currently between you, as the Director of Public Prosecutions for England and Wales, and the Lord Advocate in Scotland, not just to deal with general crimes but specifically on counter-terrorism?

Alison Saunders: We have very good relationships with our colleagues in Scotland and, indeed, in the rest of the UK. I have regular meetings with the heads of the prosecution agencies in Northern Ireland, Scotland and Ireland. Our counter-terrorism divisions also have regular contact to discuss cases—not just terrorism, but organised crime and other cases, because those who commit them do not recognise any division or borders either. We have extremely good relationships.

Q164 Alberto Costa: You informed the Committee this morning that you are setting up two teams of counter-terrorism prosecutors, of 18 lawyers, either in total or—

Alison Saunders: We are doubling what we have, effectively.

Q165 Alberto Costa: Okay. Are you aware of whether or not your counterpart in Scotland is following a similar strategy? If they are, what link-up will there be between the two teams?

Alison Saunders: I do not know whether they are increasing the size of their teams, but I know that we talk regularly. I was in Gartcosh not long ago, where I met the terrorism teams and the organised crime teams and went to one of the Scottish tasking meetings, which was chaired by one of the Scottish Ministers. We have regular meetings to talk about it and we pick up the phone if there is a case we need to talk about. There is no formality. We know each other, so we can pick up the phone and do that.

Alberto Costa: That is fine. Thank you.

Q166 Chair: Director, thank you very much. It has been a lengthy session, but I am grateful to you for your evidence. You were kind enough to write to us about the discontinuance of the matters around Operation Weeting. Rather than prolong the session, perhaps in due course I can drop you a note about the costs to the public purse from that matter.

Alison Saunders: That is fine.

Chair: I am grateful for your time. Thanks for your evidence.

Alison Saunders: Thank you very much.