

Home Affairs Committee

Oral evidence: [Hate Crime and its Violent Consequences](#), HC 683

Tuesday 6 March 2018

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Members present: Yvette Cooper (Chair); Rehman Chishti; Stephen Doughty; Kirstene Hair; Tim Loughton; Stuart C. McDonald; Douglas Ross; Naz Shah; John Woodcock.

Questions 387 - 482

Witness

[I:](#) Alison Saunders CB, Director of Public Prosecution, Crown Prosecution Service.

Examination of witness

Witness: Alison Saunders CB

Q387 Chair: We welcome the Director of Public Prosecutions to give evidence to us today. Thank you very much for your time; we appreciate it. This is part of our inquiry into hate crime, as part of which we have also been looking at some wider, linked aspects around extremism and Islamophobia. Before we start on the main subject, we wanted to raise a couple of very topical issues with you. If you are unable to respond to them immediately, we would be very happy if you were able to write to us about them.

First, in the light of the incident in Salisbury on which we have had a parliamentary statement today, you will be aware of the BuzzFeed reports of 14 deaths about which there are concerns and evidence that they might be linked to Russia, but which the UK authorities have concluded are not. I wondered if any of those 14 cases have been raised with the Crown Prosecution Service for advice before they were not pursued any further.

Alison Saunders: I cannot answer that, because I do not know. I am sorry, but I have not seen the BuzzFeed article, so I am not entirely sure which 14 they are referring to. I certainly would not be able to answer whether those cases had come across our desks. We can check it out and come back to you.

Chair: That would be extremely helpful.

Q388 Tim Loughton: The recent rape cases that have collapsed have been very high profile. Four in particular—Liam Allan, Isaac Itiary, Samson Makele and Oliver Mears—have gained quite a lot of headlines and clearly cast a lot of doubt on the whole process. Ultimately, that is not going to be helpful for our already low prosecution rate for rape cases; I think we all recognise that that is a problem. Do you think it is symptomatic of a deeper problem and these cases have hit the headlines because they just happen to have been fairly blatant? Do you think they are outliers, and what are you doing about it?

Alison Saunders: I will answer the last question—what we are doing about it—first, and that may lead to the answer to the first part. I have asked for a review of all our rape and serious sexual assault cases. We are doing that at the moment, it will conclude shortly. We will be publishing something that tells everybody in the public—obviously, there is a great public interest in it—the results of that. We have been able to bring some of the cases with disclosure issues forward because we have been looking at them earlier. So, we will be publishing that.

We have looked at the cases, and not all of the ones that you refer to are what I would call disclosure failings. In some of them—not in all of



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them—disclosure is happening as it should but too late. We have already apologised to Mr Allan, and we published a report with the Metropolitan Police about the issues in that case. In other cases that you have mentioned, some of them were disclosure failings—not necessarily ours, but it happened too late.

I will explain a little bit about what I mean by that. We had a joint disclosure report last year by HMI and HMCPSI—an inspectorate report—which highlighted systemic disclosure failings. In two cases that the last Lord Chief Justice did in 2015, he mentioned disclosure failings and wrote to all chief Crown prosecutors and chief constables about it. This is not new. This is something that has been happening for some time.

We know that it takes everyone across the criminal justice system to play their part. That is not just the police and the CPS, but the defence and the courts as well. In some of the cases that you referred to, other parts of the criminal justice system may not have always played their part. In one, for example, a very late defence case statement was served and there were issues about social media, which we did not know about. We then were able to discover it, find it and stop the case.

There are lots of things that we should be doing. There are lots of things that we are doing in relation to disclosure. For example, I have issued, together with the National Police Chiefs' Council lead on disclosure, an action plan. It has lots of very firm actions; not just more plans and more woolly things, but lots of things that we are doing across all police forces and across all CPS areas, with some pretty tough and challenging timescales.

I have also held a seminar, which was already planned before some of these cases, with all parts of the criminal justice system—it is the first time we have done that—to sit down and talk about disclosure with the police, the CPS, defence, the Law Society, the Bar Council and the judiciary. We have agreed that what we need to do is make sure that we are looking at everything much earlier in the system, so the police and the CPS looking at what reasonable lines of enquiry are, and then if we get to the charging stage we talk to the defence and the courts very early about how we are doing disclosure. What are the tests we are applying? Is there anything that we have missed? We will not know necessarily what the defence is, so if we are doing word searches across thousands of documents or social media or telephone, we can use some word searches and we can look for certain things, but that might not be right. There is also the obligation on us to talk to the defence and say, "Do we have it right? If not, what do you think we should be looking for?" and then we can go away and do that.

Q389 Tim Loughton: Okay. In answer to my question, there is a problem. You have been aware that there is a problem for some time, yet these four cases in which disclosure was a common theme—certainly that is the way it was reported—hit the headlines and got a lot of people sitting up. Is



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the fault mostly with the CPS or with the police?

Alison Saunders: I think it is joint. It starts right at the beginning, and I think the police have already accepted that they have a cultural and training issue. They are doing a lot of work to remedy that.

We do not challenge the police enough. When we get the disclosure documents, MG6Es, through schedules of documents we do not often send those back and challenge them enough. Sometimes that is because we are on a clock. We are already in court, the clock is ticking and we make do, but we are very clear that we should not be making do and that we do need to challenge.

There is a lot of work going on, but it goes further than that. It is about our engagement with the defence and our engagement with the court—making sure that the court manages the process as well. It is a systemic issue across the whole criminal justice system.

Q390 Tim Loughton: Notwithstanding that, without going into the details of the individual cases, the Oxford case had been going on for ages. The charge had been hanging over Oliver Mears for at least two years, so there was plenty of opportunity to check this.

A completely unrelated case that is of interest to me and, I think, pertinent here is the Shoreham air crash in my constituency, which happened in 2015. We still do not have a decision as to whether there is going to be a prosecution, and that is holding up the whole inquest. Last year there was a “he said, she said” spat between the CPS and the police as to who had produced sufficient evidence, or not, such that the coroner had to step in. There is no excuse for that, is there? Where you have cases like this, which have been dragging on for an awful long time, there must be procedures such that when the CPS is first handed a file, it must ask the police, “Has everything relevant been disclosed?” The things that came out in those cases were so damning that, bang to rights, that man should not have been anywhere near a dock. Any person would have seen that with a scant look at the evidence, which surely should have been available in those initial powers of the CPS.

Alison Saunders: I am obviously not going to comment on what are potentially live cases, or cases that we are considering, so I will not refer to your Shoreham air crash case.

In relation to the others, this is part of the issue. There is quite a lot of pressure on the system around making sure that from date of offence to charge, as you quite rightly say, we make decisions quickly. What we should not do is make decisions quickly but without all the information, without knowing all the reasonable lines of enquiry and without making sure that we know what disclosure is.

We are now living in slightly different times from when we first had CPIA, which was in 1996. So that now means that in some cases, if you arrest somebody they potentially have—if they are like me—two phones, a



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tablet and a laptop. If that is all seized and you have your whole life on those devices, it takes a long time, first, to get the downloads and, secondly, to go through it if that is what we should be doing; again, it is about what the reasonable lines of enquiry are.

What we will not do—I am making sure that prosecutors are robust about this—is to charge before we know exactly what we have got. When we do not have the pressure of having to put somebody in custody and having to do that charging decision on a threshold test, we can ask the police. In many of those cases, we have asked the police if there is anything there. Sometimes things will come up later, because we will not necessarily have all of the download or any of the download at all, and something may come up later that the defence will produce at a later stage. That will always happen, so you always get cases where we change the decision to charge later because new evidence or new information has come to light. That is the system working. It is important that we try to do that as quickly as possible by having those dialogues with the police, at the beginning, and with the defence once we are into a court process.

Q391 Tim Loughton: Okay, but this is pretty basic stuff, isn't it? Social media is something that now dominates all our lives. The evidence, however it then came out, showed in some quite simple Facebook or Twitter messages, or whatever, that there was a consensual relationship happening. It is pretty basic stuff that you would have thought the police would go straight to: "Let's have a look at your social media records". That could tell an awful lot. Surely that should be a procedure now, and presumably the CPS has upgraded all its procedures to account for social media being such an essential part now of evidence collection or actual evidence itself. Has that just not happened? Have we not really come into the age of social media in the relationship between the police and the CPS?

Alison Saunders: I am borrowing the words of the police in this instance, but there is a real cultural shift in something about our thinking. In sexual offences, you may not necessarily always think about social media or whatever because ordinarily they are an offence that takes place in private between two people. In some of these cases, people will have not known each other for very long. In one of them, they had only met each other for half an hour, or an hour or so, before the alleged offence took place. It is not automatic that you would look in social media, and some of this is not social media between the suspect and the complainant, but social media more generally.

There is something there about a cultural shift in what we investigate. What are reasonable lines of enquiry? There have been issues raised by other people about: if you make a complaint, does that mean effectively your whole life is laid bare? That is what it means. You make a complaint and suddenly you have to go into everybody's social media, look at all their pictures and look at everything they have said to anybody, which could be vast.



Q392 Tim Loughton: But it is not that big a chore, really, is it? We are talking about young adults, for whom social media is part of everyday life. Various people find it necessary to send Instagrams of what they have had for breakfast, or basic things like that. There is a very easy first point of reference to see whether there has been any communication between the two people involved in this, or whether one of the people tweeted comments about the victim, or vice versa. It does not require an awful lot of work, but it could save an awful lot of work. I find it slightly extraordinary that you could consider that that would not be one of the first ports of call, and that it might not be relevant in many cases, when clearly it would be very helpful.

Alison Saunders: I am sorry if I have been slightly misleading; the first port of call would normally be, and is quite often, your engagement with each other, the suspect and the complainant. But in some of these cases it is not about the suspect and the complainant; it is much wider than that. Because people, as you rightly say, live their lives now on social media, it means an officer going through the download of the phone manually. We have not yet got to the stage where we have AI, which is one of the things we are looking at, that can help us with this.

There is also an issue about getting the digital download. There is sometimes quite a lengthy delay in getting that, in some forces. It depends on their forensic capability. Then an officer has to physically go through it. Sometimes we can word search, but in a case of, say, a rape or sexual assault, what are you going to word search for, especially when some of it is colloquial speech? You might not even use full words. You might use slang. You might use something else. What is it you are searching for? In order to be secure, the police officer will have to look at that manually and go through it.

What we are very keen to do now, and we are doing, is make sure that before anything is charged that does not have to be charged immediately, we have that discussion with the police officer. You look at the context of the case. You look at the context of the allegation and say, "What is a reasonable line of enquiry? What do we need to look at? Let's have a look at the phone", if that is what a reasonable line of enquiry is, "and see what is on there. Let's have a look at social media". It is not just RASO cases or rape cases; it is wider than that.

Q393 Chair: Thank you. We look forward to hearing more from you about that as it develops.

Can we return to the inquiry and the issues we have been looking at around hate crime? I want to ask you initially for your reflections about hate crime that is linked to some of the concerns about rising extremism, particularly far-right extremism, and the relationship between the two. You will be aware that Assistant Commissioner Mark Rowley has referred, for example, to the Finsbury Park attacker having grown to hate Muslims largely as a result of his consumption of large amounts of online far-right material; and that Mr Rowley has also said that there can be no doubt



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about the fact that the extremist rhetoric that the attacker consumed fed into his vulnerabilities and turned it into violence. Obviously, part of the hate crime issues that you look at are around the offence of stirring up hatred. I am interested in your reflections of how much you think that is linked to far-right radicalisation. Do you see stirring up hatred as being the same as far-right radicalisation, or do you see those as being different things?

Alison Saunders: They could be different things. I think we are certainly seeing an increase. We do not prosecute very many cases of stirring up hatred because of the high threshold for it, but if we look at many of the malicious communication offences that we have prosecuted—and the numbers of those are going up—they tend to be around far-right views. For example, after the Finsbury Mosque killing, we prosecuted some people who were connected with the van that had been rented for malicious communications because they sent out social media communications that effectively said—well, the sorts of things that we prosecuted them for successfully. They were far-right views, so I think there is a link and it is increasing.

Q394 Chair: When you consider individual cases, do you consider them in the context of radicalisation or do you see stirring up hatred as radicalisation? If you look, for example, at your guidance that you put out in the summer around online prosecutions and so on, none of the cases or the categories that you refer to actually seem to reflect the idea of stirring up hatred or radicalisation. Instead, they look as if they are focused very much on the individual—on threats of violence to the person, for example.

Alison Saunders: Yes, and the guidance was, I think it is fair to say, directed at that, mainly because stirring up racial hatred is dealt with by our headquarters division—our special crime and counterterrorism division. There is a specialist team there that deal with those crimes, and they are connected to our terrorism unit as well. That is where we see the link of that far-right extremism or terrorism, almost. As I said, there are very few cases. We only prosecuted six of those last year, so the public guidance does not address that because it is dealt with by such a small team of specialists.

Q395 Chair: Do you think that that is the right balance? Looking at your guidance, there does not seem to be a suggestion that you would be referring a lot of cases to the centre for them to be considered. I am just struck by the force with which Assistant Commissioner Mark Rowley is saying that online radicalisation is a serious problem, and that far-right extremism and far-right radicalisation is a serious problem. Even though there is a provision in the law around stirring up hatred, and stirring up racial hatred in particular, it does not seem to be being used very much. I am interested in whether you think you have the balance right on that, or whether that particular bit of legislation should be used in more cases but the way in which your guidance is structured is deterring that and preventing that from happening.



Alison Saunders: I do not think it is the guidance that is deterring that from happening. It is a very high threshold, and it is deliberately high, because of the hatred part of it—inciting hatred as opposed to hostility, which is what the guidance is aimed at. The guidance is aimed at probably the different offences that are prosecuted across the service, not at that particular angle of hatred.

Such cases are extremely hard to get above that threshold, which is why we have only prosecuted six in the last year. That is not through a lack of willingness to do it. If we can prosecute those cases, we will, because obviously they are extremely serious and extremely worrying cases that we would want to see prosecuted. It is certainly not for lack of willingness, and it is certainly not to do with the guidance. It is about that high threshold and passing the test for inciting hatred. It is also about the balance between that and the free speech issue, which I know you have covered before.

Q396 **Chair:** In terms of the material by, for example, National Action, a clearly proscribed organisation, would you expect to treat their material or their propaganda material as stirring up hatred, or would that be seen as illegal simply because they are a proscribed organisation?

Alison Saunders: If they are a proscribed organisation, then we will deal with that under the terrorism legislation rather than under stirring up. It slightly depends—sorry—on the evidence that we get. It may be dealt with under the terrorism legislation or we could do it under stirring up racial hatred, but because they are a proscribed group we would be looking at them if the evidence was sent before us.

Q397 **Chair:** Part of the reason I am probing this is because I am interested in whether the different bits of legislation that you have, which have a very different genesis, make up a very complicated system for you to navigate your way through when it comes to dealing with this kind of radicalisation and extremism.

Alison Saunders: Certainly, at that top end, because it is dealt with by our counterterrorism headquarters division, they are very clear about the way in which they operate. We will prosecute under terrorist offences if we can and if it is designated as a terrorist offence. If it is far right or any other type of organisation, it will be dealt with there by our headquarters specialists who deal with this every day. They do deal with it every day, unfortunately. They may look at terrorism legislation, but if it is about the material and if it is about stirring up hatred, then that is the offence that we would go for. If it is about acts preparatory to or material that may assist a terrorist organisation, then it would be dealt with under the terrorist legislation.

Q398 **Chair:** We are taking evidence on issues around free speech, and we take the free speech issues extremely seriously and recognise that you have very complex issues to balance. Given the rise of far-right extremism, and given the concerns about radicalisation—particularly



online radicalisation— do you think the numbers of prosecutions that you have under the category of stirring up racial hatred is too low?

Alison Saunders: That is a really difficult question to answer, because we can only deal with the cases that are referred to us. There are very few that are referred to us that we do not prosecute. The reassurance I have is that we have consistency because stirring up hatred is dealt with by two or three people, so the consistency there is right. They are overseen not only by the head of division and myself but by the Attorney General, because he needs to grant consent in most of these cases as well.

More widely, around things like Malicious Communications Act offences, if they are about being grossly offensive, they come to my office and my legal adviser looks at them all in order to make sure that we have that consistency and we are getting the balance right—to make sure that we are not going too far in prosecuting things that we should not be, or not far enough in that we are not prosecuting those that we should. Certainly, when we have had those referred-to areas, we have gone both ways. Where we thought they were prosecuting something that they should not be because of the free speech issues, or in other cases where we thought that they should, we have overruled them.

Q399 **John Woodcock:** Ms Saunders, I wanted to ask you more about this sense of a “justice gap”, which has been written about extensively by Professor Mark Walters at the University of Sussex. He provided this Committee with the crystallisation of the figures that only half of the crimes, according to the crime survey, are reported to the police; and, of those, only 7% result in prosecution and 6% in conviction. That is surely too low, isn’t it? What can be done about that?

Alison Saunders: On the face of it, it is absolutely too low. I think it is important to try to get behind some of those figures and understand. Again, it is really good to see reporting going up, because people are obviously feeling more confident in reporting. What that does not necessarily mean is that it will always translate into a prosecution or, indeed, a police referral to the prosecution. Sometimes it will not, because the complainant will not want to do that. Sometimes it is because it has been referred by a third party. Last time when I was talking to Tell MAMA, they said that they get lots of calls about things. They automatically refer them through to the police, but you will not have a complainant or necessarily a suspect, so nothing can be done about it. It is about trying to get behind those figures to understand whether enough are being referred by the police to us.

We have certainly seen our figures fluctuate a little bit, and there has been a drop in referrals. I think in 2015-16 there was a drop in referrals by the police to us, and we are working with the National Police Chiefs Council. We have a project that is under way at the moment in six forces to go through all of the hate crime cases where they have decided they were not going to refer them to the CPS, and we are looking at them



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jointly to try to understand why not. Is there more we can do together to build stronger cases to make sure they do come through, or are they cases that it is absolutely right not to refer to us?

Q400 John Woodcock: That is interesting. What is the timescale for that? Is there a timescale for that?

Alison Saunders: It has already started, and we are at the stage where we should get the conclusion of that either this month or next—the beginning of next month.

Q401 John Woodcock: That is useful. Is that something that you will release publicly or something you can share with the Committee?

Alison Saunders: It has not been, but I am sure we would be happy to share with the Committee some of our conclusions on that if that would help.

Q402 John Woodcock: Yes, that would be very helpful. Within those overall figures are big disparities between different kinds of hate crime. You have 60% of racially motivated hate crimes recorded, but only 20% of religiously motivated crimes and only 10% of disability hate crimes. The rate of prosecution and conviction is less than 2% for religious and disability. Do you have a sense yet of why that disparity exists?

Alison Saunders: It is not clear. Our figures are showing that police referrals for disability hate crime have continued to go up year on year.

John Woodcock: From a very low base.

Alison Saunders: Yes, from a very low base, but I think that is good. Let me make it clear that they are not where they should be, but we have been doing a lot of work jointly around disability hate crime because we recognised that it was an issue that we needed to address. So, they have been going up.

The police referrals for racially aggravated crimes have been going down. The ones for religiously aggravated crimes have fluctuated up and down a bit. The whole purpose of doing this work with the six police forces is to get more idea about why that should be. I am reassured that the disability has continued to go up slowly, as you say from a low base, because that is where we have been investing lots of resources. What we are not clear about is why the other two should have gone down or the other types of—

Q403 John Woodcock: But, on the face of it, it cannot be excusable to have 60% for racially motivated, compared with 20% for religiously motivated. That is a system that is not working properly.

Alison Saunders: No, exactly. Sometimes it is the intersectionality of these things, because it depends on how they are flagged. Of course, our system involves manual flagging. If it is sometimes both race and religion, we should be doing better at flagging that up to make sure it is



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clear. That does not necessarily always happen, and sometimes they may be flagged for racial purposes but not religious. It may be both or it may be one or the other. Again, this work will help us to understand that better.

John Woodcock: Yes, understood. Thank you.

Q404 **Naz Shah:** Witnesses have suggested that there is a hierarchy of hate, because some hate crimes are classified as criminal law offences and others as non-aggravated. Professor Mark Walters in his evidence suggested that there should be a single legal framework for hate crime that would mean all the offences were treated with parity. This echoes calls made by the Law Commission in its 2014 report. What are your thoughts on this?

Alison Saunders: We supported the Law Commission's recommendations and we thought it was a very sensible idea to have that parity across. I have seen Professor Walters's evidence to you, and he explained far more eloquently than I could about the way in which these offences have gradually been added in. It would make far more sense to have a single system across all the characteristics so it is much clearer for the courts and for prosecutors.

Q405 **Naz Shah:** Racially and religiously aggravated hate crimes are specific criminal offences under the Crime and Disorder Act 1998, and racially motivated hate crimes are the most likely to be prosecuted and result in a successful conviction and sentence uplift. Why is this the case? Is there an intentional prioritisation of racially motivated hate crimes?

Alison Saunders: No. I do not think it is an intentional prioritisation at all. I think it is what is referred to us. Maybe prosecutors and police officers are more familiar with the Public Order Act legislation. They shouldn't be, so I am not entirely sure why that should be, except that we can only prosecute what we are given.

Q406 **Naz Shah:** That is interesting, because in that context there is the uplift. I want to bring to your attention the Marek Zakrocki case where a man was able to walk free after trial for time served because he only had a conviction for dangerous driving. In this instance, he appeared to be a Britain First supporter. He donated to them, with their far-right ideology. He wanted to "kill a Muslim...for Britain", he did Nazi salutes, he abused a Somali woman and he shouted "white power" before driving at an Indian restaurant owner. I understand that the questions surrounding the speed of his car make attempted murder difficult, but there appears to be nothing that would have prevented the charges of GBH, which seemed clear; terror-related charges, which many would argue would have been imposed for a Muslim known to have an extreme ideology who did this; or an uplift to the sentence to reflect the unambiguous religious nature of this crime. I am referring to section 145 of the Criminal Justice Act 2003.

This case, Ms Saunders, appears to be yet another case of unfairness and injustice in the system, and not taking crimes against Muslims seriously.



We have seen a massive spike around hate crime when it comes to Muslims, and Muslim women in particular. Can you elaborate on your understanding as to why cases against Muslims appear to be treated differently?

Alison Saunders: I do not know why the perception is there. I can reassure you that that is not the case and the guidance is very clear, as is all our training, that the way in which we apply the guidance is absolutely irrespective of who the individual suspect or complainant is. We have many examples of where we have prosecuted people for religious or racially aggravated offences where the complainant—the victim—has been a Muslim, or the target has been. I do not know that case, so I obviously cannot comment on it, but I can reassure you that all our training and guidance is absolutely not to do anything other than prosecute those persons where we have sufficient evidence of racially or religiously aggravated offences, no matter who those persons are or who the victims are.

Q407 **Naz Shah:** In this instance, it certainly seems as though that perception is coming from the facts of the case, doesn't it?

Alison Saunders: We have been working really hard with communities, both locally and nationally. If there are particular communities that we can talk to about those perceptions, we would be more than happy to do so. I do not think that that perception represents reality, and we would certainly want to try to dispel any such perceptions if we could.

Q408 **Naz Shah:** Under current legislation, racial hatred includes words or behaviour that is threatening, abusive or insulting, but hate relating to religion or sexual orientation is limited to threatening words or behaviour. Why are religious, homosexual or transgender people not protected from abusive or insulting words or behaviour in the same way that applies to racial hatred?

Alison Saunders: I do not know. That is a matter for Parliament. Parliament passed the legislation, and my own view is that there should be a common system for all.

Q409 **Naz Shah:** There is currently no offence of stirring up hatred on the grounds of transgender identity. Does that need to be changed?

Alison Saunders: I think we can look at prosecuting for other type offences, but I think it is a gap. I do not see that there is any reason why anybody with a protected characteristic should not have the same protection from the law.

Q410 **Naz Shah:** You would support legislative change to bring in that parity?

Alison Saunders: As we said in response to the Law Commission, we think there should be a common offence, rather than some offences and some aggravated offences.

Q411 **Stuart C. McDonald:** Ms Saunders, earlier you mentioned difficulties in



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prosecuting disability hate crime, and that was the evidence of Professor Walters, who we heard from previously. The suggestion from him and various others is that one of the key problems is the difficulty in proving hostility. Do you think that that is the key difficulty in such prosecutions, and how do you go about finding specific evidence to prove hostility?

Alison Saunders: I think it is the problem. It is a problem not so much in prosecuting for offences, because we can prosecute offences; if it is a robbery or an assault or criminal damage we can prosecute the offences. It is about the sentence uplift. We have certainly applied for sentence uplifts in cases involving disability where the tribunal has not found that that was the case. They could not find hostility but they found that the victim was vulnerable and, therefore, would not give the sentence uplift, and that is a difficulty.

We are working with the police and we are about to launch, in the next couple of weeks, an evidence checklist guide that we hope will help investigators to get the sort of evidence that we would need to show the court that there is hostility. Some of that may be around what people have said and what they have posted on social media as to why they have targeted that particular individual. But it is difficult to get that evidence of hostility before the court, as opposed to what may appear to be the targeting of somebody because of their vulnerabilities.

Q412 **Stuart C. McDonald:** Professor Walters's suggestion was that you replace the test of hostility with a simple "by reason of". Do you think that is worth considering?

Alison Saunders: I do. It certainly takes away the word hostility, which is part of it. Again, you would have to look at whether it is across the board or whether you just do it for disability crime.

Q413 **Stuart C. McDonald:** Going back to what you said earlier about inciting hatred, we had a discussion a couple of weeks back with IPSO about the possibility of including such an offence in their Editors' Code. The view there seemed to be that that would be prevented both by the European Convention and free speech concerns and also by the Public Order Act right to offend. Do you share the view that you would not legally be able to include such an offence in the Editors' Code?

Alison Saunders: Sorry—because?

Stuart C. McDonald: Basically, if you put in the Editors' Code a prohibition against incitement to hatred against groups, you would risk breaching European human rights law and freedom of speech and you would also be acting contrary to the Public Order Act and the right to offend.

Alison Saunders: I presume they would have to take into account, in the same way as we do, free speech and balance—it is always a difficult balance—between the right of the individual to be protected and the right



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of other individuals to express themselves, no matter how offensive sometimes that may be. They would probably have to balance that up.

I am not entirely sure I understand why they would not have it because it is in the Public Order Act. There are many examples of regulators who have regulations that are very similar to criminal law. They quite often have a different burden of proof, so sometimes if we cannot act, the regulators can. We quite often talk to regulators about whether we have enough evidence and whether we are going to proceed, and they might wait until the criminal trial is over. I am not sure if that is what you meant.

Q414 **Stuart C. McDonald:** On that, you have talked a few times about the high threshold. I am guessing that that is a combination of the particular tests in the legislation and the fact that you have to prove that beyond reasonable doubt.

Alison Saunders: Yes. The test within the legislation, and case law, makes it clear that we are talking about a high threshold. Just the fact that you say something that somebody else does not like or might find offensive, or that we all find offensive, is not enough. It is about the hatred bit of it, why it is there and what your rationale is.

Q415 **Stuart C. McDonald:** If we were to find that you could have that in the Editors' Code, I am guessing IPSO have to operate to the civil standard—the balance of probabilities—so would it be easier for them to prove that offence?

Alison Saunders: I assume so. I do not know enough about IPSO and their balance, but normally regulators tend to be on balance of probabilities. If you are a regulator, of course, you have your own regulatory offences, so you do not have to follow the criminal law.

Q416 **Stuart C. McDonald:** More generally, IPSO themselves seem to accept that there is a problem with anti-Muslim sentiment in certain newspaper publications, and so on. Do you have any other suggestions of things—perhaps changes to the law—that we should look at that might clamp down on that problem?

Alison Saunders: No. Our main concerns are around making sure that the law is evened out, so I am not sure. If the evidence is there, in theory you could prosecute journalists or a paper. I do not think we have ever had any referred to us for that particular type of offence.

Q417 **Chair:** We have heard from both IMPRESS and IPSO, the two press regulators. IMPRESS have a clause in their code, which is very similar to the law, on incitement to hatred and freedom of expression. So exactly those same balances are reflected in their code. IPSO do not have any provision on that. They have provision for protection for individuals against discrimination, but not the wider incitement.

The two reasons for that were, first, as Mr McDonald has said, that they



suggested that somehow the Public Order Act might prevent them from doing so. Secondly, their view was that it was preferable for such cases to be dealt with by the criminal justice system rather than the regulator; and that cases in which there was a balance to be struck between freedom of speech and incitement to hatred were better dealt with not by a regulator, but by the criminal justice system instead. That suggests they could be referring quite a few cases to you.

From your point of view—from the criminal justice system point of view—you referred to the regulators in other areas dealing with things that might also get referred if they become more serious and so on, but do you have any objection to regulators taking their own views on this kind of complex issue?

Alison Saunders: No, and, as I said, we might deal with medical cases or health and safety where we have a relationship with the regulators. Normally, if criminal proceedings are going to be taken, they take precedence in the same way as we do with inquests, but there is nothing to say we cannot both be looking at the same issue and either things happen after the criminal proceedings or, if we do not take criminal proceedings, the regulator is left free to progress.

Q418 **Rehman Chishti:** Ms Saunders, can I ask for one clarification in relation to the point raised by Mr Loughton on the rape cases? You talked about disclosure, defence case statement and late defence case statement. Just by way of clarification, who is responsible for reviewing the material in the first place?

Alison Saunders: The Criminal Procedure and Investigations Act sets it out very clearly. It is the police who review it first. They decide whether it is relevant or not and it is for them to refer it to the prosecution if they think it might undermine or assist. We then review it and decide whether or not it should be revealed.

Q419 **Rehman Chishti:** First, it is the police, then it is the Crown Prosecution Service, and thereafter who reviews it?

Alison Saunders: Thereafter it remains with us. We disclose it if we think it might undermine or assist. That is our primary and preliminary obligation. There is then the ability of the defence to put a defence case statement in to the court, which tells us what their defence might be. That then allows us to go back and look at the material again to see if there is something we then need to disclose because it becomes obvious that it undermines or assists.

Q420 **Rehman Chishti:** What resources are there at your disposal to keep the matter properly under review?

Alison Saunders: We have a reviewing lawyer, so if a case has gone to trial there is a reviewing lawyer allocated to the case who will stay with it. Likewise, the police should appoint a disclosure officer who is specifically there to deal with disclosure throughout the life of the case.



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Q421 **Rehman Chishti:** Do you have an adequate amount of resources in manpower to continue adequately to review these cases at all levels so that a decision can be made at the appropriate time?

Alison Saunders: I think the fact that we are prosecuting somewhere in the region of just below 600,000 cases a year and our conviction rate has remained pretty steady at about 83% shows that we are dealing with these cases successfully, in the majority of cases. I am not sure we would want our conviction rate to go much higher. Despite the fact that some people think acquittals are a crisis, I think they are the criminal justice system working.

Q422 **Rehman Chishti:** From your point of view, there is no issue about resources at your end to deal with these matters adequately.

Alison Saunders: It becomes more of an issue around social media, and the size of social media. For example—I am sorry, this is a complete distraction from what we are supposed to be talking about—to deal with the unused material in our most basic counterterrorism cases, if you put it on to iPad you would need 28 iPads completely cleaned of any other applications. That is in a fairly straightforward case. The size now of some of the material that we are dealing with is vast, and that creates challenges, not just for us but for the police.

Q423 **Rehman Chishti:** Yes. I used to prosecute and defend, so I know the issue about unused material, but the point was about having an adequate amount of resources at your disposal to make the appropriate decisions. I think you have covered that point.

On the issue of online hate crime, the point made by Mrs Justice Cheema in relation to the Finsbury Park incident about the short period of time from seeing material online to being radicalised and carrying out the terrorist attack brings into play the issue of dealing with this material online quickly and speedily, and making sure that it is taken down by those who need to take it down.

Before I ask that question, you mentioned earlier that there is a high threshold that has to be balanced with free speech. The Government are also looking, with the Commissioner for Countering Extremism, at the definition of extremism, as to when somebody crosses the line and when they do not. In relation to this matter of the high threshold balanced with free speech, do you think the balance is right, or do you think Parliament needs to look at reviewing it in the light of the threat that we face at the moment in this country?

Alison Saunders: I think that is a huge question and probably not one for me to—

Q424 **Rehman Chishti:** But it is for you. The reason I ask you that is because you are in charge of overseeing prosecutions and you see material across the range. Some falls short and some falls high, and you are saying, “Do you know what? We cannot do it. You are Parliament. You left us in this quandary.” Some of the material that you see before you could be



offensive, but it does not cross the threshold. You and I may find it offensive, but in terms of the threshold—looking at the threat that we face on national security—do you think it is now appropriate to look at reviewing that balance between free speech and the threshold criteria?

Alison Saunders: I do think that is a matter for Parliament, because it is not for me to make the law. It is for Parliament to make the law and for Parliament to decide where the level is. I can look at things and think, “I wish I could prosecute that,” but that is my own opinion as an individual. It is not my opinion as the DPP—

Q425 **Rehman Chishti:** Sure, so that means Parliament needs to review that. If you think, “Do you know what? That could have been prosecuted, but I cannot do it because the guidance I have set by Parliament does not address that,” it would be the right time to look at reviewing that.

Alison Saunders: The world has moved on quite considerably since we had the legislation, so in the same way that we are looking again at disclosure, it is always a good thing to review and keep up to date.

Q426 **Rehman Chishti:** Sure, why not? Do you think that the social media companies Facebook, Twitter and Google are doing enough to tackle online hate material?

Alison Saunders: I think there is always more that can be done. Sometimes it is about, as you say, taking things down very quickly and making sure that they do not stay up there. I think there is always more, and sometimes it is quite slow. Some things get taken down very slowly.

Q427 **Rehman Chishti:** Often we hear evidence from experts that those who sympathise with Daesh are moving away from Facebook, Twitter and Google into private networks like Telegram. How much resource or technology do the Government have, and are the criteria in place, to address that challenge?

Alison Saunders: I think that is always going to be a challenge. It is a challenge in other areas as well, where we see people moving on to more encrypted applications—or on to the dark web, at the end of the day. It is always going to be a challenge to keep up with the developments and try to be ahead of them, rather than catching up. I think that is a major issue.

Q428 **Rehman Chishti:** I have one final question on the social media companies. Germany has put forward legislation to fine social media companies if they do not take down material within a certain period of time. Is that the kind of thing that you think we should look at, or do you think that it is not the way to address this problem?

Alison Saunders: Again, I think that is not a matter for me. That piece of legislation is interesting, and anything is worth looking at if it improves the situation.

Q429 **Chair:** I just want to follow up, because it refers to the questions I asked



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at the beginning. In the case of Darren Osborne, clearly the material that he saw did incite hatred. That is what it did. It did lead to the stirring up of hatred. In view of that, have you looked at any of the material that he looked at, which was part of the story that led to him committing these crimes? Have you assessed whether any of those should be prosecuted as stirring up hatred?

Alison Saunders: I would have to get back to the Committee on that one and just check before I said anything publicly.

Chair: That would be very helpful, thank you.

Q430 **Stephen Doughty:** Obviously, these matters are very much in the minds of my constituents at the moment, not least after the Lloyd Gunton case, which contained a clear journey of radicalisation; and the Finsbury Park attack, with the attacker coming from Cardiff; as well as others. I do not know if you saw the evidence that the social media companies gave to us. Were you surprised that they were not routinely searching for all proscribed organisations and material from them? It seemed that they were only looking for Daesh, and not for other proscribed organisations.

Alison Saunders: It seems surprising. If you are a proscribed organisation, you are proscribed for a reason. I would have thought that that is something that is quite—I do not know. I am not technically minded, but it does not seem that that is terribly difficult to search for.

Q431 **Stephen Doughty:** In terms of the issue that you spoke about earlier with getting the evidence for charges, do you not think that the social media companies should take a more responsible and proactive role in filtering out and identifying some of this content, particularly when it relates to organisations that are specifically proscribed by Parliament? We are not talking about grey areas here; we are talking about named organisations. Would that help prosecutors in their job, and help the police?

Alison Saunders: It would, because if we have evidence about proscribed organisations, we can use it. Likewise, as you have already alluded to, if it is up there it is potentially radicalising somebody else.

Q432 **Stephen Doughty:** That is very helpful. Thinking specifically about the online crimes guidance that you issued last summer, what would you say has materially changed for the better since that guidance was issued?

Alison Saunders: First, public awareness—we did that, and we ran a social media campaign around hate crime matters at the same time to try to raise awareness. I think it has helped with that. We are also seeing that prosecutors are more aware that if you commit a crime, it does not matter whether it is online or physically in a physical space; it is the same. I think there was a little bit of misunderstanding about our social media guidance, and people thought if you were just being rude online that was enough. There was a clue in the title: it was “hate crime”. The fact that you commit it online meant that we would still be able to prosecute and should be taking it just as seriously.



Q433 Stephen Doughty: Do you feel, though, that that has been adequately disseminated among police forces, prosecutors and others? I will just give you an example. I know of a friend who reported a very despicable racist incident online, which involved bringing their family into it and everything else. When they reported it to the police, they were asked, "Who is the person committing this?" It was on Twitter so, of course, they were not using their real name. There just appeared to be a complete lack of understanding. Do you feel confident that police forces and prosecutors have fully caught up with how far and how quickly things have changed?

Alison Saunders: I cannot speak for the police, and I think they have already accepted they need some more training, potentially, around this. I think for prosecutors, yes, because we made it obligatory that they should have training on this. We are doing training in relation to all the hate crime strands, which has been informed by people like Stonewall, Galop, Tell MAMA and Community Security Trust. That is face-to-face training led by our hate crime co-ordinators.

The cases that we are prosecuting for under the Malicious Communications Act or the Communications Act are going up in number, and 7% of those are flagged as hate crimes. That is an increasing trend, so I do think that the guidance has had a positive effect.

Q434 Stephen Doughty: Can you just say specifically what you have done around transgender-related hate crimes, in particular? We have seen a particular spike and some pretty unpleasant media reporting—all sorts of incidents have been reported. I have certainly had incidents reported to me by the trans community in South Wales. Obviously, there are some very complex issues and terminology around the trans community. What have you done specifically on that?

Alison Saunders: That was one of our public-facing policies that we issued last summer. Before those policies were issued, we took advice from community groups that were directly relevant in order to make sure that we understood. If we were to issue guidance, it was important that we understood what the issues were; that we had the terminology right; and that if there were issues around why people were not coming forward to report, we acknowledged them and tried to take them into account.

We went out to the relevant communities and we published our policies. They were both internal and external. They were deliberately made externally facing so that if people were at all concerned that they might have been a victim, they could see what help and support we could give them and gain some awareness of whether or not a crime had been committed. Not only did we take views from academics and community groups, but we went out to public consultation on those before we published, and we have had some good feedback about them.

Q435 Stephen Doughty: Obviously, the guidance has that specific line in it about the potential for a chilling effect on free speech—we have touched on that a few times—and prosecutors should exercise considerable



caution. I want to push you on this. Do you think we have the balance right? I can say, as a legislator sitting in here, that there is quite a chilling effect on the other side for those in public life—whether it is MPs, journalists or others in positions of public authority—because of the types of threats that we receive on a daily or weekly basis. Often, the lack of action that can be, or is, taken in those cases is extremely worrying. It would not surprise you to learn that there are people in here, and people in other forms of Welsh public life, who are considering giving it up purely on the basis of those sorts of threats. I have certainly had threats from the far right, the far left and Islamist organisations. It is not going to change what I do, but for other people it could be very difficult. Do you think we have that balance right?

Alison Saunders: I entirely understand that. I think there is a real issue. I am not sure that it is always about prosecution, because I do not think that prosecuting necessarily changes the way in which people behave all the time. There is something about education and awareness because you can type in—well, you do not type, sorry; that is showing my age, but you can do something on Twitter or whatever it is and post it out before you have even thought about it. People feel as though they are somehow anonymous and immune. It is a space in which they can say things that they would not ordinarily say to your face, or in a room full of people.

I think perhaps a much bigger awareness campaign needs to be out there, first, about what hate crime is and the fact that some of this might well be hate crime; and, secondly, about being conscious of your actions generally. These are individual people who are posting these offensive things out there. I think we have to be really careful not to react by saying, “All of this needs to be prosecuted and, therefore, we need to change the balance with free speech.” That is one of the cornerstones of our democracy. People should not abuse it, but equally we do need to protect free speech. That is a long way of saying that it is a really difficult balance.

Q436 **Stephen Doughty:** I have two last questions. Obviously, I do not expect you to comment on the specific individuals or organisations, given the ongoing proceedings; this is more around the incident itself. What was your reaction when President Trump retweeted the content from Britain First, in the context of the ongoing criminal proceedings and, obviously, in view of the material itself? Were any formal representations made by you to the US ambassador, or through the Government in some other respect?

Alison Saunders: No; it is not for us to do that.

Q437 **Stephen Doughty:** Okay, but is it unhelpful for a president of another country to be commenting on ongoing matters in that regard?



Alison Saunders: I think with any criminal case, it is not helpful to have anyone commenting on it as proceedings are going ahead. That is why we have contempt proceedings in this country.

Q438 **Stephen Doughty:** That is very helpful. The last thing was about the ongoing issues—I know that my colleague sitting to the left of me has raised this in Parliament recently—around returning jihadis and those who have gone abroad to commit offences, and the documentation of those offences. Obviously, some of those individuals may end up back in the UK. Are you satisfied with the preparations and the work being done by others to compile evidence and data on crimes against humanity and war crimes that may have been committed abroad—is it in a good enough state to be able to prosecute those individuals if they do return to the UK or a jurisdiction where we can extradite them, or elsewhere?

Alison Saunders: Certainly, in the cases that we have referred to us—we work very closely with our police colleagues and the security agencies in relation to many of these cases—we always get a very good standard of evidence and documentation referred to us.

Q439 **Stephen Doughty:** So you would be confident that that work is being done given the numbers involved and the complexities of the places where they are going.

Alison Saunders: I can reaffirm what I have said: whenever we are dealing with the police and security services on cases around these issues, it is always of a very high standard.

Q440 **Chair:** To follow up Mr Doughty's earlier questions about the proscribed organisations' propaganda or other forms of illegal content, can you clarify how you interpret the law? If, for example, social media companies continue to host on their sites either material that might have been found to be illegal because it was used in a malicious communications prosecution, or material by a proscribed organisation, is what the social media companies are doing by hosting it against the law?

Alison Saunders: I cannot think of any case that has been referred to us to consider that. They may potentially be. If it is a malicious communication, we would have to look at whether it is a continuing offence or whether you do it once when you post the material. If it is sent—so people like BT, or where you have just sent something down the line—that is not. It would, as you say, have to be hosting. We would have to look at whether we could apply the law to that, which I think may be an issue.

What is probably more of an issue is who is hosting it and the jurisdiction in which it is hosted and, if it is a corporation, how we would prosecute that corporation. That is not impossible, but you have to get to a controlling mind that would know that that material is there and has continued to host it despite warnings. As you might appreciate, in a bigger company it is going to be quite difficult to get to that controlling mind that will know about it. In smaller companies, it might be easier.



Q441 **Chair:** As a “for example”, we have raised with Twitter repeated cases of historic abuse against a particular individual. Some of it was used in a court case and a conviction was achieved, but some of the tweets related to that court case remained on Twitter and were still there many years later. Could the persistent hosting of that material potentially be prosecuted, or would you need a change in the law if they failed to do so? Similarly, we had issues that we raised with YouTube about them continuing to host a National Action video. Were they to refuse or fail to take that down, could that be the kind of thing that is against the law, or would you need a change in the law if you were to be able to take action against them?

Alison Saunders: It may potentially be an offence, and certainly continuing to host if they know it should have been taken down and had warnings may potentially be an offence. It is about who you would get to, as that controlling mind in a company. Who would know about it and yet be sufficiently senior to be a controlling mind? You might be able to look at different types of legislation—for example, the Bribery Act type of offences, which makes something an offence if you know about it or have not put procedures in place to stop it. You might want to have a look at that sort of legislation for corporations.

Q442 **Chair:** Otherwise you would be focused on having to find an individual to prosecute, would you?

Alison Saunders: We can prosecute the company, but you have to have the principle of the controlling mind in the company knowing. At the end of the day, you are almost back to determining who that individual is. So, they are senior enough to control the company and to be the controlling mind of the company, but they have to know what is happening. That makes it more difficult in bigger companies, because there tend to be quite a lot of layers in between.

Q443 **Stephen Doughty:** If we had reported, as members of that Committee did, a whole series of things, in some cases repeatedly—I reported a series of materials related to Northern Irish paramilitary organisations—if they were not subsequently removed and it was very clear in a public forum that had been raised with them, would that be some evidence of who might be a controlling mind, or a link to a controlling mind, in the organisation?

Alison Saunders: Yes, it may be, but again it is about where it is hosted. Is the host server in America, Ireland, Eastern Europe or somewhere? There are jurisdictional issues as well that you may come across.

Q444 **Chair:** Which Germany has managed to address.

Alison Saunders: In other spheres of criminal law we have extraterritorial jurisdiction, so it is not impossible, but that again comes back down to the legislative powers.



Q445 **Chair:** That might be a matter for Parliament to address?

Alison Saunders: Yes.

Q446 **Kirstene Hair:** I wanted to move on to sentencing. The volume of completed hate crime prosecutions has fallen since 2015-16 by about 6%, and I believe that you or the CPS are looking into that. Do you have any information around that at the moment?

Alison Saunders: No. We saw a sharp spike in completed prosecutions in 2015-16, and it has gone down again. That is part of the work we are doing with police forces to have a look at, first, why the referrals are not coming through and, secondly, what has changed. I think the number of completed prosecutions relates to, or is quite dependent on, the number of referrals from the police the previous year, because there is a time lag between the referrals, us charging and taking cases through the court. If you look at our figures for 2015-16, that was the year that the number of referrals from the police went down quite considerably. I can give these figures to the Committee later, but they are all in our hate crime annual report. I would expect to see a drop in prosecutions because of the number of referrals.

I do not think the percentage of cases charged that are referred to us by the police has changed very much. It is more that the numbers that are referred to us mean that you will end up with fewer prosecutions at a later stage, if that makes sense.

Q447 **Kirstene Hair:** To go on to a different topic, witnesses have advocated greater use of restorative justice in hate crime cases. I just wondered to what extent this method of rehabilitation is currently used. What do you think the benefits and the disadvantages of using it more frequently may be?

Alison Saunders: I do not know how often it is used. I think it is variable across the country depending on the provision of restorative justice. I think it can be very effective in some cases, but it is about making sure you have the provision. You might need some form of course or the right people to bring suspects and complainants together to have an impact. Quite often, that happens outside or before any cases are referred to us.

Q448 **Kirstene Hair:** More than half of hate crime convictions in 2016-17 were subject to a sentence uplift, and the CPS has committed to increasing that further. I just wondered why that is a goal for the CPS, and what impact it might have.

Alison Saunders: It is a goal for us because the sentence uplift was very low. If we are prosecuting cases under the hate crime legislation, we would expect to see a sentence uplift being given if we are prosecuting them as such. It is important because the legislation is there and it marks the fact that it is a hate crime. Not only does it mark the fact that it is a hate crime, but increases the sentence because it is a hate crime.



We thought our applications for sentence uplift were too low, so we have done a lot of work training prosecutors and making sure they have the right tools to put before the court. At the end of the day, it is the court's decision. I have been particularly pleased to see that the numbers have gone up. I think in our latest figures, which are from April to December 2017, it was up to 63.8%, so it has steadily been going up despite the fluctuation in numbers being prosecuted.

Q449 Rehman Chishti: On that point, Home Office figures show that 80,393 offences were recorded by the police who look at hate crime, 18% resulting in completed prosecutions and 15% in successful convictions. We had academics give evidence to this Committee about three weeks ago in relation to 13,000 prosecutions, but only roughly 130 successful convictions on those. A number of different reasons were given for why that may be the case, but from your perspective the police carry out the investigation, you do the prosecution and then at the end—of course, I get it—it is down to the jury and the courts to make a decision. When it comes to hate crime, why is there such a low figure in relation to successful convictions?

Alison Saunders: We do know that some of the issues that we have are not just about jury acquittals or the tribunal acquitting. There are victim issues as well along the way, and that is why we issued last year, particularly for disability, a statement about the help and support that we or other organisations can give during the course of the prosecution.

We know that we have an issue with witnesses and victims disengaging from the process, which then leads to an unsuccessful outcome. One thing that we can do is to make sure that we talk to them about the support that we give throughout. We can make sure that if they need things like intermediaries, it is spotted at the very early stage and those intermediaries are available, and that we apply for special measures in court. If you look at the legislation, we cannot give victims certainty until we have made an application and the court has adjudicated that they can have special measures. Quite often, victims and witnesses will want certainty right at the very beginning about whether there will be screens, whether they will be on a video link or whether there is some other way in which they are going to give their evidence. That is something that could be looked at.

Likewise, it is about some of the help and support that victims get. In a different sphere, we did some research around domestic abuse cases. It was very clear that if the victim was supported by an IDVA—an independent domestic abuse advocate—they engaged in the process much more and it was more successful. Again, the support that is given to victims is sometimes patchy, depending on where you are and what resources there are.

Q450 Rehman Chishti: Aside from the victims being given the support they need through special measures, do you think there is an issue with such a low rate of successful convictions—15%—out of 80,393 recorded



crimes, with 80% prosecutions? Is there an issue about the calibre and the competence of prosecutors prosecuting those cases? Is there also an issue here with the directions being given by judges? You talked about disability, but when the academics gave evidence on the issue with religiously aggravated offences, there was a very poor case on successful convictions on those as well. Apart from victims being given the support, the competence of prosecutors and the right directions being given by the judge, is there a combination of issues that means this whole area now needs to be looked at?

Alison Saunders: I do not think so, because our conviction rate remains pretty steady at around about 84% across the years. We have a system in place of hate crime co-ordinators and hate crime assurance. They look at cases. They look at live cases, and they look at completed cases to see what lessons there are to learn and whether there are issues that we need to address. We get the hate crime co-ordinators together at least twice a year to talk about that so they are not just dealing with the cases in their area. We have local scrutiny panels that will look at completed anonymised cases so that they can tell us if they think there are issues that we are missing or there is good practice that we can then spread out.

One of the things that David Lammy commented on in his report was how transparent we were, how open we were to scrutiny and the types of lessons that we learned from that. We have not just produced our training; it has been done with people like Galop, Stonewall, Tell MAMA and Community Security Trust, and we have victims talking to prosecutors about the impact so that they understand some of the issues that they may not necessarily have understood. I do not think that it is anything to do with the capability or the training of prosecutors.

Q451 **Rehman Chishti:** My question goes to the perception of the public and confidence in the system, where you have a massive number of referrals. A percentage of them are successful and lead to completed prosecutions and a very small number of successful convictions. In any system, for public confidence in the administration of justice, you would then say, "Do you know what? We do need to have a look at that. We can do even better".

Alison Saunders: That comes back to one of the original points about understanding the difference between reporting and why things do not get referred from the police to us. The conviction rate, at 84%, is the same as the general conviction rate across the service. This is not a particular type of case that we are not providing the right service in. There is a lot of investment in relation to this, and it is a high priority for the service. That is why we have co-ordinators across the country, who are working not just with their own prosecutors, but with police colleagues. They are there to be a central point of contact so that we can assist. If there are particular issues, they are the single point of contact that the police will go to locally to get advice and help.



Q452 **Rehman Chishti:** If I may, just a final point on that. You talk about the 84% conviction rate. On the specific area I was talking about, disability hate crime, we were previously given evidence given where the conviction rate was very, very, very low. In relation to religiously aggravated crime—I am happy to write to you with the exact figures that were given to us in evidence a couple of weeks ago—out of about 13,000, you only had about 100-plus successful convictions on religiously aggravated offences. On those areas, where there are a very small number of successful convictions, do we need to do extra work?

Alison Saunders: Disability hate crime, as I said at the beginning, is one area we have been concentrating on. Our conviction rate around that for the last year was 79.3%. They are small numbers, and we think there should be more. That is why we have been working on it. Our numbers have been going up on that, so I think the work we are doing is showing an impact. We need to do more, and we have acknowledged that. That is why we not only do our public-facing statement on it, but we can give support to disability victims, to try to encourage them to come forward.

Q453 **Rehman Chishti:** Do you have the figures there for religiously aggravated offences as well?

Alison Saunders: Yes. In relation to racially aggravated offences in the last year—these figures are all publicly available now in our hate crime report—the conviction rate was 84%. For religiously aggravated offences, it was 80.6% in the last year.

Q454 **Douglas Ross:** What is your perception of the general understanding of hate crime among the general public?

Alison Saunders: It varies, even among those who might have been impacted. At one of our senior managers' leadership conferences, a victim of disability hate crime came to talk to us and he said—I do not think he is unusual—"I thought it was something I had to put up with. There was lots of low-level stuff, it went on and on and on. I thought that I just had to get on with it", until eventually something clicked, and he reported it. Even among people who may have suffered from hate crime it is low, and I think among the public more generally it is low, which is one of the reasons we did our social media campaign last year. It was to try to help to raise awareness of what might be a hate crime.

Q455 **Douglas Ross:** When you answered my question by saying, "It varies," do you really mean that the perception of the public about hate crime is poor?

Alison Saunders: It would be a sweeping trivialisation to say it is poor. I think it varies. There are some pockets where people are aware, but it is patchy and I think more could be done to raise awareness. I suppose, yes, it is variable but pretty poor variable.

Q456 **Douglas Ross:** How much confidence can we have in the figures, in terms of the number of prosecutions and the number of people reporting



it, if people just do not understand what a hate crime is?

Alison Saunders: I think you can have confidence in what happens once people report it and once they get into the criminal justice system. What I think is plain—many people have said this—is that this is an underreported type of crime and, therefore, that is why we need to do more. That is why it is great that you are looking at this issue and raising awareness of it. The more that that happens, the better.

Q457 **Douglas Ross:** What else can be done?

Alison Saunders: There are things such as the public awareness campaigns. If you look at where we were on domestic abuse, say, even five or 10 years ago, it was potentially in a very similar situation where people were not aware. There were lots of public campaigns run around that by Government, NGOs and other organisations. When you get to the stage where you have a story in “The Archers” about coercive and controlling behaviour, or about soap operas on TV, that all helps as well. There are lots of things that can be done in public education and school education. We have prosecutors who go into schools. There are community groups that we go out and talk to. We do talk about this. Many of the community groups that we will talk to, of course, are very aware of it; schools are perhaps not so much.

Q458 **Douglas Ross:** From what you have done so far, what has been successful in terms of raising awareness and what has been less successful?

Alison Saunders: The social media campaign—it is difficult to tell because I am not sure how we measure that.

Q459 **Douglas Ross:** You will get some feedback from some of the things you do.

Alison Saunders: Yes. We have just done a review of our community engagement to make sure that we are doing the right thing. We are using valuable resources to do this, so we do need to make sure we have an impact.

Q460 **Douglas Ross:** Did that feedback suggest that, as you say, it was patchy but potentially poor?

Alison Saunders: Yes. Some of the issues for us are that we can reach more people with social media campaigns, so that is obviously one of the things that we can do. We cannot go into all the schools and talk to students about it, so we are producing a schools pack, which is resource material that teachers might be able to use. There is something about whether you look at the national curriculum and have some of this in there. There are various ways. For me, the biggest hit that we can get is around the social media thing.

Q461 **Douglas Ross:** In terms of someone understanding that something they have been through is a hate crime, reporting it and going through the



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whole process, the victims of hate crime are considerably less satisfied with the police than are the victims of all crime; 35% were very dissatisfied, compared with 14% of victims of all crime. Why is that, do you believe, and what can be done to improve those figures?

Alison Saunders: I do not know why that is. The more that can be done is around making sure—this was partly my point before, that we lose victims once they are in the system because they disengage—

Q462 **Douglas Ross:** It could be that they disengage because they are dissatisfied. More than double the number of victims of hate crime, compared with the victims of general crime, are dissatisfied with the way they are treated, so that is why you lose them from the system.

Alison Saunders: There is something there about making sure that communication is frequent and what they want.

Q463 **Douglas Ross:** Why is that different from any other crime?

Alison Saunders: I am not sure why it should be any different. It obviously is. I do not know the answer why.

Q464 **Douglas Ross:** You are citing communication, and lack of communication, but I cannot understand why the communication with a victim of a hate crime would be less than the communication with a victim of a general crime.

Alison Saunders: I do not think it is. My point is about whether or not it should be more. There is something about whether we tailor our communication strategy with victims and witnesses enough. This is more a matter for the police, because they run the witness care units, which keep in touch with them. Likewise, police and crime commissioners will have the money to do support services for victims and witnesses locally. That is not something we do as a prosecution service. When we have looked at other types of crime, there is something there about making sure you have tailored support that helps and is tailored to the individual needs, which quite often has a bigger impact in keeping witness satisfaction up and keeping people engaged with the criminal justice system.

Q465 **Douglas Ross:** What are you doing to improve that?

Alison Saunders: That is not a matter for us. That is a matter for the police.

Q466 **Douglas Ross:** But you will feed back to them to say, "We are trying to encourage people to report hate crime. The figures show that 35% of victims of hate crime are very dissatisfied compared with 14% of victims of all crime, so let's sort this out."

My big worry would be—I do not want to generalise too much—that a victim of a hate crime is likely to be someone who could be a victim of a number of hate crimes, because they have been targeted in a particular way. If every experience they have with the whole process leaves them



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very dissatisfied—more than double the number of them are dissatisfied with the way they are treated, compared with all other victims of crime—they are not going to continue to report, and then we are not going to get to the root cause of these problems. I just worry that you say, “That is not really my issue.” Surely, all the agencies should be working together to ensure we do not have such figures.

Alison Saunders: Yes, we do work with the police to make sure.

Q467 **Douglas Ross:** My question was what you are doing with the police.

Alison Saunders: We can question the police and ask what more they are doing to make sure.

Q468 **Douglas Ross:** Have you done that?

Alison Saunders: Yes. We work with our police colleagues all the time.

Q469 **Douglas Ross:** What are they telling you?

Alison Saunders: I am not sure, because it is such a localised issue.

Q470 **Douglas Ross:** You have just said that you do speak to them, but then you are not sure—

Alison Saunders: We do speak to them on a local basis. There are 43 police forces across England and Wales—

Douglas Ross: I am very aware of that.

Alison Saunders: —which we talk to locally. The chief Crown prosecutor will talk to the chief constable about what they are doing—also the PCCs, because the PCCs play into victim care quite heavily.

Q471 **Douglas Ross:** You must have an interest in that as well?

Alison Saunders: Absolutely, because we want to make sure that witnesses get to court and they keep being engaged throughout the system.

Q472 **Douglas Ross:** But you are not sure what is coming back from them?

Alison Saunders: No. What I am saying is I can tell you that on a local basis—well, I can’t, but my two Crown prosecutors can. There is not a national police force in England and Wales for me to talk to—

Douglas Ross: I am aware of that.

Alison Saunders: But we can talk to them about what is happening. We cannot make them do anything, because we do not have any powers or any jurisdiction to do so. But when we get into the process, we can make sure we are talking to them about whether the victim or witness needs special measures, and we can make sure we are applying for those in court. When we get the witnesses and the victims to court, we talk to all of them individually. That is a policy that we brought in 18 months or two years ago, where we talk to victims and witnesses at court. We have



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found that their satisfaction has gone up, because we polled them to find out what the impact of that initiative was and we will talk to them.

We are doing a victim and witness survey, which launches, I think, next month. We will have some feedback from victims and witnesses about the services that we provide when they are in court and once they are in the criminal justice system. We can talk to police colleagues, and we do talk to them about the issues that we have. Apart from the issues for victims and witnesses, those issues are a waste of resources for us and the police. We do talk to them about that, but I cannot make them do anything.

Q473 Douglas Ross: Of the two issues I have raised—increasing awareness of what is a hate crime so people are knowledgeable about what they can report, and the experience of hate crime victims after they have reported it—which of those two things should be a priority? Don't say both, because if everything is a priority, nothing is a priority. Should it be more of a priority to increase the general awareness of hate crime and what constitutes a hate crime to encourage people to report it, or should we be getting it right for the ones who do report it now?

Alison Saunders: That is like asking me to choose between my two children. In some ways, there is no point in encouraging people to report if you have people who are disengaging and we are not getting the system right as it goes through the courts. Perhaps we should fix witness and victim satisfaction so that they engage with the process and encourage more people to come forward and report.

Chair: I hope that you have water.

Alison Saunders: I have. I am sorry; I have the tail end of a cough that has been here since Christmas.

Chair: We have a couple of final questions.

Q474 John Woodcock: Briefly, on a different point, can I point you back to the relationship between hate speech and Islamist radicalisation? Is there a path by which one could construct more definite hate crime legislation around the use of terms that people use to radicalise young British Muslims—concepts such as takfir, kufar or infidel? That is something that is not currently classed as a hate crime, but that clearly increases levels of hate. Currently, we can usually only prosecute when there is a direct incitement to violence. From a legislative perspective, could you see changes that could be workable on that front?

Alison Saunders: Potentially. If you legislate, it would have to be such a flexible piece of legislation that you run the risk of it being open to interpretation and argument, because you would not want to legislate for particular phrases or particular organisations. It is a bit like the proscribed organisation legislation; you may have to have the flexibility that somebody prescribes if you are looking at particular words or phrases. Is that what you meant?



Q475 **John Woodcock:** It would not necessarily need to revolve around particular issues. However, rightly and understandably, the focus has been on Islamophobia, which you can direct at a particular religion. There are people who are radicalised in this country, and there are others who are taught to hate everyone who is not of their religion or members of their religion who do not subscribe to a particular set of values on a particular set of issues. That is clearly an important area in radicalisation, but it is not currently captured by the legislative frameworks, is it?

Alison Saunders: No. I think the difficulty is that each case is so specific, in a way, and the circumstances do change. We saw that with some of the hate crime preachers. We have prosecuted them, but after some time, where we had a change in legislation and where their dialogues changed. Up until then, they were very careful. They knew the legislation and knew exactly which side of the legislation to stay on. My concern is how you make it flexible enough but not so narrow that it ends up being defunct very quickly.

Q476 **John Woodcock:** I can readily appreciate that that is the case. However, that argument is present with any kind of hate speech, is it not?

Alison Saunders: It is.

John Woodcock: Therefore, this is not unique.

Alison Saunders: No, and I am sure there are some very clever parliamentarians, or parliamentary counsel, who may be able to do that. It is difficult in the abstract really, I suppose.

Q477 **Chair:** What do you think of treating misogyny as a hate crime, either as a reporting criterion or as an aggravating offence?

Alison Saunders: There are lots of issues around it. We are considering that currently because we are feeding into the National Police Chiefs' Council, which is considering the issue. We have worked with the Nottingham Police, which flags misogyny. Interestingly, when we looked at our figures we saw that we had only prosecuted one case that they had flagged as a misogynist crime; we prosecuted it under the homophobic legislation.

There is a bit about understanding exactly what misogyny would mean, and how it would work with our violence against women and girls policies. I think 20% of our caseload is for related cases. Would they become misogyny cases? In that case, do you double count them or separate them out? Not all VAWG cases would be misogyny.

That is a very long-winded way—sorry—of saying that there are lots of issues that we need to work our way through, as we are currently doing, before we feed into the NPCC. I do not have a firm view at the moment, because there are quite a lot of nuances to it that we really need to think about so you do not get that unintended consequence.

Q478 **Chair:** In the evidence we took from Nottinghamshire—this is 12 months



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ago now—they felt at that time that it had improved training, it had improved awareness, it had improved reporting and it had improved the way in which organisations worked together. What they were doing was simply treating it as an additional reporting criteria rather than it changing the law in any way. One of the concerns that was raised with us was that the problem was simply going to be about capacity and ability to record it.

In some sense, obviously, the Nottinghamshire experience seemed quite a good challenge; the only problem is capacity and ability. If their experience was that this improved training, that would seem to be reason to do it. Do you think capacity and ability are a problem, or are there other reasons behind your caution?

Alison Saunders: No, there are other reasons behind my caution. We have done a lot of work on the VAWG agenda. We can see that the numbers have increased considerably, in relation to both reporting and referrals. It is about understanding how that would interface, and what we are missing. What is the problem we are trying to solve by flagging as misogyny? Is it a problem, real or perceived? Would there be that double accounting? As with the Nottingham case, we prosecute offences against women and girls in lots of areas and flag them as such. Therefore, I am not entirely sure what the problem is that we are trying to get at.

Q479 **Chair:** What is the timetable for you to look further at this and come to a conclusion?

Alison Saunders: As I understand it, the National Police Chiefs' Council is looking at it in April. We have said we will submit a paper to them with our views before then. They are looking at whether or not more forces will use it as a flag. Using it as flag, of course, is entirely different from having legislation that might make something a hate crime or not. If police forces want to use it as a flag, that is fine. As we have seen from Nottingham, there was only one case that we happened to prosecute as a homophobic crime.

Chair: As and when you come to any conclusions on it, if you are able to let us know, it would be extremely helpful.

Alison Saunders: Absolutely.

Q480 **Chair:** Have you looked at all at whether or not the legislation should be changed, and whether or not this should be considered as an aggravating offence?

Alison Saunders: At the moment, we are just looking at the flagging issue. There is no aggravated offence, obviously, and there is no crime as such. Police are looking at whether they should flag it or not, and we have not looked beyond that.

Q481 **Chair:** Do you think that is something the Law Commission should look at in its recommendation for a wider review of hate crime? Why did you think misogyny should be included as part of that?



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Alison Saunders: It might be something that would fit within the Law Commission for it to look at, so long as it looked not in a narrow way, but also at the consequences.

Chair: Looked at violence against women as well?

Alison Saunders: Yes, absolutely.

Q482 **Chair:** Thank you very much for your evidence today. We really appreciate the time you have given us and your patience. We will obviously follow up with some of the issues that it will be very helpful to have further written evidence on.

Alison Saunders: Absolutely. Thank you very much.

Chair: Thank you.