



Justice Committee

Oral evidence: The role of the magistracy, HC 595 Tuesday 10 May 2016

Ordered by the House of Commons to be published on 10 May 2016.

Written evidence from witnesses:

- [Richard Goold JP](#)
- [Luke Rigg JP](#)
- [Nicola Silverleaf JP](#)
- [Dr Jenifer Harding JP](#)
- [Christine Holmes JP](#)
- [Dr Simon Wolfensohn JP](#)

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

Questions 101 – 211

Examination of Witnesses

Witnesses: **Richard Goold JP, Luke Rigg JP and Nicola Silverleaf JP**, magistrate on the supplemental list, gave evidence.

Q101 Chair: Good morning everybody, and thank you very much for coming in to give evidence to us, and also for the written submissions that I know you have made. I will first ask you to introduce yourselves for the record and for those who are watching on the telecast.

Luke Rigg: I am Luke Rigg, a magistrate at the north London bench. I have been a magistrate for about a year now. I transferred from the Calderdale bench after about six months, and I have been at the north London bench for six months.

Nicola Silverleaf: I have been serving rather longer. I recently transferred to the supplemental list—rather early, I hasten to add—having been on the bench for 24 years and having held most of the posts over the years, in the family court as well as in adult court.

Richard Goold: I am Richard Goold. I am an adult chair at Camberwell and at Croydon magistrates court in the south London justice area. I have been a magistrate since 2009.

Chair: Thank you all very much for coming. Rest assured that we are not going to ask any questions that in any way breach the protocols when members of the serving judiciary appear before Select Committees. We are very interested in the particular experience that you have within those parameters.

Perhaps I had better check whether any members of the Committee have interests to declare. I am a non-practising barrister. It is a long time since I appeared in a magistrates court.

Alex Chalk: I am a practising barrister, and I have appeared in at least two of those courts, but I do not think in front of either of our justices—of the wingers, I should say.

Victoria Prentis: I am a non-practising barrister, and I don't think I have appeared in front of any of you.

Q102 Chair: I think we are all safe on that, then.

Looking at some of the submissions that you have made, it strikes me that although magistrates are volunteers, which is all part of the uniqueness of the system, people would say, we are expecting quite a lot of those volunteers, particularly if they sit in the youth court or the family court. Can we expect magistrates to be generalists nowadays, or is the reality that, if we are being specialist in so many other parts of the criminal justice system and in many other walks of professional life, we are going to have to say that magistrates need to be specialists at a very early stage, almost from the beginning? What do people think?

Richard Goold: With the increasing demand to understand the respective legislation in each of the courts and the sentencing powers relevant to each of the courts, an element of specialism is going to be important. Personally, I have not moved from just being focused on adult court, because I have a young family and I work full time. I have been able to maintain the sittings that I am able to do, which is somewhere above the minimum level of sittings, but still probably just enough to be a competent chair in the adult court. That is right, and if I was to focus on youth or family as well it could have a detrimental effect on one or both.

Nicola Silverleaf: It depends on what you think the role of the magistrate is. I have fought against specialisation personally, because I think that sitting in two jurisdictions brings a breadth of perspective that you would not necessarily get sitting in either one or the other. In terms of the time, there is an overhead associated with being a magistrate irrespective of which jurisdiction you are sitting in. Although sentencing guidelines have helped in simplifying decision making and helping you with the process, there is still a lot of training and things that need to be done to maintain competence. Therefore, not having to specialise would mean that more people were able to take on the role.

Q103 Chair: When I started at the Bar, people were generalists. Virtually no one is now. Of course, the law has become specialised. Is there not an argument that the judges have to be specialised, too? We do it in the professional judiciary now, with specialist planning courts and family courts.

Nicola Silverleaf: I think there is a difference between doing youth work and doing family work. Youth work is a subset of the criminal jurisdiction, whereas family, being in civil, is completely different. You sit in a different place. You are required to observe different protocols. The line management is different. There are significant differences between family and youth in terms of specialisation.

Luke Rigg: I concur with that. I have sat only in the adult courts so far. I am not eligible to sit in the youth or family court yet; I have got another couple of years. From what I have heard from other magistrates when I have inquired about potentially moving to youth or family, youth is clearly more similar to the adult courts than family because, by and large, family is a civil matter, not criminal. For me, going back to Richard's point about the sheer practicalities of time, working full time and sitting as a magistrate, I find it difficult to keep up with and retain the knowledge that is required in an adult court, and that is just sitting in the adult courts. It could potentially be easier if I sat in youth as well, because it has more similarity than the family courts. From my perspective, specialising would potentially make it easier than trying to do all three, or two, at once.

With all of this—it comes through in some of our evidence—it is about being clear about what the expectations are of sitting in the family or youth court. Apart from a few conversations with other magistrates, I do not really have a clue what the difference is in practical terms. I would need a clear expectation of what it meant in practice before I sat in the family court, or even applied to become a family magistrate. Locally, courts give opportunities for magistrates to sit in family courts and watch and observe, which makes sense. For me, it is the time and commitment and the ability to retain knowledge that I struggle with in trying to do the minimum number of sittings while juggling a full-time job.

Q104 Chair: We have had some evidence that suggests going even further on specialisations. If you have particular skills or a background in family work and so on, why don't you just apply for the family panel? You might have particular skills or expertise with young people. Why not simply apply for the youth panel, and you can get badged up to do that? Would that be a way forward?

Richard Goold: If there was the opportunity to focus on youth work and only youth justice, personally I would do that. Trying to balance adult and youth, it is impossible to maintain the level of competence that I think is important.

Q105 Chair: Ms Silverleaf, you are not happy with that, I imagine.

Nicola Silverleaf: I have been through various consultations over the years about this subject. It would have been my Mastermind subject at one point. To summarise, a lot of magistrates feel that the tenor of the magistracy would change, because the sorts of people who might want to apply purely to do family work might not be the ones—I will not say who have been hardened—who have experience of several years sitting in a courtroom. I won't generalise about the caring professions, but there is a feeling that how a family court proceeds would be different were the magistrates from there.

Q106 Chair: Some people might say that changing the tenor of the magistracy might not be an entirely good thing.

Nicola Silverleaf: I agree with you entirely. That is why I was reluctant to take a position.

Chair: I understand that. I was trying to take a constructive point of view.

Nicola Silverleaf: I'm not being provocative; I am just trying to take a different view.

Chair: Yes, I understand that.

Nicola Silverleaf: That is not the only argument. There are about 10.

Luke Rigg: I have nothing to add on that point.

Q107 Chair: The final thing from me is on the relationship between yourselves as lay magistrates and district judges. We have seen various pieces of evidence around this as well, on the way the allocation works, how much use there really is or isn't of mixed benches and so on. In your experience, are the current arrangements really playing to the strengths of either side, or is it less efficient than it should be?

Richard Goold: Personally, I find the relationship with district judges, certainly in the south London justice area, very conducive to positive working. We regularly have discussions, and the district judge benches are very accommodating in assisting the lay benches when it comes to additional work. That said, I am not sure that the balance in the number of district judge versus lay benches is right at the moment. I can go probably four or five months between sittings in a remand court, dealing with a high volume of cases. That amount of time between sittings is too much. I am not sure that we have got the balance right in terms of the number of district judge courts that we have running and the number of lay magistrates courts that we have running. I think they could be used far better. I think they could be used to shorten the amount of time that we end up adjourning cases for trial as well.

Q108 Chair: What would you do differently?

Richard Goold: If there were more district judges available, I would utilise the court spaces available and run more trial courts. We still adjourn cases for trial for six months.

Chair: Which is well beyond what "Transforming Summary Justice" was supposed to be looking at.

Q109 Alex Chalk: Can I clarify something? Are you suggesting that more district judges should be doing trial courts, or are you saying they should be doing the remand courts? I am not quite clear about that.

Richard Goold: If I take Croydon, we have two or perhaps three courtrooms that are left free. Why don't we use them? It is not a shortage of magistrates. I turn up and there are three or four district judge courts and two lay magistrates courts. You could easily run four lay magistrates courts.

Q110 Alex Chalk: Isn't that just a listing issue? I don't understand the point as between district judges and lay benches. I don't understand what you are saying.

Richard Goold: I am suggesting that we allocate cases more effectively and utilise the facilities that we have available in the courtrooms so that we are not having to adjourn

cases for such a long period of time. What we seem to have done is absorb the additional district judges coming into the justice area and turn down the dependency on magistrates—as opposed to maintaining the currency of magistrates—and not use them as much.

Alex Chalk: Right. I understand.

Q111 Chair: You are not actually increasing court time.

Richard Goold: Absolutely not. Clearly, I recognise that it is not as easy as just turning up on benches, because you need prosecutors and you need legal advisers.

Luke Rigg: I have not had much personal experience with district judges. I will be honest: I do not have much knowledge of what the ratio is and the split—but why would I, unless I had a particular interest in it?

I would just recount a personal account. When I was sitting in court, we had someone come into the court, saying, “Please can you retire for the day? We have a district judge, who needs to sit somewhere.” I was still relatively new, and there was another new magistrate on the other side. The chair said to them, “These are two relatively new magistrates. This is really good experience for them.” It was a remand court. They said, “Well, this is the public purse. They are on quite a high salary per day, and we really need to use them. It is in the public interest for us to use this district judge.” I was retired for the day. It was probably late morning or early afternoon.

Chair: A bit of a waste of time, really.

Luke Rigg: Yes, which is very frustrating, particularly if you have taken time off work to do that.

Q112 Chair: It is what Richard was saying; you could try to split the list or something like that—open up another court and get him to do the other half of it.

Luke Rigg: There is probably a wider point—we might come on to discuss it—about allocation in general and trying to predict what the caseload is going to be, because a lot of trials, for example, become ineffective. I have got to the point where I get quite sad when I have been allocated a trial day, because I know that nine times out of 10 they will be ineffective, and I will be finished by late morning and I will have wasted a day, really. That is a wider point.

Nicola Silverleaf: It is worth saying that the number of DJs is worked out based on the digital complement review, which is an annual exercise. That is the first thing to say. At a bench such as Cambridgeshire, where I was, even after merger, we were 200 people. Obviously that is going to be the first of many mergers, but three local justice areas merged to form 200. We had one DJ. That is equivalent to 40 magistrates. If you do even a vague calculation of how many days a DJ needs to sit and multiply that by three, it comes out at 40 magistrates. If you are on a small bench, having a DJ can, effectively, put out 40 magistrates at a single blow.

You need district judges, because some of the cases they deal with are more serious. They take several days. You can't argue totally against having them. I am sure you have had that evidence already. Just to set the background, it means that that individual, once appointed, has to maintain their own competence. As you say, they are public employees, and they have a salary. That plays to utilisation—sitting the appropriate number of days so that the DJ does not have to go home. To remain competent, they have to be allowed to sit the requisite number of times. It is a sensitive issue to benches when they don't have enough work.

Chair: That is the nub of it, isn't it?

Q113 Marie Rimmer: This is a simple question. Should more cases be handled by magistrates sitting alone, under the single justice procedure? What are your thoughts on that?

Nicola Silverleaf: Again, there are a lot of arguments for and against that. I asked one of my younger magistrates whether he was comfortable with it, and whether he would have applied on the basis of being a single justice. He said that he did not mind doing it, but he did not think that the public would perceive it as being a good thing. He would either be sitting with a legal adviser, in which case they would assume the legal adviser was doing the work, or they would look at him and think, "On your own, I'm not prepared to say you are sufficiently magisterial." That was his view.

I have sat on a digital reference group that works nationally. It is looking at sentencing in areas other than your own local justice area. You are not necessarily going to see who is doing that process, unless you do it by video link. For paperwork cases, obviously, there is very little argument. That really plays to local justice areas—which is not what you asked me about. If a DJ can sit alone, there is no reason why a magistrate, with appropriate support, should not be able to sit alone.

Q114 Marie Rimmer: Do you have any comments on that, Mr Goold?

Richard Goold: From my perspective, it comes down to whether discussion is required. There are many cases that we deal with as a bench of three that are high-volume, non-appearance, and it really is just process. You have conversations with wingers that are just academic conversations. There is a formula that you follow. You have a fine sheet that you follow. The answer is the answer, regardless of the conversation. It is something that needs to be considered to ensure that you are getting the most out of a bench. There are certainly a number of high-volume cases, whether traffic offences or any number of things; that a single justice could deal with. However, if there is a need for discussion to ensure that justice is seen to be done appropriately, there should be a bench of at least two, and preferably three, magistrates.

Q115 Marie Rimmer: Luke, would you agree with those comments?

Luke Rigg: Yes, I would agree with Richard's comments. Ultimately, it is probably heading that way. My worry is around the checks and balances with it. I quite like that there are three of us in decision making, but, ultimately, there are cases where it is just a process, and we come to the same decision, because there is not really an alternative. In practical terms, it is probably inevitable, but I would like to see some level of check on

that process, when it is in trial mode, for reassurance that the people who are doing it are doing it correctly. I am sure they are, but it is just to ensure that there is a level of check in the initial period when the trial is running.

Q116 Marie Rimmer: Is there scope for expanding what magistrates are permitted to do beyond their traditional courtroom roles?

Luke Rigg: I think so, yes. I watched Penelope Gibbs's evidence, and I think she touched on this to an extent. It feels as though there is scope for that. Clearly, we are members of the judicial family. We have restrictions on what we can and cannot do. There is a level of discreet dignity in the role, in that we cannot comment on certain things.

I think there is a wider problem in the magistracy, in that there simply is not an awareness of what magistrates do, or of who we are, where we come from or who can be a magistrate. It taps into the wider problem of lack of knowledge of what magistrates do, particularly among people of a younger age and people who are not in the same circles as magistrates. A lot of magistrates I have spoken to knew about it through word of mouth, being in the same circles of people. It is about enabling magistrates to do other things outside courts and being a bit more flexible about how they can talk about their role as a magistrate in the community. I still think that, informally, there is a worry that magistrates cannot really discuss their role in the court, and that affects the community. I would recommend that, yes.

Q117 Marie Rimmer: Nicola, do you think there is a role beyond the traditional?

Chair: And out-of-court disposals.

Nicola Silverleaf: Yes, that is where I was going to start. I have written down three things. One is on community safety partnerships. In Cambridge, we tried to come up with a way to engage with community safety partnerships without compromising judicial independence. I was bench chair last year, and it was one of the bees in my bonnet that there was not enough link between the type of crime that was happening and the disposals available to us. There are ways of dealing with that, with community impact statements. That is something I would get you all to write down at the moment—community impact—because it is one way of linking what the court does with what community safety partnerships do.

We agreed to attend annually the review session of the community safety partnership to hear what they had to say about what crime was prevalent locally and what their priorities were. For instance, in Cambridge, there is bicycle theft. That is not something that you want as an initiative nationally, but it was a big deal in Cambridge, and still is, I'm afraid. We still have an offence called cycling furiously in Cambridge, which we use from time to time. What "furiously" means has changed over the years.

Anyway, community safety partnerships are certainly an area where we feel there is a role. That is probably for somebody who is near the top of the pointy pyramid and is able to talk strategically to a community safety partnership.

I was on the panel for out-of-court disposals when they first started. We talked to others around the patch, and how they were being dealt with was very different. My background is in accountancy, so my first question was, "Are we auditing this? Are we trying to shoot

where the ducks are flying? Are we looking for what has gone wrong?” You need to box that up to work out what out-of-court disposal scrutiny actually means. Is it looking for problems, or is it looking for solutions?

The last thing I have written down is about transforming rehabilitation. Basically, what we are doing is looking at things that no longer form the core of our work but used to, and talking about putting them back in a stealthier way. Transforming rehabilitation, as in looking at how successful what the court has asked people to do is, is an area where, potentially, when things settle down a bit, there might be scope. Again, you need to know whose responsibility it was and what you were trying to achieve from it.

With magistrates, there is a real problem with judicial continuity if you are going to have people on the same cases. We know from the family court, where we tried to achieve judicial continuity in family work, that it introduced delay. Basically, it is now achieved through the legal adviser, because trying to get people as volunteers did not work. Sometimes I feel as if we are on zero-hours contracts, and we are just turned on and off like a tap. You can say, “Yes, it is a good idea”, but you must have someone who understands the nuances to look at the practicalities of it.

Q118 Chair: Problem solving happens much more in jurisdictions where they have a professional magistracy, effectively, so you can have continuity close up the whole time.

Nicola Silverleaf: Yes. I think I said something in my evidence about overlapping initiatives between the civil courts and the criminal courts. Quite often, you are trying to solve the same problems with the same families, but from a different perspective. Because you have the two silos marching in parallel—the civil and the criminal courts—you have difficulty in terms of how many interventions the same people are having. Where do you start? How far after birth do you start?

Richard Goold: There is clearly potential that warrants exploration. My nervousness is about trying to extend the boundaries without fixing what is not working in the current system. Let’s make sure that the existing remit of magistrates is working effectively, and then let’s have a look at how you broaden that out effectively. I just worry that you will compound a problem if you push that out and confuse things.

Q119 Victoria Prentis: Can we move on to the effects of court closures? There are national sentencing guidelines and there are national training courses for magistrates. Do you think that there is still a role for local justice? You gave one example—cycling furiously—but in the generality of what you deal with, do you think local justice is important?

Richard Goold: Personally, I think it is important.

Q120 Victoria Prentis: What do you mean by it?

Richard Goold: I think it is important in terms of people who commit offences going to a local court—

Alex Chalk: People alleged to have committed offences.

Richard Goold: Alleged to have committed offences—I apologise—unless they are going for trial, let’s say, or going for sentencing having been convicted previously. It is

important that they are being dealt with by people from the local area. I recognise, however, that local is now far broader. When I started in 2009, the first court I worked in was Sutton, which was two miles from my house. It then became seven miles from my house, in Croydon, and it is now Camberwell, which is 15 miles away. It is difficult.

Q121 Victoria Prentis: Do you agree, Nicola?

Nicola Silverleaf: I go back to the days when there were millions of tiny benches all over the place. Over the last 24 years, I have seen them merging and merging. We are now in a position where, when I stopped sitting, it was 48 miles. Sometimes I had to drive past my local court to go 48 miles. Sometimes the customers drove 48 miles as well, so it was still local, but we were all traipsing up the A14 to be local together. I don't think I have a strong view on it. My feeling is that it is going to coagulate, and we will end up with local justice areas becoming a problem. There are many magistrates who will say to you that local justice is important, but I think you will find that they are the older ones, who remember other days. People like Luke are recruited knowing that they are going to have to travel. It is not the same issue.

Q122 Alex Chalk: Isn't it a problem with practicalities? As we all know, in the magistrates court one of the great sagas is that you turn up for trial, and either one of the witnesses has not turned up or the defendant is running late, or whatever, or the police officer hasn't been warned—all these sorts of things. If you have greater distances, doesn't that just create another problem? Suppose, for the sake of argument, that a police officer has not been warned. If he or she is just round the corner, you might be able to adjourn for a bit.

Nicola Silverleaf: They never are, though. They are always on leave.

Alex Chalk: I know.

Nicola Silverleaf: You know that. The problems are rarely to do with travel distance, in my experience. In the newly merged bench, when the rota was done, youth was in Huntingdon, in the middle of the patch. Quite often people are brought anyway, by somebody else. The numbers of non-attendances did not go up massively when the bench merged, which would be the first indicator that people did not regard it as local.

Q123 Alex Chalk: That is useful. I thought it would have had a bigger impact on witness attendance, but evidently not.

Nicola Silverleaf: Anecdotally not.

Q124 Victoria Prentis: My local court in Bicester is being closed, because it was used 11% of the time. One of my solutions, which I am pushing for very hard, is that the court comes to us every so often and sits in another public building, or a hotel or somewhere. Is that something that would concern you? You have mentioned the dignity of the office. Is that a worry for you?

Nicola Silverleaf: As long as it wasn't Lidl, I don't think it would matter.

Victoria Prentis: No, we needn't do it in Lidl.

Nicola Silverleaf: I am only being provocative, but I think you are right—

Chair: A civic centre or something like that, or a library.

Nicola Silverleaf: Yes. I don't think it would be a problem, but it would depend what you wanted to do there that was regarded as local, as opposed to something else.

Q125 Victoria Prentis: To have a court to make life easier for defendants and witnesses.

Nicola Silverleaf: We have more courts than we have A&E departments at the moment. People manage to go to an A&E department because they know it attracts the best; it attracts specialisation. One of the things we have managed to do as a result of merging is to have specialised domestic violence courts. We can't afford to have three, so across the patch, you have a specialised one and the police put in all the resources. You start to say, "Who's going to come? Who needs to come to that local court?" Would you now be able to find local magistrates to serve it, or would they have to travel to a different place? I think you will find out in Bicester how that works, if it does work.

Victoria Prentis: And IT—the use of video—

Luke Rigg: Could I comment on the travel aspect?

Chair: And then we can move on to IT.

Luke Rigg: On the travel aspect, linking to your idea, I am more interested in people turning up to court than in their being in a court building that is a certain way, is a certain age and has a certain décor or feel. I am much more interested in attendance, so that we can get on with the trial and do it.

It is not just magistrates being able to get to the court; it is also witnesses and defendants. It is a hard thing for a witness to come to court and then to double their potential journey time to the court. It must have an effect. Obviously, as you said, there are the statistics, but I just cannot see it. Calderdale court, where I was, in West Yorkshire, is closing and it is moving to Bradford. At the far end of Calderdale, near Walsden or Todmorden—Philip Davies will know roughly that area—to get to Bradford in time, you probably have to get a train. Are defendants or witnesses going to get a train? I am not sure. If they go on a bus, how long is that going to take? It makes it that bit harder for a trial to take place, and that bit less incentivised for people to turn up to court for it to go ahead.

In terms of moving to a civic building or some kind of equivalent for a court, I am definitely open to that, because I think there is a huge gap in the kind of experience that defendants and witnesses feel in a court. Going back to previous evidence that you have heard about, the whole style of the court and the way it works—its functioning and process—can often get in the way of an effective trial and making it as meaningful as possible for defendants and witnesses, which is exactly what we as magistrates are interested in. We want to get the facts, making it not necessarily easy, but as comfortable as possible for witnesses and defendants to say what they need to say. If that means leaving a court building and going to some other kind of civic building, I am open to that.

Q126 Chair: Using IT around that as well.

Luke Rigg: Yes. In terms of IT, from a magistrate's perspective, apparently we are going to be digitalised and we are going to see all the court documents online, and there will be

quicker transfer of documents between solicitors and magistrates. I welcome that, because there is far too much paper involved, and hopefully it will quicken up the process. There are to be digital incentives apparently, at some point, for defendants to plead online, I think for traffic issues, potentially. To be honest, that is probably welcome and overdue. As long as it does not change in a way that affects the principles of justice that we have been abiding by, modernising the judiciary is overdue. It has happened in lots of other institutions. Providing it does not affect those principles, I am not against digitalising as much as we can.

Richard Goold: We are on a journey when it comes to technology, but we are far behind where we should be. I am fortunate enough to be in a justice area that uses tablets. However, the bandwidth is not big enough to use them, so people still bring their own iPads to court so that they can get the sentencing guidelines. We must be able to use technology far better, whether it is video links or sharing documents, and not have to pass antecedents around that are six months out of date and then have to put a case to get the police liaison officer to print a new one. It makes it very difficult.

Video links are a case in point. I was on the pilot for video links, probably five years ago, and we still cannot run video links effectively. We still cannot connect at the right time. We still cannot find the remote control that allows us to—

Q127 John Howell: Why is that? I was in the Court of Appeal last week, and there were three cases that were all heard by video link. The video link worked spectacularly well, apart from the angle on the defendant, which was easy enough to adjust, but it worked spectacularly well.

Richard Goold: When it works, it works spectacularly well. Sometimes it is because of lack of experience in using it in the courtroom. Sometimes it comes down to equipment that is probably not fit for purpose, and we have tried to reuse something that is far older than it should be. I suspect the Court of Appeal is not using the same version of equipment as we are using in Camberwell Green. There is a challenge; there is so much that we could do.

Chair: I think that is the consensus.

Q128 Mr Hanson: I want to look at recruitment and diversity. I was struck, Luke, by your experience, in the sense that you visited Calderdale magistrates court, you applied and you waited a year for a reply to your emails. You did not see any advertising and you didn't know anybody who was a magistrate. In your case, JP stands for "Just persist," as opposed to justice of the peace. I suppose the challenge is: how do we improve the level of recruitment among people who are not retired, do not have piles of time on their hands or perhaps are not even white, middle-class professionals? I am interested, from your experience, as to what we could be doing. What recommendations would you have?

Luke Rigg: We were discussing that this morning while we were waiting. A lot of people I know do not have a clue what a magistrate is. They don't know whether it is paid or whether it is voluntary—they do not really know what it is at all. The basic point is that there needs to be some level of advertising. There is no advertising at all of what magistrates do. You have to go looking for it if you want to be a magistrate. But how would you go looking for it if you didn't know what it was? On the Government website

“Become a magistrate,” it is pretty clear once you get on to the web page what the process involves, but it is about getting to that level to begin with.

Q129 Mr Hanson: Is it a simple thing—a core part of school sixth-form visits could be a visit to the local court?

Luke Rigg: Indeed. That is how I did it, through my sixth form, but that involves magistrates in community events, and it requires time and commitment from magistrates, and often funding, to do events like that. We need to go beyond that and have some wider level of advertisement of the role of magistrates. I simply think we need to do that. We need people—it is a bit like after school. We have a problem in that we don’t have enough magistrates under 50, let alone under 30. We need more working-age magistrates in general.

Q130 Mr Hanson: The question to you, Richard, would be the same. Your evidence says that you have a young family, and you are in employment as well. How can we attract the type of person who reflects your background into this business?

Richard Goold: There is something around raising awareness, but there is also something around embracing the commitment that people give. If you give your time to be a magistrate, you expect your time to be used doing what is expected of a magistrate, not sitting in a retiring room for four or five hours because cases are not effective. Personally, that is the most frustrating thing for me as a magistrate. I can balance my work and my family, and I can sit as a magistrate, but I expect that more often than not, if I am sitting, I am in a courtroom doing work, not sitting in a retiring room. That will be the thing that stops people wanting to be a magistrate once they have become one. That is one of the reasons why I have seen people I joined with in 2009 leaving.

Q131 Mr Hanson: Is your argument that it is about recruitment—as in wider knowledge of the role and role models in the people who are doing it—and retention by making the job worthwhile?

Richard Goold: Absolutely.

Luke Rigg: And expectations of what is required of a magistrate, in practical terms. I did not know how many sittings there would be. It is about very practical things, especially if you have a job—how many days a year you are expected to sit in practice. There are national guidelines, but there are expectations about what kind of sittings you will have. There are real expectations beforehand, before you get into the process. A lot of people are switched off by the fear factor of the number of sittings and do not see anything beyond that.

Nicola Silverleaf: I agree with both aspects. I have had two children since I have been on the bench—I just powered through, basically. There is also the getting time off work aspect of it. That is more of an employers’ issue than an employees’ one. You have obviously represented the interests of employees. There are a lot of self-employed people who choose not to be fully self-employed so that they can spend time on something like the bench. When I started, there were quite a lot of people in public service in various ways, including postmen—those in nationalised industries. People were encouraged, as part of career development, to do something for the community. They still are, but it is

called corporate social responsibility now. The competing events are charitable and all sorts of things that people are encouraged to do as part of their career development that do not involve the bench. We need to re-enthuse employers about the benefits to themselves as employers of having people who can think rationally—all those arguments—and perhaps give them national insurance breaks or something for when people are doing it.

Luke Rigg: The courts can also do some stuff to help magistrates. We trialled Saturday sittings in London. I have done one. I signed up for them all, but I was only allocated one, because there was such demand from our bench to do Saturday sittings.

I do not know if we are going to be discussing continuous development once we have been appointed as a magistrate.

Chair: We will move on to that, yes.

Luke Rigg: It is the same point: we can do morning sessions and after-work sessions, which we have been doing at my bench, which help working magistrates.

Q132 Mr Hanson: Do you have a view on the selection and interview process when people are first selected? You mentioned expectations, but in terms of the actual selection group and the way in which magistrates are selected—the interview process, the advisory committees and their performance—have you any comments on how that can be improved from any of your experiences?

Luke Rigg: I went through it last year, yes. My one complaint was that it took far too long. It took a year, all in all. I realise it is a judicial post. The issue was that there was such a large gap between each stage of the application process, between each interview, and I wondered why there needed to be such a gap. Whether they were running through checks on all of us I am not sure, but I wonder whether that whole process can put off some people, because you do not expect it to take a whole year to go through from start to finish.

The actual content of the interview was very relevant and pertinent. It was not exclusive to a certain kind of person. I like to think that is how I got on, because the kinds of questions were looking at whether you had the abilities to deal with cases, understand them, look at them from different perspectives and come to a decision, which I could. My issue was with the whole length of the process. Of course, if you do not get initial applications from a wide range of people, it does not matter how good the questions are and how inclusive the process is. If you do not get the people applying, it is pointless.

Nicola Silverleaf: The advisory committee is quite problematic. At the moment, it is mostly because they are out of practice. There has not been any recruitment, so they forget how to do it. Because applications have been closed across so many local justice areas for so long, once the floodgates open, what happens is that people who have moved house from other local justice areas effectively transfer in, which is a tricky one.

Q133 Mr Hanson: That links to a point that you made in your submission, Richard, about having a rolling programme of potential magistrates who are trained and ready to go, so that when someone dies, leaves or retires, the vacancy is filled.

Nicola Silverleaf: That, effectively, is what the transfer list is. When there are vacancies, if you transfer LJAs, you are a trained, competent person. Obviously, it is better to have you back on your feet as soon as you can. Once you are on a list, you start to lose your competence, and there have to be discussions around how long you can be away before you are not safe any more and what the process is. That can apply in lots of areas. There are lots of reasons why you might want to have a few months off.

Luke Rigg: But at the moment, as far as I am aware, there isn't an incentive to appoint magistrates and put them through the application process if there aren't any vacancies. It is only when there are vacancies. That is why it took me a year, before they had vacancies, whereas they could potentially have an ongoing application process, where the advisory committee is kept up to date with what it needs to do on a continuous basis, and that allows magistrates to be continually appointed and held in a reserve for if and when there are vacancies.

Q134 Mr Hanson: We will come to this later but in your evidence, Mr Rigg, you said that the majority of magistrates remain white. Is there any particular challenge in recruitment that we can look at there?

Luke Rigg: I was discussing this earlier this morning as well. I went to a training event in central London. It was put on by the Magistrates Association, and it was very good of them to put on an event for us at a weekend. It was for London-wide magistrates. There were about 200 or 300 of us, and I could count the number of ethnic minorities in that room on my hand, and that is London. It is scandalous. When I go into court, there are very few ethnic minorities on the bench, and I am in north London—in Tottenham and Islington, which is where I sit.

I wonder whether that is just one part of the problem of trying to attract a wider cohort of people to apply. There must be something in it; if you go to an interview and there are not any people who reflect you on the committee, it can be off-putting. You go into a courtroom to visit and observe and there aren't any people who reflect you. It is a big problem. It is a big problem for defendants coming into court as well; they see three people who do not represent them at all and do not reflect them. There is a huge separation between defendant and magistrate. It is a wider problem as well.

Q135 Philip Davies: First of all, if it is of help, I can confirm that the far end of Calderdale is a long way from Bradford, if that is helpful to anybody. If I can just be provocative for a second—

Chair: Really?

Philip Davies: I am not casting aspersions on the three of you, as I don't know anything about any of you particularly, but when we talk about diversity, what about diversity of the opinions of magistrates and their view of the world? Frankly, in my experience, the vast, overwhelming majority of magistrates would be described by the general public as bleeding-heart liberals who are desperate not to send people to prison. How do we get a few more hard-liners on crime to become magistrates, so that the general public can have a bit more confidence in the sentences they hand out? Quite frankly, at the moment, if you were to do a straw poll in anybody's local pub and ask them about the sentences handed down by magistrates and their willingness to send people to prison, you might find that it is a long way

away from what most of the public would expect. How do we get more hard-liners to apply to be magistrates and to get on the bench?

Luke Rigg: Are you able to apply?

Chair: I suppose the argument is that, if you appointed people because of their political view and they exercised that, they would be in breach of their judicial oath, but they would think they had tried the case on the facts and the merits.

Nicola Silverleaf: There is a balancing exercise to be done. When the selection happens, there is not supposed to be a preponderance of particular parties, but they are looking for normal distributions. They are not looking for extremes. That applies to both ends of the spectrum. You will also find that when people in the pub are asked to do a sentencing exercise on a real case, they are not quite as vociferous about who they are going to hang and flog as they say. We have it always in mind, when we are in court, that we are making a reasoned decision. We are looking at harm and at sentencing criteria, using sentencing guidelines that are broad for a reason. That is the whole beauty of having three people. You don't want extreme views.

Q136 Philip Davies: But if you look at sentencing for either-way offences in Crown courts or magistrates courts, there is not just the small difference you would expect, in that Crown courts deal with more serious offences; there is a massive difference. If it was the same person in front of them, judges would be far more likely to send somebody to prison than a magistrate, so how do we get more magistrates to be a bit more hard-line? At the end of the day, whether you like it or not, that is what the public want.

Nicola Silverleaf: Can I put the point that the evidence you are looking at, if it is the same evidence that I have seen, does not acknowledge that people can elect to go to the Crown court themselves? There is also the fact that, when people get to the Crown court, there is much more evidence available, which assists the judge in making a sentence.

In my experience, benches are not averse to sending people into custody, but they have got to know why they are doing that. Quite often, punishment and protection of the public are the two reasons you send people into custody. If neither of those can be made out, and there are other ways of dealing with it, that is why it happens. It is not because they are being soft; it is because they are complying with the decision-making process and are applying the guidelines as they currently stand. I would look to the politicians for what the sentences are.

Q137 Philip Davies: Generally, you do not accept that there is a preponderance of what you might call liberals on the magistrates bench.

Nicola Silverleaf: Absolutely not. I do not, from where I sit.

Richard Goold: I do not accept that. There could be more consistency with regard to dealing with breaches and activating suspended sentences across the bench, but I do not think that political persuasion is having an impact on sentencing, certainly not on the benches that I have sat on. If people have crossed the custody threshold and there is a reason to send them to custody, they will go into custody.

Q138 Alberto Costa: Although I am not a witness, for the record, it is not my experience that magistrates are bleeding-heart liberals. I welcome the fact that the current recruitment process has returned what appears to be a very competent panel of magistrates, particularly Mr Rigg, a young but clearly very capable and balanced individual. There is clearly something right with the current recruitment process.

I am not so worried about the year it takes, I must confess, because it shows determination and dedication to public service to stick out that year, so that does not concern me. What I would say to the panel, and ask their views on, relates to issues around recruiting people from a diverse background—social, economic and ethnic background. It is not just a problem with the recruitment of magistrates; it is a problem that we see across the spectrum in society today. Even in the paid judiciary, even among my own profession—I declare an interest; I am a practising solicitor—it is difficult to recruit solicitors from a variety of backgrounds to act as district judges.

In terms of diversity and how we deal with it, we need to be a little bit careful that we do not move away from current recruitment practices because we might feel that the magistrate is not, at least visually, reflecting diversity. What in my opinion is important is the competence and capability of the judiciary. Would that not be meritocratic? Would that not be of overwhelming importance in who is selected to act as a magistrate?

Nicola Silverleaf: Absolutely, but you have to shoot where the ducks are flying. If people do not apply, you cannot select them. That is the main point.

Chair: We are going to move on to the point about training. We know there is an issue about recruitment and retention. What about the issue of training and development and making the best of people?

Q139 Dr Huq: Yes—the less contentious subjects of training and development. Luke Rigg, you are the person who has been through this process the most recently. I think you are still in the mentoring process. Is that right?

Luke Rigg: Yes.

Q140 Dr Huq: Do you think the training given to new magistrates and the induction process on the other side, once they have joined, is good enough to equip them for the role for what might be a very long career?

Luke Rigg: Usually, people say that you first start learning when you actually start on the job, and that would apply to the bench. Nobody actually said that to me, but it is true. I think there are six days of training, or maybe three or four—it was a year ago. But it was less than a week's worth of training, spread out, and it covered the core areas of training needs. Going into court, I still feel as though I am not up to speed with all the different processes and the different options we have as magistrates. That is an inevitability of the fact that it is compressed into a small set of training days, which allows you to get the bare minimum of training development needs covered. What I think is more of an issue now is the ongoing development that magistrates are able to take in their first year as magistrates, and then continuously, with new laws and changes.

The issue is that there is quite a lot to learn. There is a lot of information and knowledge to learn, such as cases around domestic violence. I have just been to a training event on learning disabilities, with defendants who have learning disabilities, applying approaches that you can take in court to make them more comfortable and get the best evidence. It is about where you draw the line with training needs. There are so many different aspects to court. Every single time I go to court I learn something different and new.

In terms of the core training that I did, it was effective, and it goes to show—I did my training in Leeds and I have moved down to the north London bench and it served me well. By and large, there hasn't been a difference in the training needs that I have seen. A lot of it is down to the individual trainer. The individual trainer who we had brought cases to life, which I am sure all trainers are taught to do. That really helped, speaking as someone who had never been in law at all, to make the training a bit more realistic and a bit more worthwhile, and to bring it to life a bit.

Q141 Dr Huq: Can I ask the three of you about improvements—first in the induction, and then ongoing? In evidence you said things about e-resources and stuff.

Luke Rigg: Richard touched on e-resources. When I read that, I thought it was a really good idea. I am very keen on doing learning online. I can go online, and there is the ability to do that, although it is another thing trying to find information on the variety of e-judiciary and judicial intranet sites, which are not really user-friendly, but there are opportunities for e-learning that we can take in our own spare time. I would be very happy to do some e-learning in my spare time. The more learning I do, the more confident and comfortable I feel in court, sitting as a magistrate.

Q142 Dr Huq: As well as, not instead of, the face-to-face courses.

Luke Rigg: Absolutely—as well as. A couple of weeks ago, we were sent a document from my court listing the London-wide training opportunities for magistrates on domestic violence and all sorts of different individual cases. It is continuous development. There were hundreds of different dates over a one-year period—or perhaps tens of dates—and not one was a weekend session; they were all weekday sessions. I have spoken to my bench chair about this, and it ultimately comes down to cost—the cost of providing trainers on a weekend date. For me, taking time off work to do the number of sittings I do means I can't afford to take any more time off to do continuous training development sessions on a weekday. I simply can't do it.

Richard Goold: Linked to that point, making better use of classroom-based time is something that could be improved. If you are going to run a training event, it could start at 8.30 or 9 am; it does not have to start at 10 am and run until 3 pm. Ten till 3 is a day, for me. Starting at 8 or 9—

Dr Huq: And finishing at lunchtime.

Richard Goold: That is half a day. Therefore, I can resume what I need to do. I have never been disadvantaged by not being able to get on a training course that I wanted to do, whether it is on domestic violence, allocation or what have you. That is not the issue; the issue is the best use of time. For non-essential mandatory training, computer-based training can assist. There will always be times when you have to get around a table and

have the discussion, because that is where learning comes from, but where we are doing that, better use of time would be appreciated by magistrates.

Nicola Silverleaf: I have a couple of points on that subject. I echo what has been said by both my colleagues. One of the problems is that having training at times other than during the middle of the day is not suitable for the bench as we currently have it. Lots of them are quite old, and lots of them do not like to drive at night—they have bits falling off. They cannot use public transport in the same way. That problem will naturally go away, because that cohort will not be there any more after a while. But, seriously, there are people saying, “I can’t come to a bench meeting at 6 o’clock because I don’t want to drive down the A14, and I’m certainly not staying until 8 o’clock for some training,” even though, at that point, there is a captive audience, and having training after a bench meeting would be such a good idea. That takes you to whether training is mandatory or not. The answer is, if it plays to your competences; if you don’t have it, it ought to show when you are appraised.

IT is now a big area for training in itself, never mind for people who are used to using IT and have their iPads and everything. As part of the digitalisation process, courts have appointed people called digital champions, who are magistrates themselves. They are magistrates who are training other magistrates. One of ours has made a fantastic video, which you can get on YouTube, showing people how to use it.

Chair: We will have to leave it at that, as we are a bit pressed for time, and we need to move on to one more topic before we finish with this panel. Mr Goold, are there any more thoughts from you?

Luke Rigg: Sorry, but could I quickly—

Chair: Forgive me, but we are going to have to move on, Mr Rigg. If you have any further thoughts, do send us a supplementary note to your evidence. That would be the best way. Dr Huq wanted to ask quickly about bench chairs.

Q143 Dr Huq: Yes. Do you think that bench chairs have too much on their plate these days?

Nicola Silverleaf: I absolutely do. If you do it properly, it takes all the time there is. You are doing the pastoral role, you are being strategic and you are potentially being executive, even though you probably shouldn’t be. I notice that the chair of the National Bench Chairs Forum was advertised as being an executive role. I don’t think it is. If you do it properly, it takes all the time there is, especially if you want to be involved in national initiatives as well as doing the job.

Q144 Dr Huq: You should spread the load with other people.

Nicola Silverleaf: Yes. Also, there is nothing that says whether you are competent or not, either when you are elected or when you have done it. There is no feedback as to how good a fist you are making of doing it, so there is no learning.

Richard Goold: I have nothing to add to that.

Chair: Mr Chalk has the final topic, on sentencing issues.

Q145 Alex Chalk: Yes. This is a quick one. It is the old canard about whether you should get more sentencing powers, which I know we have all done to death slightly, and it is a

matter of personal view, but do you find yourself sitting there and considering whether a matter should be sent to the Crown court, thinking, “Goodness, we should really be dealing with this here in the magistrates court. If we just had more sentencing powers, we could be dealing with this. This is the appropriate forum”? What are people’s views?

Richard Goold: From my perspective, sentencing powers are a distraction from where we are at the minute. We are not sending cases to the Crown court for anything other than people electing to go to the Crown court for trial, or other reasons.

Q146 Alex Chalk: But people will be sent to the Crown court because you feel that the case is too complex and, most importantly, that your sentencing powers are insufficient. My question is, are there cases where you think, “Actually, do you know what? If we just had 12 months, we would take on this case, because we think the magistrates court is the right place to deal with it”?

Richard Goold: Sorry, no. I think there is opportunity to do that—absolutely.

Alex Chalk: There is?

Richard Goold: Yes, absolutely.

Alex Chalk: Okay. May I ask you, Ms Silverleaf?

Nicola Silverleaf: It is not my specialist subject. The Magistrates Association has a lot to say about it, as does the National Bench Chairs Forum. I do not think you need additional skills other than the ones we already have in order to give six months as opposed to 12. It is the same decision. You have sentencing guidelines. There is no reason why you should not do it. There is no fear associated with doing it.

Q147 Alex Chalk: You would not have any more difficulty handing down a nine-month sentence than you would have handing down a three-month sentence.

Nicola Silverleaf: No, because we can do up to six months now.

Q148 Alex Chalk: Exactly. What you do think, Mr Rigg?

Luke Rigg: I would agree with those points. You are probably going to save some money doing it that way. I do not think it makes much difference, as you were saying, in the skills base that you require for it. I do not think I have sat on one case where we have sent it to the Crown court, so it does not come up that often, because it is a smaller cohort of crime. I am a bit indifferent towards it. I do not really have a strong opinion on it.

Q149 Alex Chalk: In around a dozen courts, magistrates have been given the power to review community orders. Do you think this power should be extended to magistrates in all courts?

Richard Goold: I do not have a strong view, to be honest.

Q150 Alex Chalk: I am delighted to hear that. When you are brave enough not to have a strong view, it is very helpful to hear that. Thank you.

Nicola Silverleaf: I think it is all part of community rehabilitation and where that fits in the panoply of magistrates. You start to hit restorative justice and all sorts of things there as well.

Luke Rigg: I would agree with that.

Chair: Thank you very much, all of you. As I said to you, and to the next panel of witnesses coming to give evidence, if something has dawned on you that you want to add, because of the time constraints with the House sitting, I am very happy to have additional evidence. We appreciate the evidence you have submitted already, as well as any more that may come forward. Thank you very much for your time, time being at a premium for everybody.

Examination of Witnesses

Witnesses: **Dr Jenifer Harding JP, Christine Holmes JP, and Dr Simon Wolfensohn JP,** gave evidence.

Q151 Chair: Thank you very much for coming to give evidence to us, everyone, and for the written material that you submitted. Dr Harding, thank you very much for breaking into your holiday and coming back from Scotland for us.

Dr Harding: That's alright. I had a very pleasant journey down from Scotland on the Caledonian sleeper last night.

Q152 Chair: I am glad to hear that. It is appreciated by us. Perhaps you would like to introduce yourselves quickly for the record, and then we will move on.

Dr Harding: I am Dr Jenifer Harding. I am a magistrate currently on the black country bench, which is a large urban area of well over 1 million population. It is a merger of four benches, and I used to be on one of them. I am a family magistrate and have been for a few years. I am a pharmacist by profession.

Dr Wolfensohn: I was appointed in 1991. I was originally on the Swindon bench. We are now an amalgamated Wiltshire bench. I was bench chairman in Swindon and I have recently been bench chairman in Wiltshire. I was also deputy chairman of the Magistrates Association for a period. I sit on the youth panel as well as the adult panel. In real life, I am a vet.

Christine Holmes: I am Christine Holmes. I come from Shropshire. I have been a magistrate since 1994. Shropshire has about 474,000 people, but we are the largest inner-landmass county in England.

Q153 Chair: We have had a lot of evidence from magistrates and groups dealing with magistrates. One of the questions that arises is: do we really value the magistracy properly? Is it underappreciated? Does that have an impact on morale? You are all very experienced magistrates. Talking to your colleagues across the piece, what is your assessment of morale among our lay magistracy?

Dr Wolfensohn: There seems to be a perception that morale is poor, but, to be perfectly honest, I don't recognise that. I don't think it is in Wiltshire, certainly. The element of poor morale tends to stem from the people who are not so engaged with the system. There are always some people who do not attend meetings, do not attend training and do not read the emails from their bench chairman. Consequently, they feel that they are not being kept informed and their morale tends to sink as a result, but, actually, it is their approach to the question that I think is the problem.

Chair: That is interesting.

Christine Holmes: Morale is a difficult issue. There are a lot of magistrates who were appointed to a very different magistracy over the last 10 years. What they see is not what they joined, perhaps. That is where there is perhaps an impression that morale is low. We have seen many positive things in the magistracy as well, such as quicker justice. It is a difficult issue, but I am not certain it is as low as people have suggested.

Q154 Chair: Yours is a similar position to that of Dr Wolfensohn.

Dr Harding: I agree with both my colleagues, but I think there is a bit of an issue around the relationship between magistrates and the current business administration. There is a perception that the Courts Service is less committed to magistrates. The consequence of that is that magistrates become less committed to the court.

Q155 Chair: What makes you say that they are less committed?

Dr Harding: There are a number of administrative changes that have had to be made. Merging four courts together, each one working in a slightly different way, is merging different systems. I have to say that some of that has been done without the participation of magistrates. A new system is imposed on us that is not necessarily the best system. It is not taking the best of all four systems; it is imposing something.

Q156 Chair: Going back to Dr Wolfensohn's point, if you are concerned, is the best way around that to get involved?

Dr Wolfensohn: Exactly, yes.

Dr Harding: Yes, it is. We set up a meeting and we pointed out that there was not a magistrate involved in the business changes. There is now, so there is improvement, but things seem to be done without us, and we have to point out, "Hang on; what about us? Wait a minute."

Dr Wolfensohn: If I may say so, it varies quite a lot around the country. I was chairman of our judicial issues group in our clerkship, and we could not have been more involved in any changes. We do have a voice, but it is up to us to make sure that we exercise it.

Q157 Chair: Let me bring in something linked to that, which is the fall in workload. It may be for what may be perfectly good reasons in some respects, but other reasons may be more controversial. There is less work coming through the system and that tends to mean, we are told, that magistrates sit less. Therefore, it is more of an issue to keep up their skills. That may again lead to a sense of not being valued in the same way, because they are not wanted

so often. They are down, and there is not enough work and so on. What is your feeling about that? Is this a problem now, with insufficient sitting days to maintain skills, and perhaps the sense of engagement as well, to carry on the other point?

Christine Holmes: Absolutely.

Dr Harding: Yes.

Christine Holmes: There is not enough work for us to maintain our competence currently.

Dr Wolfensohn: One of the mysteries is where the work has actually gone. The evidence does not support the idea that it is all being dealt with by out-of-court disposals. They peaked about six or seven years ago and have declined since—unless there are more recent figures that change that trend. It is not that things are being dealt with outside the courtroom. In our area, we no longer have active speed cameras, so we see fewer motoring prosecutions. There are other things such as the fact that it is much more difficult to break into cars and so on, but quite where the rest of the work has gone is, I am afraid, very difficult to understand.

Alex Chalk: Online.

Dr Wolfensohn: Some of it—yes, of course, and that is going to a higher level.

Chair: Mr Chalk is saying that perhaps a lot of it is being dealt with online.

Dr Wolfensohn: There is also a feeling among quite a lot of people that it is difficult to report crimes to the police, but I have to say that my own personal experience is completely against that. My daughter has been burgled and my son has been assaulted. I have had my surgery broken into. The police could not have been better.

Chair: That was my own experience when there was a bit of an issue once, as well.

Dr Harding: Yes, there is more online crime, and there is perhaps more violent crime, which we would not particularly see in the magistrates court. There is more petty crime, certainly in the black country, which is fuelling drugs habits, whether or not all of that is reported and picked up—minor shoplifting, stealing phones, that sort of thing—and it tends not always to get to court. That is a problem.

Are there too many magistrates? Yes and no. There are a lot of magistrates, and the court mergers have not helped, if that is the right expression, but there are people who won't travel to different courts, and they won't do the sittings. They are still on the list—they are still on whichever panel they happen to be on—but they are not participating in the work. They are probably not even doing their full sittings, and there is an argument about whether the number of sittings we are expected to do at the moment is high enough. They are not necessarily competent, but there is no system for weeding them out. They are on the books and they add to the numbers, but they are not doing much in practice. Of those of us who are on the books, I did 98 sittings last year, which is two fewer than we were allowed this year. I can do far more.

Q158 Chair: From your experience, is there an optimal number of sitting days to keep up your competence? You are very experienced people.

Christine Holmes: From my experience, I would say that the minimum is what it currently is, which is 13 days, but with an expectation of doing, say, between 30 and 40. It really depends on your stage in life. If you are working full time and are unable to get more than 12 days off from your employer, that is all we can expect from those particular magistrates at that point in their life. Invariably, work changes and lifestyle changes, and they may be able to do more at a later stage in their life, or if they are made redundant. There are a variety of other reasons why they could do more.

Dr Wolfensohn: If you are taking the chair in court, you really need to be sitting once a week, ideally, minus holidays and holy days or whatever. Especially if you are sitting in the youth court as well, you really need to be quite practised to take the chair adequately. If you sit only once a month, it is very hard to have adequate court-craft, as we might call it, to be competent.

Dr Harding: I would agree with that. If you are on a panel at the moment, the minimum number of sittings in the adult court is fewer, and I don't think it should be. I think you should retain your adult competency and then the family or youth on top of that.

Q159 Chair: Is it realistic to expect people to do that, or should you accept specialism now as a fact of life?

Dr Harding: That is an interesting question. We have some magistrates who are family specialists. We do not have enough family magistrates, and something has to be done about that. I have one or two ideas about what could be done. At the moment, those of us who are active family magistrates could sit almost every day, which is far too much, even for those of us who are retired. We have other things that we quite like to do.

Dr Wolfensohn: We have the same situation in Wiltshire. We have two or three people who sit only in family. Whether we should recruit people direct to family, or whether it should be only after a period in the criminal court, I do not have a particularly strong view, but I tend to feel that youth should remain part of the general business, and that we should not hive off the youth court.

Christine Holmes: I am neither a family nor a youth magistrate, so I do not feel able to comment on that.

Chair: Fair enough.

Dr Harding: The application process to get on the family panel is much harder than the process to get on the magistracy in the first place. There is a much more complicated form to fill in. Given that, as we sit at the moment, you have to be an adult magistrate first—so you have got the court process, and you have gone through that and been accepted as a good and proper person—I think the process for getting on to the family panel should be much easier. Perhaps it should not involve such complicated application forms, but should be done much more by observation and discussion. It would be a much quicker process, and I think we would get more.

Q160 Chair: Is it felt that there is a greater need for information, with safeguarding issues and all that?

Dr Harding: It is not just that. The application form is incredibly complicated, and it asks for a lot of analysis about the case. That is absolutely fine, but it could be done verbally, in discussion, as much as having to fill in a complicated form.

Q161 Chair: I do not know if those are public documents. They are publicly available, aren't they?

Dr Harding: Yes, the documents are public. The family court is not a public court; it is a closed court.

Chair: But the application process—

Dr Harding: The application forms are public documents, yes.

Chair: We can have a look at that. It was very helpful to raise it. Thank you.

Q162 Marie Rimmer: Dr Wolfensohn, you have suggested that there are too many magistrates and that, rather than looking to extend their role, we should perhaps be looking to reduce their numbers. One of the ideas that you have come forward with is perhaps putting fixed-term contracts on the wingers. Could you expand your views? How could your views be brought into operation?

Dr Wolfensohn: At the moment, we certainly have too many magistrates. There is not enough work to go round in most places. It is patchy around the country. Speaking to other people—I was on the NBCF executive for a while—they do not have the same experience in London, for example. Sitting levels are pretty high. Clearly, in the black country, they are quite high. In Wiltshire and other rural counties, in many cases, they are low and there is simply not enough work to go round, so by definition there are too many of us.

If we limited the term of office for people who are only sitting as wingers, that would be one way of reducing it. The other possibility might be to have some system of rolling sabbaticals, so that you cease sitting for six months at the end of three years or something, but you would then have to have some retraining, and that could be problematic for other reasons. I do not know what the other alternatives are. Simply stopping recruitment is unhelpful, as we would end up with an ageing bench. There is no easy answer, I am afraid, but primarily, being fairly proactive about encouraging people who are not fully engaged in what they are doing to think about whether they really want to continue doing it is perhaps the best option.

Marie Rimmer: Do you agree with that?

Dr Harding: Yes, I do.

Christine Holmes: I would not like to see wingers being given a fixed term, because wingers are like gold dust to a chairman if they are good. I would not like to see those people being turfed off. Also, in due course, they may well become a chair, but their current life does not allow for it. You have to put an awful lot into it to become a good chair.

Marie Rimmer: I understand. Do you think—

Dr Harding: Sorry, could I clarify my answer? I didn't mean that I supported a fixed term for a winger; I meant that I supported taking people who are not actively involved and encouraging them, by some means or other, to stop being magistrates, so that we can get space for people to come in. I do not support the fixed-term idea at all.

Q163 Marie Rimmer: Dr Wolfensohn, do you think the single justice procedure could be extended to a wider range of cases?

Dr Wolfensohn: I don't think it should be. I think it goes against very fundamental principles, and I don't like the idea at all, quite frankly.

Q164 Chair: You don't like the current arrangements.

Dr Wolfensohn: I don't like the idea of it in principle.

Q165 Chair: Is it just a terrible waste of time?

Dr Wolfensohn: I think it is unnecessary. If a case is so minor that it can be dealt with by one justice sitting alone, why can't it be dealt with by a fixed penalty or by just applying algorithms to the case, so that you predict what the outcome is going to be?

Q166 Marie Rimmer: I detect that you are all in agreement with this.

Dr Harding: No.

Q167 Marie Rimmer: No—you don't support Dr Wolfensohn.

Dr Harding: No. I don't think it should be widened from the trials that are happening at the moment, but it is such a waste of time having three of us sitting there—

Dr Wolfensohn: I agree with that.

Dr Harding: —doing cases where either people have not turned up or they have pleaded guilty but have not turned up, or they are very obvious things: TV licences and that type of thing. We sit alone to do utility warrants and search warrants. There is no reason why we should not do other things alone. The person involved always has the right to say, "No, I want it to go to a full court." As long as that safeguard is there, I think we should be allowed to sit as a single justice.

Q168 Marie Rimmer: What about people pleading guilty in a different way?

Dr Harding: With the motoring ones, people get the option to plead guilty by post or to come along themselves. There are a number of options. Mostly, people ignore the letters altogether, so they are almost voting by taking no action. The guilty by post and the no-actions we could deal with. The no-actions would then get a letter to say what we had done. They would then have the opportunity to come back and say, "Actually, I don't agree with that. I wasn't there. I want to go before a full panel." As long as that safeguard is there, that is fine.

Christine Holmes: I agree with Dr Wolfensohn. I don't like the single justice procedure. It can be done in a room away from normal court processes, and I think that any form of justice needs to be open and above board. I certainly would not want to see it extended in

any way, shape or form. Perhaps sitting with two magistrates would be better, because so much of the information is put on a computer. As a single magistrate, you do not have the time to investigate what is before you, and you rely on somebody else to pick up the faults. There are many faults in the information that you are given, and you are reliant on another person.

Q169 Chair: What about transactional things like TV licences and so on? Is there really a risk of anything with that?

Christine Holmes: Yes, I think there is. If you put all the TV licensings together for an area like ours, which is Staffordshire and West Mercia, there would not necessarily be the fine information about the person you are fining at that particular point in time. You could inadvertently add to a number of fines that are already—

Q170 Chair: The counter-argument is that it is essentially transactional.

Christine Holmes: Sorry?

Chair: It is essentially transactional, that sort of work, isn't it?

Christine Holmes: I am sorry; I am not certain what you mean by that.

Q171 Chair: You have a fixed set of penalties that you are likely to give. The likelihood of departing from that is so rare that it does not justify the cost of having the full complement. That is the counter-argument.

Christine Holmes: That is a counter-argument, yes, but I think that any criminal activity, and it is a criminal activity, should have its fair hearing.

Dr Wolfensohn: On that particular point, as far as TV licences are concerned, even with the speeches made at the BAFTAs the other night, most magistrates question why—

Chair: Why it is coming before them, yes.

Dr Wolfensohn: They question why it has become our business.

Chair: You will have a lot of sympathy among many people here for that.

Dr Wolfensohn: I think it is on the cards.

Chair: That sort of thing is needless work for magistrates, many people would say.

Q172 Alex Chalk: I am not going to do question 19, because we are a bit under the cosh on time. I am going to go straight on to question 20, if I may.

Can I ask you about the make-up of panels? I don't know if you followed the case of John Terry. If you cast your mind back, there was a trial in London. Anyway, you had a district judge, and he sat with two lay wingers. It can happen, but it is very rare. What do you think about that as a format? Let us start with that. What do you think about that, Dr Harding?

Dr Harding: I think it is quite a good idea. A district judge tends to be the only judicial office holder who sits by himself—ignoring what we have just talked about regarding the single justice. If you go to Crown court, you are judged by a jury. If you come to a

magistrates court, you are supposed to be judged by three people, but I have to say we quite often run on two magistrates, because we do not have enough magistrates to have a full bench at many times. A district judge sitting with two lay magistrates would be a good thing. When we hear magistrates appeals in the Crown court, two magistrates sit with the judge to hear those appeals, and that works very well.

Dr Wolfensohn: The MA has debated that question several times. It is the policy of the MA that district judges should not sit alone on trials. The idea of the district judge sitting with two wingers for a trial is fine. The idea of having a district judge and two wingers for other business goes back to the Auld review. It was a bad idea then and it is a bad idea now.

Q173 Alex Chalk: It was disproportionate. But for trials, do you think it would be—

Dr Wolfensohn: For trials, I think it is an excellent idea.

Alex Chalk: It strikes me as being a very good idea, but I don't want to influence you.

Christine Holmes: I think the chief magistrate also sat with two female members from the lay judiciary, and it is to be commended, without any doubt. We should be judged by three people.

Q174 Alex Chalk: Just to play devil's advocate for a second and drill down on that, some might say, "Well, hang on; the district judge will have disproportionate influence over the lay members, and the lay members will not be able to assert themselves." Do you see any danger of that, in a word?

Christine Holmes: From my experience in Crown court, I don't think that would be a problem.

Q175 Alex Chalk: Is that view shared by both the others?

Dr Wolfensohn: I do not think it is a problem when it is a question of finding fact.

Dr Harding: Yes. It is not a problem.

Q176 Alex Chalk: Do those who are sitting in the chair, or indeed aspiring to sit in the chair, get sufficient support to fulfil that role? May I ask Dr Harding?

Dr Harding: I do not sit as a chair, although I have sat in the chair for an emergency situation. The reason I am not is because I am too close to the magic age of 70—thank you, Alex, for making that face.

Alex Chalk: It is genuine surprise.

Dr Harding: I do not have the required three or five years to give the judiciary. For those who do sit in the chair, the new chairs probably need a lot of support. We need to think much harder about our chairs. At the moment, it is, "Do you want to be a chair? Have you got five years left to give? Okay, you can be a chair." We are very short of chairs. There is no competency test of any sort for chairs, and I think that would be a very good idea before you start.

Q177 Alex Chalk: A slightly more rigorous process, you think—thank you very much. Dr Wolfensohn?

Dr Wolfensohn: If we are talking about performance in the courtroom, it is very variable, depending on legal advisers. Some legal advisers are very good at making sure that you know the finer points that might trip you up. Others sit back and relish the fact that you have tripped up on something.

Victoria Prentis: Surely not.

Dr Wolfensohn: It comes down to personalities.

Q178 Alex Chalk: I am not quite sure what to make of that. Ms Holmes, do you have anything to add?

Christine Holmes: In Shropshire, we have a reasonable number of chairs. I do not think they get the support that is needed when they first start in the chair, but nor do I feel that we get support throughout our career as a chair. I will give you an example. Last September, I was told that I would have to do my appraisal for chair. There is no continuation training for that now. I had to do it online, which I did, and it was not very invigorating. It did not make me feel particularly fired up to do better and all the rest of it. When you have interaction with others, you get that feeling of really wanting to do better.

Q179 Alex Chalk: You would welcome a bit more evaluation and a bit more support in your role as chair. Would that be fair?

Christine Holmes: Yes, and throughout.

Dr Wolfensohn: We have a policy in our bench that you take one third of your sittings as a winger, whether you are a chairman or not. That means that most chairmen, when they are new, will have the support of an experienced winger or chairman.

Alex Chalk: That seems to be sensible.

Chair: That is very useful.

Q180 Victoria Prentis: Do you think we worry too much about physical courts? Do you think there are other ways of doing court and dispensing justice?

Dr Harding: Yes and no. The previous panel talked about video links. If video links work, they are absolutely brilliant, and I think we could do police evidence by video link as well, to save policemen or policewomen always coming into court and sometimes wasting a whole morning in court. When they don't work, it is an absolute disaster. If we are going to think about virtual courts, which theoretically are a good idea, we really need to make sure that the IT systems are working fine, and if we are talking about prisons—if we are bringing prisoners in—the prison governors need to be completely supportive as well, to make sure that the links to the prisons are as effective as possible.

Dr Wolfensohn: I have had rather mixed experiences. Sometimes video links work extremely well. Other times, although we were assured that the equipment would be broadcast quality, it certainly was not. We had an experience last week, just as one

example, when nobody could hear at the other end, and it made a mockery of the whole thing. It does not add to the dignity of the court by any means when that happens.

Chair: I have seen that at the Court of Appeal, I must confess: “Hello? Hello? Can you hear me?”

Victoria Prentis: Yes, we have all been there.

Chair: Absolutely.

Christine Holmes: We are perhaps putting too much emphasis currently on the digital court. It is not ready, so the physical court is important at the present time. People must have access to a court; they must be able to get to it. I just feel that the digital court is not quite there, for all the reasons that we have given, so the physical court is what we must have at the present time, where people can access it.

Q181 Chair: Does it matter if it is a traditional court building or a civic centre or some other public building?

Christine Holmes: I think it does, because of security issues and because we need people like witness support.

Q182 Chair: It seems to work very well in other jurisdictions. Why are we so special?

Dr Wolfensohn: It very much depends on the type of case. With the idea of using non-secure buildings, there is a great danger that you would see mass resignations from legal advisers, because they would feel vulnerable.

Q183 Alex Chalk: I don’t think you would be able to use certain types of locations. Suppose someone steps up for a common assault trial. They know fine well they are not going to be remanded in custody if it is happening in a hotel.

Chair: It is about sensible listing, isn’t it?

Alex Chalk: Exactly. You might send out some slightly odd messages. If it is the right type of case—

Victoria Prentis: It is a way of bringing justice closer to people’s houses in a world where court closures are inevitable.

Christine Holmes: In Shropshire, we had five courts. We have closed four of them in the last five years. We have removed the court away from the people—the majority of people in Shropshire—by putting it right on the eastern boundary. The proposal is to have hearing rooms, perhaps, out in the community, but we have just closed the courts.

Q184 Victoria Prentis: You could have hearings in other public buildings, or in private buildings.

Christine Holmes: You could have hearings in other public buildings, but we had courts not very long ago, which had all the facilities that would be required to run a complete court service, whereas if we are going to use hearing rooms, I think the types of cases are going to be severely restricted.

Dr Wolfensohn: I would argue that courts should be seen as a public service in the same way as a road is a public service. It is better to have roads even with potholes in them, and it is better to have courts that may be a bit dilapidated than no court at all. You may only use it 11% of the time, but it is there for when you need it. The other question is: what happens when crime rates go up again? There is a feeling, in certain quarters at least, that they inevitably will at some point.

Dr Harding: Some exploration could be needed about how we can use our current courts more. When I wrote my evidence, one of the four courts in the black country was “Query closure”; now it is confirmed that it is closing in about four months’ time. That means that this particular borough, which is heading towards a population of 350,000 and growing, has no access to a court at all.

If I could briefly bring the reality of that back to the committee, these are real people. I am not just thinking of defendants; I am thinking of witnesses and court staff who live in the area, and I am thinking of victims in particular. This is an area where 30% of primary school children live in a home where English is not their first language. There are 140 languages in this borough. The level of people with no qualifications is 35%, compared with 27% in the rest of the west midlands. There is very low car ownership: 34% of the population do not have access to a car. There are very high deprivation levels; in some areas, they are the highest in the country at the moment. These are the people we are going to make travel a lot further. It is an urban area, and it might take me an hour to an hour and a half to drive the extra eight miles to the one court. I have a car and I do not have to catch buses. You are going to be asking people to leave home before 8 o’clock in the morning to get to court. It is a young population. You are going to be asking people with children who need to get to school to get to court. Is it going to happen? At the moment, we are getting defendants who come late, because they don’t understand, but I am talking about victims and witnesses as well.

Q185 Victoria Prentis: Would you prefer to have court in another building, local to the people?

Dr Harding: The coroner’s court in this particular borough is also up for consideration. One thing we suggested was: why not share a coroner’s court with a magistrates court? It would put more business into the court. It is not a family court any more. Some of the family work has gone to another county court; it has been taken out of the magistrates court altogether. Some rearrangement, using buildings better, could be made. The current building could be used for all sorts of things, not just judicial stuff, but nobody has actually thought of that. My background is in the health service. It could be used for joint training, for example. We started to do some of that on domestic violence and mental health, and we invited our local magistrates to come to our training. They did, and they found it very valuable. Use it for that type of thing. There are all sorts of things that it could be used for, but we have not investigated any of that; we are just closing the court. It is actually the most modern court in the black country, believe it or not.

Dr Wolfensohn: That was exactly the same sort of picture as with our court in Chippenham in Wiltshire.

Christine Holmes: It was the same in Shropshire as well. The most modern court is being closed.

Dr Harding: It is not that modern, but it is the most modern.

Christine Holmes: It has been closed, actually.

Chair: That is very helpful and useful, thank you.

Q186 Dr Huq: I have some questions on diversity and recruitment. There is a low level of recruitment at the moment. In the evidence it says that the bench has not recruited—your one—for a long time.

Dr Harding: We have not recruited for years. We have another 20 potentially coming in at the moment, but their recruitment was shared across a very wide area, from the black country right across to Warwickshire.

Q187 Dr Huq: What suggestions would you have to do something about that low level?

Dr Wolfensohn: In terms of diversity?

Dr Huq: Encouraging people in the first place. I was then going to go on to having a more diverse range of people.

Dr Harding: There have to be vacancies in the first place to encourage recruitment. We actually have quite a diverse bench. We have a lot of diversity in the people who are before us. Our courts are actually not—

Q188 Dr Huq: Do the two reflect each other? The previous panel was saying that there was a mismatch between them.

Dr Harding: The solicitors and barristers who appear before us, our defendants, witnesses and victims and a number of our magistrates are diverse, however broadly you want to define it.

Q189 Dr Huq: Is that the same elsewhere?

Dr Wolfensohn: We are recruiting seven new magistrates this year in Wiltshire. That is based on the assumption that they will sit for 26 to 35 sittings a year, which, personally, I do not feel is sufficient to be effective, although obviously there are other considerations involved. We still have too many magistrates, to my mind, and we should probably not be recruiting at all.

As far as diversity is concerned, we have tried very hard to get into some of the other communities, particularly in Swindon. We have a large Chinese community, for example, who have never been represented on the bench, as far as I am aware. We have other communities who have been represented fairly consistently. We now have quite a large Somali community in Swindon, and we do not have any representatives from that group. Quite how you get information to those groups and persuade them to get involved, I am afraid I really don't know. We have been trying for 20-odd years.

Christine Holmes: In Shropshire we used to have a fairly diverse bench compared with our population, which is of course very different from that of the black country. It is more like Wiltshire. It is quite difficult to get a diverse bench, without any doubt. You have to

work very hard at it. You have to target those communities. Some communities do not wish to engage, but you have to keep trying.

There are other things that could be done. Perhaps tax breaks for employers of people we might need would be a good way of encouraging people to come on board. Just a little bit more co-operation from the Government to encourage people to become magistrates would be good.

Q190 Dr Huq: I was chosen from an all-women shortlist to be a parliamentary candidate. What would you say about that sort of in-built measure to change the balance of things like this?

Christine Holmes: What I would like to see, when you have two people with equal status, standing or ability, is perhaps a decision to go down the diverse route.

Dr Harding: I do not think we should do positive discrimination, but I think we should encourage everybody, going into the community. Do you know what mock trials are? They are a wonderful way to get schoolchildren involved. The children come into the court, and they tell their parents. Sometimes the parents come into the court with them. That is a good way of spreading the word.

I agree with Christine that, if you have two candidates with equal skills, you should maybe consider whichever diverse population you are looking for, if one person has got it. Maybe you should consider that, but I do not agree with all-women shortlists, for example.

Dr Wolfensohn: That is what the advisory committee direction is saying: they should have regard to ability first and foremost, but they should then have regard to the diversity and make-up of the bench. Personally, I would hope that I am pretty much colour and gender-blind. What matters to me is that, if I appear in front of a bench, I have three people sitting there who will understand what is being put before them, and the fact that they come from a particular community does not really have any influence at all, as far as I am concerned.

Q191 Dr Huq: Do you think the retirement age of 70 is about right, or would you move it upwards or downwards?

Dr Wolfensohn: Again, that is something the MA has discussed several times. Personally, I think that 70 is about right. I can see that it would be very difficult to bring it down. I certainly don't think you should put it up.

Christine Holmes: I think 70 is about right.

Dr Harding: I think it should go up to 75.

Q192 Dr Huq: It is going up for everyone else.

Dr Harding: It is going up for everybody else. When I started work, I would have been expected to retire when I was 60—assuming I got a job anyway, because I was a female in a man's profession. I struggled through, and I managed to work until I was 65. I can be on a jury until I am 75. If I can be on a jury and make a decision that can be life or death—not quite death now, but life or life—why can't I carry on being a magistrate making decisions? Perhaps there should be an age of 70, but the person could go on to 75 if they

wanted to. Not everybody wants to, but if the person wants to, and if the appraisal system, which is fairly inadequate at the moment, is strengthened to make sure that those people are competent, another five years would be helpful. If it was only in family court, it would be incredibly helpful, because we have 70 at the moment. We cannot recruit, because we keep asking the same people, who do not want to fill in the complicated form, but we are going to lose people; in the next two years, we are going to have lost quite a number of those people at 70. The family court is going to be even more hard-pressed than it is at the moment. It might be that the family court could perhaps go on to 75.

Chair: We have got that.

Q193 Marie Rimmer: Do you think that the ongoing training and professional development that is currently offered is adequate?

Dr Harding: It depends what you mean by training and development. If people realise that training and development is a whole spectrum of things—just reading or discussing is part of continuing professional development—it is probably adequate, but only just. There are a lot of ways we could share learning across public services, if not private services. Why do we have our own little cohort of specialised training in the magistrates?

Q194 Marie Rimmer: There is the bench training and development committee. Could that be strengthened?

Dr Harding: It could be strengthened. There has only ever been one training day for that.

Q195 Marie Rimmer: And magistrates' training.

Dr Harding: Magistrates' training could be strengthened, but it could also be shared across professions, I think, in some specialisms.

Dr Wolfensohn: Overall, training is very limited, and we could do with quite a bit more. We have to recognise people's different ways of learning stuff as well. Older people are not so good at doing IT stuff. Some of us use it all the time professionally, of course, but others do not, and they basically need didactic teaching. They need somebody standing in front of them, so that they can ask questions in order to learn things. The other thing that is vital for keeping up with the pace of change in the law is that you need to repeat things. Telling people something once is not enough. We need systems where we put it in front of people several times in order to make sure that they stay current.

Christine Holmes: The training budget has been slashed, and I do not think we have enough CPD. In the past, we used to go into prisons. In other words, we could see the results of what we had done. We need to have that contact with people. We used to be able to go out to see community rehabilitation at work. It is possible if you take the initiative and do it yourself, but it is no longer possible with assistance from HMCTS budgets; you have to do it yourself. We need a lot more help with our CPD. There are some people who can do it and have the time to do it, who are perhaps motivated more than others to do it, but that does not mean that others who do not have the opportunity should not have that opportunity.

Q196 Marie Rimmer: Can we just touch on IT support again? Is there adequate training, with easy access to material that would be useful in the cases that you are hearing?

Christine Holmes: On our bench, it is done by volunteers from the bench. It is not being done by HMCTS or any outside provider or any other alternative. That is how it is being done.

Dr Harding: I would say the same.

Q197 Marie Rimmer: That could be extended. Are magistrates on specialist panels such as the youth and family courts getting all the training they need?

Dr Harding: Our family court is, yes.

Dr Wolfensohn: I would say that youth court training has gone to a pretty low level now. We have only two youth panel meetings a year, with no specific youth training days, so it is really very limited. There is now a proposal to stop having panels at all, so youth magistrates would not have any opportunity to meet and receive training at all.

Q198 Marie Rimmer: That is concerning, isn't it, Christine?

Christine Holmes: I am neither a youth magistrate nor a family magistrate, and I really do not feel I can comment.

Q199 Alex Chalk: We have talked a little bit about custodial sentences. Do you think that the sentencing powers of magistrates need to be changed in any way, either in terms of length or in relation to the sentencing processes?

Dr Harding: Yes, I do. I think we should enact the 2003 Act that put our powers up to 12 months. The other thing that should happen is that we should be able to sentence without the necessity to get a pre-sentence report from probation.

Q200 Alex Chalk: You do not always have to get a pre-sentence report.

Dr Harding: You don't if you are sending to custody immediately, and you don't if you want to do a fine or a curfew, but you are supposed to for everything else. We are now supposed to be able to have fast-track reports, which are done on the day, so we can sentence on the day. In some places, only 30% of cases get one of those, which means the case has to come back three or four weeks later, which is a complete waste of judicial time. There are other cases. For example, if we find somebody guilty and we would like to give them unpaid work and they are already working, why should we have to go through all the effort of getting a report to say that they are capable of doing unpaid work?

Q201 Alex Chalk: That is very helpful. Can I invite you to park that issue for a moment, and just deal with the issue of increased sentencing powers? You say, yes—bring the 2003 Act into force.

Dr Harding: Yes.

Alex Chalk: Dr Wolfensohn?

Dr Wolfensohn: I think it is fundamentally a question for the judges. If we are sending them too many cases that are perfectly straightforward and just need a bit more time in custody, they should be kept down in the magistrates court. If the judges feel that we are sending them complex cases, which also need a bit more—

Q202 Alex Chalk: No, no. What I am saying is, obviously if you feel that the magistrates court is not the correct forum because of reasons of complexity, say if it is an ISA fraud or if it involves a lot of banking evidence and is going to run for more than a day—if it is going to run for two days or it will require some expert evidence—fine, but if it is actually a spot of pub violence, where somebody has had their cheekbone cracked, rather than simply being slapped repeatedly, and it all comes to the same issue of whether it was self-defence or not, in those circumstances, would you welcome the opportunity by dint of increased sentencing power to be able to adjudicate on those matters?

Dr Wolfensohn: In short, no.

Q203 Alex Chalk: No. Right. Let's take that example. Case A is a pub fight, with just a bit of reddening round the jaw. Case B, however, leads to the skin being broken or perhaps even a very minor hairline fracture. Why would you not want to deal with the second one but you would deal with the first?

Dr Wolfensohn: We have the power to send it up for sentencing anyway. If it is a bit borderline, it does not really become an issue. When you are talking about cases where there are relatively serious injuries, I think the public expectation is that they want a man in a wig to sentence them.

Q204 Alex Chalk: You think that the public would not want to have magistrates adjudicating on something that serious. They think it should be a trial of judge and jury.

Dr Wolfensohn: I don't know where the line comes exactly—obviously—but I think there is a line where the public expectation would be that it should go to a judge and jury.

Q205 Alex Chalk: If it is proper barn-door GBH and someone is going to be looking at four to five years, I do not think that anyone is suggesting that you should be doing that; but where you are looking at what is actually still a relatively short sentence and, as we all know, 12 months serves six, do you really think magistrates can't deal with those sorts of cases?

Dr Wolfensohn: My own view is slightly more complex, in that I feel that there should be short sentences and there should be long sentences. There is not very much room in the system for a medium sentence. Either it is serious enough that it attracts a serious sentence, or it is minor enough that it can be dealt with using a six-month sentence.

Q206 Alex Chalk: That begs the question: do you not think that a 12-month sentence falls into the category of a short sentence?

Dr Wolfensohn: In many cases, you have two offences to deal with, which you can make consecutive anyway. When you are talking about the sort of scenarios that might be relevant, it is not unusual for people to end up with an eight or nine-month sentence if they are sentenced consecutively.

Q207 Alex Chalk: Wouldn't that be an argument for saying that you should be able to do it for a single offence?

Dr Wolfensohn: Personally, I feel not, but—

Q208 Alex Chalk: I understand. Thank you, that is helpful. May I ask you, Ms Holmes?

Christine Holmes: I have six reasons why I would like to see an extension of jurisdiction. The first is to relieve the pressure that the Crown courts are currently under, especially in Shropshire, where we have a lot of old sexual cases going through. There is speedier justice in the magistrates court for victims and witnesses. In the magistrates courts, we are more cost-effective as well. At sentencing panels for private prosecutions, for example, fines have gone up in the past few years. We have proved ourselves in youth cases, where we have sentencing powers of two years. We make reasonable and sound judgments, as evidenced by the low level of appeals in the Crown courts.

I think that six months is now inconsistent with the extended powers that we have in other areas. Very recently, we had the new allocation rules, which means that there is an expectation that either-way offences should be heard primarily in the magistrates court, rather than sending them up to the Crown court, unless of course it is a really serious, barn-door offence. Those are my reasons.

Alex Chalk: That is very helpful.

Q209 Chair: That is very useful. Do colleagues have any other issues that they wanted to raise? The final thing from me is this. Are the local justice areas really relevant nowadays, or are they going to wither on the vine? Do they still have a role to play? Some people have suggested that, with mergers and different ways of looking at things, they are perhaps a bit redundant. It is really an open question.

Dr Wolfensohn: I would certainly agree that they are redundant in terms of managing cases, but if you have something that occurs in Swindon and the defendant lives in the north of Gloucestershire, for example, why not hear it in Cheltenham? Being able to move things around more freely would make a lot of sense. As far as magistrates are concerned, we are appointed nationally now, so we could sit in any local justice area anyway.

Q210 Philip Davies: Can I ask one quick question of Dr Wolfensohn, who did not want to extend magistrates' powers? Obviously, magistrates have the power to send people to prison for 12 months already, for more than one offence. Also, they have the power to sentence people in the youth court to a 24-month detention and training order. Do I take it from what you have said that you want to see those powers reduced?

Dr Wolfensohn: No. I think it works perfectly well in the youth court, because the whole approach is different. Young offender institutions are not the same as adult prisons. Hopefully, they are doing a lot more rehabilitative work. If the principle was extended to adult sentencing, I would not welcome it.

Q211 Chair: Thank you very much indeed, all three of you, for coming to give us your evidence. It has been extremely helpful to us. We are very grateful to you for your time, because I know time is a pressure. I am grateful to you for coming in and for making quite a journey. I hope that you can get back to Scotland, Dr Harding.

Dr Harding: I have a train back this afternoon. I am not going back overnight—I am going this afternoon.

Chair: That is great—enjoy the rest of your time in Scotland. Thank you very much for coming and helping us today.