

Justice Committee

Oral evidence: [Disclosure of evidence in criminal cases](#), HC 859

Tuesday 5 June 2018

Ordered by the House of Commons to be published on 5 June 2018.

[Watch the meeting](#)

Members present: Robert Neill (Chair); Mrs Kemi Badenoch; Ruth Cadbury; Bambos Charalambous; David Hanson; John Howell; Gavin Newlands; Victoria Prentis; Ellie Reeves; Ms Marie Rimmer.

Questions 279 – 409

Witnesses

[I](#): Nick Ephgrave, Chief Constable, National Police Chiefs' Council; and Mike Cunningham, Chief Executive, College of Policing.

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

Examination of witnesses

Witnesses: Nick Ephgrave and Mike Cunningham.

Chair: Good morning, everyone. Welcome to our evidence session. Let us start with the declarations of interest, as are required. I am a non-practising barrister and consultant to a law firm.

Victoria Prentis: I am a non-practising barrister.

Ellie Reeves: I am a non-practising barrister.

Bambos Charalambous: I am a non-practising solicitor.

Q279 **Chair:** Mr Chalk, who has entered, is a practising barrister.

We do have quite a detailed brief and, obviously, gentlemen, we are going to be asking you some questions.

A number of high-profile cases around disclosure have had a lot of publicity. We operate under sub judice rules, so we are not going to seek to go into the detail of cases that may be live, but we may well wish to ask you about bits of history that are relevant.

Gentlemen, thank you for coming to give evidence. Perhaps you would like to introduce yourselves and your roles.

Nick Ephgrave: Good morning. My name is Nick Ephgrave. I am chief constable of Surrey police, but I am here because I am chair of the National Police Chiefs' Council's criminal justice co-ordination committee, which is quite a mouthful. My role in that respect is to represent the chiefs of forces in England and Wales in all matters to do with criminal justice, and disclosure is a very relevant topic at the moment.

Mike Cunningham: I am Mike Cunningham, chief executive of the College of Policing.

Q280 **Chair:** Thank you very much. We have had a series of reports into failings in disclosure in the criminal justice system, and Sir Richard Henriques is going through a raft of others. One phrase that struck me is that the failure is described as a "blight." Do you remember that phrase being used in one of the reports? Blight is a disease. It is pretty serious, isn't it? We are interested in what is being done to tackle this. The national disclosure improvement plan was published some five months ago. What has happened on the ground over those five months—what has changed, as opposed to just having a plan?

Nick Ephgrave: I would like to say that a lot has changed. In fact, what we in the senior ranks of my service are doing with disclosure is quite extraordinary in terms of the senior leadership, drive and determination behind making improvements, for all the reasons that will be clear from the reports that you reference.



HOUSE OF COMMONS

To answer your question, you will know from the documentation we have provided that the national disclosure improvement plan is themed into five areas: capacity, capability, leadership, governance and partnerships. Across those five areas, there are 42 pretty ambitious commitments to improve all sorts of areas under each of those themes. We are close to completing, or certainly partially completing, almost all those 42 commitments. I can break down some of them and give some examples, if that would help.

Q281 **Chair:** I am sure we can, and we are going to come on to that. I was glad to see that you set a number of deadlines on which you wanted to go forward. Have you met those deadlines?

Nick Ephgrave: In the broad majority of the cases, we have. There are a couple of instances where we have had to push them out by a month or two because we have come across logistical issues or issues with technology that have prevented us from getting to where we wanted to get quite as quickly, but the extensions have not been significant.

Q282 **Chair:** Out of interest, which were those areas?

Nick Ephgrave: One thing we are very committed to doing is to try to transfer digital evidence and material electronically to the CPS rather than send it on disk, which is a very antiquated way of doing things. That is quite complicated to achieve across 43 forces, so we now have a business case agreed to implement nine pilot schemes across nine forces, but it is taking a bit longer than we ideally would like. That is one example.

Q283 **Chair:** What is the other? You said there are a couple of areas.

Nick Ephgrave: The other commitment that stretched out an extra month—I know the chief executive can talk about the college himself of course—was the review of the training and the re-issuing of a completely revamped disclosure training package. We were aiming for March and we actually got that out in April. That is another example where it slipped by four or five weeks.

Q284 **Chair:** What is the level of dissemination of that, Mr Cunningham?

Mike Cunningham: That has gone across all forces. We know that since it was launched in April this year there have been 41,000 accesses to the training package, with nearly 6,000 completions. We are pleased that all forces have it, all forces are using it and the level of access is higher than we would normally expect from our training resources.

Q285 **Chair:** One thing that became apparent from all those reports and from the inspectorate reports was that there was real concern that people were not adequately trained—

Mike Cunningham: Yes.

Q286 **Chair:** —and were not aware of their responsibilities and how to tackle it.



HOUSE OF COMMONS

Mike Cunningham: Yes. I would make a couple of points on that, Chair. You talked in the opening about this being a blight—a serious issue. There is unquestionably in my mind recognition of the scale of the problem across the leadership of the service. You are quite right, in terms of the Mouncher report, HMIC and the CPS inspectorate report, that training is part of the problem. We recognise that in the college. We revamped the training ahead of the deadline set in the HMI report and we have it out there.

We are happy that it is out there and happy it is being used. We are not complacent. We will keep on it so that we ensure that staff do make full use of it.

Q287 **Chair:** Do you have a system to follow up how people make use of the training? They have it, but then it is down to individual forces to deliver it. Do you have a mechanism to see what they are doing with it?

Mike Cunningham: We do. We have a mechanism to track the amount of take-up. We do not have authority over forces in the sense of being a regulator. It is for chief constables. They recognise their responsibility to have people trained. They are obviously held to account by their police and crime commissioners in relation to how they run their forces, and we will provide that information to them so that they are aware of the level of take-up.

Q288 **Chair:** Do we have a disclosure expert in every force?

Nick Ephgrave: Yes, we do. We have a number of dedicated individuals. From the senior leadership position, we have a chief officer—a member of the NPCC—in every force who is the disclosure champion at what you might call a strategic level to drive and to provide senior leadership. They are supported at a tactical level by an officer of the rank of, usually, superintendent, and it might be chief inspector, depending on the force, and we have that in every force in England and Wales.

At practitioner level we have an increasing number of what we are calling practitioner champions, who are in the workplace alongside colleagues—the go-to people on a day-to-day basis for taking advice and guidance on “How do I do this form? What is the best way of presenting this piece of material?”

That number is growing. I can talk only for my own force. We started with a handful and are now up to 35. We have, I think, up to 600 of these practitioners across the country, who have either completed some seminars we are running or booked in to come on the next four or five seminars.

A significant amount of expertise is threaded through the service and we are relying on that network to, as you have said, drive the activity across 43 forces.



Mike Cunningham: In relation to briefing the champions, we have had the first of the regional events. It was really well attended: about 150 people came. It was a London-based event. We have demonstrated that there is a senior commitment to that. The director and I opened the event to reinforce the fact that we consider these to be very serious matters that need to be taken very seriously. We will give the same level of commitment to other regional events around the country.

Q289 **Chair:** In fairness, over the years I have frequently heard senior police officers say, "We are committed to it." People were saying it before Henriques. People were saying it as soon as PACE came in. But it never happened in practice.

Nick Ephgrave: All I can say is that this is the first time I have been responsible for it. I give you my commitment that that continues. I clearly cannot change what has happened in the past, but I can give you my commitment, and I know Mike would echo it: we are committed to making a real difference. This boils down to individuals being hugely impacted, and the catastrophic effect it has on confidence in the whole criminal justice system cannot be underestimated. I do not underestimate that for one second.

Q290 **Chair:** I entirely accept what you are saying, Mr Ephgrave—I think we all do—but the concern has always been that very often these decisions are taken by officers at a very junior level, a sergeant or a constable. How do we make sure that the genuine intentions of the leadership, well informed in these matters, get down to someone sitting in a police station in Bromley, or somewhere like that, under a lot of pressure, and that corners are not cut?

Mike Cunningham: You are absolutely right: whatever commitment we sit here and offer, it is always what happens on the ground that is important. You are describing the cultural challenge in policing to get this area of business right—and it is a cultural challenge. There is an approach to investigation that has to recognise that disclosure is an integral part of that effective investigation. We need to ensure that staff at all levels best understand that. That will take a lot of reinforcing and a lot of leg work. We do not underestimate the fact that this will be a long-term implementation.

Nick Ephgrave: Many of the actions we have already completed within the NDIP—national disclosure improvement plan—are designed to become business as usual. They are not things that we do for a short time and then stop. They are designed to become the new way of executing particular elements of the process. That is why the champions at each level in the service are so important. They are our eyes and ears in all the forces reporting back to the various shadow meetings all across the country to track progress.

Q291 **David Hanson:** Will you give some indication of what you see as the police role on disclosure and what you see as the CPS role on disclosure?



HOUSE OF COMMONS

Nick Ephgrave: It is clearly set out, as you know, in the CPIA, but the police role, when conducting an investigation, is to make sure that all the material generated during the investigation is collected, retained, recorded, reviewed and, if necessary, revealed—effectively, the four Rs.

The police officer involved in the investigation needs to apply two tests to all that material. The first is whether it is relevant. The relevancy test is the most fundamental test—it is the first test—and it is very broad. Material is deemed to be relevant if it is capable in any way of having a bearing on the case. That will be virtually all the material that you generate during an investigation.

The second test that the officer in the case, or the disclosure officer, if they are a separate person, has to apply is, having decided which material is relevant—the vast majority of it—they then need to review that and test whether any of any of it is able to undermine the prosecution case as they understand it to be or assist the defence as far as they understand it to be.

Once they have made that test, the officer is responsible for scheduling all that material—all the unused material—on the forms that we use for that purpose and revealing it all to the prosecutor.

The prosecutor's role—you will speak to the DPP shortly, and she is far better informed on this than I am—is to review those schedules and to make sure that the material that the officer has indicated may undermine or assist is, as appropriate, revealed to the defence.

That is, in very short summary, how I understand it to work.

Q292 **David Hanson:** This is a very general question: how would you characterise the current relationship between the police and the CPS on the ground?

Nick Ephgrave: I can only talk about my own force area. I would say it is very positive. We have effectively mirrored the national disclosure improvement plan in my force area, in south-east England, and we have positive relationships with senior prosecutors and senior investigators.

Q293 **David Hanson:** As you are representing the chief constables of England and Wales, what would your assessment be of the working operations between the CPS and the police generally?

Nick Ephgrave: I would say generally that is the impression I get. I have not asked every individual chief that question, but I am not getting any kind of intelligence that there are significant issues or tensions. There will always be disagreements, of course, differences of opinion and different views, but I do not think that we have a fundamental schism between the police and the CPS anywhere in this country.

Q294 **David Hanson:** Has the national improvement plan made a difference to that relationship?



HOUSE OF COMMONS

Nick Ephgrave: I think it has. People look at the fact that the director and the chief executive of the College of Policing and I are fronting all these events and recognise that this commitment to work collectively together is a serious one into which we are putting our own personal energy.

Q295 **David Hanson:** Mr Cunningham, I want to test again the points the Chair put to you earlier. You have clear responsibilities at the College of Policing to look at knowledge, education and standards, but you have just told us that chief constables are ultimately the policyholders for implementation at a local level. If I went to north Flintshire's police inspector today—my area—and asked about the College of Policing policy on disclosure and what the chief constable of north Wales has said about it, do you think that person would know?

Mike Cunningham: In the current climate I would expect the person to be aware of what their chief constable is saying about it and I would expect them to know what training the college has provided.

Q296 **David Hanson:** How many police officers do you think have assessed the college package you mentioned today?

Mike Cunningham: We know that there have been 41 individual accesses, but some of them could be repeats, so we do not know the actual—

Q297 **David Hanson:** What is your assessment of what the quality of that access is? I can look at a website tomorrow and forget it in four hours' time.

Mike Cunningham: There are five modules to the training. We know that nearly 6,000 officers have completed all five modules. You complete it in a way that tells you whether you have successfully completed it, as it were. The 41,000 hits will be people who are starting to work through the modules. It takes about two hours to go through the modules.

Q298 **David Hanson:** What is your accountability for the delivery of that service with the chief constables, as you see it, as the College of Policing?

Mike Cunningham: I am accountable to my board in relation to what the college delivers. I am a member of the Chief Constables' Council. To take on this role, I had been a chief constable, I then was an HMI and I then had to become a chief constable again, so I am working with peers. I have to work, as I did as an HMI, on recommending, encouraging and winning the arguments with fellow chiefs. I have very little mandation authority over chiefs, as I did—

Q299 **David Hanson:** The key question for us—this is when things go wrong as well as when things go right—is, who is responsible for ensuring that all police across the country are skilled and up to speed on disclosure? Who is responsible?

Mike Cunningham: The chief constable of the relevant force.



HOUSE OF COMMONS

Q300 **David Hanson:** If you find, as the College of Policing, that there is variation in accessing material, do you see yourself as having a role in encouraging them?

Mike Cunningham: Yes, without a doubt. We will not only provide information but there will be individual conversations between me and chief constables to alert them to the fact that they are behind the curve in the take-up of training, and so on.

Q301 **David Hanson:** Are you able—you may not be—to provide the Committee with a breakdown of force access to the course?

Mike Cunningham: I am not sure. If I can, I will do so.

Q302 **Chair:** You have legal powers, do you not, as a college? Have you used those powers?

Mike Cunningham: We have. We have issued two codes of practice—a code of ethics and code of vetting. You will also know from the legislation that once those codes are in place the requirement is for chief constables to have regard to the codes.

Chair: Indeed. Thank you.

Q303 **John Howell:** I want to explore how dynamic you think the model you are using is. You have given the number of police officers who have accessed the material. What is that as a percentage of all officers?

Mike Cunningham: There are approximately 122,000 officers in England and Wales. We know we have had 41,000 accesses to the system.

Q304 **John Howell:** That is 41,000 hits.

Mike Cunningham: Yes, 41,000 individual accesses.

Q305 **John Howell:** That is quite a low percentage.

Mike Cunningham: We do not have the repeat numbers, so I would be guessing, and I will not do that. The training went out on 23 April, so I think that, within a couple of months, 41,000 individual accesses and nearly 6,000 completions is a high number.

Q306 **John Howell:** Okay. What changes are you making as a result? On a day-to-day basis, people are going through this training. Are they giving you feedback, and how is the feedback being included? Can you say something about how the whole system reacts?

Mike Cunningham: There are two ways in which we will do that ongoing. First, we will get feedback, and we ask for that through individual force contacts and individual learning and development leads with forces as we go on. We have given a commitment to modify that training should it be required. That is the first way.

The second way is that other training—on cyber investigations, on stalking and on harassment—has a disclosure element. We are reviewing



all that training and we hope the review will be completed by July, when we will have all those elements of disclosure reviewed in the light of what we have put out.

Q307 **John Howell:** Why is the training not mandatory?

Mike Cunningham: We simply do not have the legislation to make it mandatory in that sense. There is another point here. If I were sitting in front of the Committee talking about domestic abuse or child sex abuse and the like—equally hugely important areas where training is really important—I would say that we need to provide good, comprehensive training on all these really important areas, for chiefs to make sure that training is implemented as best they see fit within their organisations.

Q308 **John Howell:** Would you like the power to make it mandatory?

Mike Cunningham: There are times when I would absolutely love more authority to be able to influence these things, but I do respect the constitutional position that chiefs are operationally independent.

Q309 **Victoria Prentis:** You surely do not need mandatory powers to encourage a police force that has accepted it has a very real problem with disclosure to do training?

Nick Ephgrave: As a chief constable, I sympathise with Mike's position, but, absolutely, I am not aware of any chief constable who is not absolutely on the money on this subject and very keen to understand the extent to which the training in his or her force has been up-taken. Getting figures from the college about how many officers have completed it would be a reminder to that chief constable.

Q310 **Victoria Prentis:** So if you got a letter from Mr Cunningham stating, "Please ensure that all your officers undertake this training," you would not take that amiss or require it to be made mandatory by some legislative means?

Nick Ephgrave: I think making the training mandatory ought not to be necessary—absolutely.

Q311 **Victoria Prentis:** You told us about practitioner champions. This is, in effect, the cadre of specialist officers envisaged in the plan, is it?

Nick Ephgrave: Yes. The cadre will never be all police officers. It can only be a number of practitioners who are in the most important places in the organisation—at the coalface, effectively, working alongside colleagues—but there has been quite a sea change, certainly in my force, and it is not just limited to Surrey. We are expecting what you might call general-purpose officers to do far more investigation now than ever before. It is that cohort of officers who have not come up through the old-fashioned system of learning how to do investigations that we are seeking to skill up as quickly as we possibly can, and that is where the champions at grass-roots level are so important.



Q312 **Victoria Prentis:** Do you think there is a risk that by calling people practitioner champions you are deskilling other officers for whom disclosure is an integral part of their jobs?

Nick Ephgrave: There is a risk that will happen, I accept. I can only speak for my own force, but I am confident that is unlikely to happen because everybody I speak to is absolutely aware that the responsibility for disclosure and the duty to disclose as set out in CPIA is entirely theirs. It cannot be offloaded or delegated on to a practitioner champion. They are the person who signs the piece of paper; they are the person whose signature goes on the disclosure schedules. If it goes wrong or a mistake is made, it is not the practitioner champion who is going to be asked questions of. It is the officer who has completed the schedule.

Q313 **Victoria Prentis:** I know you have accepted, Mr Ephgrave, that you have had a cultural problem with disclosure for a long time. Would you accept that in the past it has often been the youngest and most junior officer who has been given the task of disclosure in a complex operation, and in what way are you confident that that has really changed?

Nick Ephgrave: I remember that comment. I forget which report it was in. I am not entirely sure that my experience accords with that. I have been a senior investigating officer on homicide for many years and I have been a senior detective for a long time. I would always make sure that the person I entrusted with the disclosure process was one of my most reliable and experienced officers because I was very aware of the dangers that lay ahead if I did not that.

Where maybe that comment comes from is where you have an investigating officer who is also disclosure officer—a one-man or one-woman band—and they are often less experienced and junior. Absolutely. Maybe that is where that impression has been developed.

Q314 **Victoria Prentis:** I accept that you have said you clearly do have a cultural problem. Has anyone stood up in each force and said, "Look, chaps, we have a real problem here. You all need to do the training now"?

Nick Ephgrave: Yes, I have, and my colleagues have. I have spoken to every single investigator in my force personally at a number of seminars where I fronted it and spoke for two hours about how important this is to me. I cannot say that every chief constable has done that, but that is the purpose of having the strategic champions at chief officer level right across the country.

Q315 **Victoria Prentis:** But many of the strategic champions, with respect, will not be senior enough to have real gravitas locally. How confident can we be that that really is being done in every force in the country?

Nick Ephgrave: I do not wish to contradict you, but each of the strategic champions is at chief officer level, so they are either an assistant or deputy chief or a chief constable, so they are right at the very top of the



organisation. We know those people are engaged because we have run a number of seminars—I think the last one was in Lichfield—where a significant proportion of those men and women came to hear the progress we are making with the national disclosure improvement plan and understand their roles as senior leaders in driving the actions forward.

Q316 Alex Chalk: May I ask a few more questions about the culture? I do not doubt for a second that you are absolutely genuine in your belief that disclosure is important—that, as you put it in your blog, an investigation is a search for the truth. That is all commendable and absolutely right. But a very large proportion of cases might be dealt with, as you indicate, by a very junior police officer—say, a trainee detective constable straight out of Hendon, maybe 24 years old, dealing with an allegation of street robbery. That officer might be the officer in the case—in other words, in charge of the investigation—and also the disclosure officer. It might be their first or second case.

The defendant is somebody with no previous convictions on trial for something that is incredibly significant for them. A wrongful conviction is life-ending.

The culture for that young police officer is that that person has been arrested and charged. My concern is that the culture is, right, you have got your man, we want to get a result; we want to make sure that person goes down. No doubt if that person does go down, that young police officer gets the plaudits from his colleagues and indeed senior officers—“Well done, you have solved that case; the guy has gone down.”

How can we feel confident that what you are saying is right? When the message goes down to that officer, “Look, officer, if you come across a piece of evidence that suggests you have got the wrong man,” how can we feel confident that that junior police officer, trying to make their name—to earn their spurs with their leadership—will have the courage to say, “Do you know what, sergeant, inspector or detective, I think I have the wrong man?” How do we know the culture is going to go down that far?

Nick Ephgrave: The culture you describe is not one I recognise now. Perhaps if you go back 10 or 15 years, or perhaps a bit further, we had a very significant performance culture in the police service, and I was part of that. I drove performance religiously; I was a zealot at getting detections, and I make no bones about it.

But things have changed quite a lot in the way police approach performance. Performance is far more nuanced now than just the number of detections. Yes, we still measure it and know how many we get, but it is not the be-all and end-all. I would like to think the culture I am engendering in my force—I can only speak for my force, but I know other chiefs are the same—is more sophisticated. It is not that officers must get a result at any cost—that if they get a result they get a pat on the back and if the person is acquitted, walks away or the case is not



HOUSE OF COMMONS

proceeded with they get a black mark against their name. That does not happen—certainly not in my force.

Q317 **Alex Chalk:** May I ask what you mean by “nuanced,” in plain English, so that we understand? How is it “nuanced” for that junior police officer?

Nick Ephgrave: Let me try to explain. In old money, the only solution—and let us take a case of street robbery—you might argue, is a conviction. That solves the problem. But we know from all the academic research with which I am familiar that that is not necessarily the best way to solve the issue. It may give some sense of justice delivered to the victim, but it does not necessarily prevent that offender from reoffending. It does not solve the root cause.

What we try to do in the police service now, not just with street robbery but pretty much with all the offending, is to look at what is the most appropriate way to deal with this problem? It might be street robbery, domestic abuse, child sexual exploitation or any other offence. It is not always to prosecute. You always need to identify who is responsible and they always need to be held to account, but the holding to account does not have to be through the criminal justice system. My officers understand that.

Q318 **Alex Chalk:** Can you be really clear? I am that young officer. When I find that piece of evidence that leads away from the defendant—in other words, suggests it was someone completely different and, blow me down, what the person in the dock or the person charged is saying has been right all along—what has changed in my training or the culture in my police force that means I am going to be more confident to go to my superiors and say, “I am really sorry. We have been after the wrong person here”?

Mike Cunningham: Two things have changed in the training. The first, and perhaps one of the most significant changes, is, as I mentioned before, we in the college can issue codes, and we have issued two. The most significant was the code of ethics. The code of ethics has been in place for a few years now in policing. It has completely set a context that sets clarity on expectation, ways of behaving, ways of conducting yourselves. It is one code for the service.

Q319 **Alex Chalk:** What is the line that I as that officer will be looking at to say, “To be compliant with my code of conduct, as it now is, I am going to escalate this mistake to my senior officer and I am going to get this person out of custody and where he belongs”?

Mike Cunningham: There is the requirement to behave with honesty and integrity. People are tested on that when they apply to be a police officer. It is reinforced during their training and it is tested during promotion processes, as I saw this myself when I was an HMI inspecting police forces. That is beginning to have a cultural impact.



HOUSE OF COMMONS

The second training change that has happened is what we have recently introduced. What I would say, Mr Chalk, is that the training will be a significant part of cultural change, but it will not be the only answer. This has to be about reinforcing with leaders clear expectations of what is needed, from the very top of the organisation. We have begun that process.

I accept that chief constables cannot sometimes have very direct influence on what happens with investigating officers, but they set the tone. They set the expectation. They set the sorts of behaviours that will make people thrive in the organisation. Those things are changing. They might be a bit softer, more difficult to set out in a matrix way, but they are the sorts of behaviours that are being exemplified.

Q320 **Alex Chalk:** If I were to go to a junior officer now and say, "There is a maxim in prosecution: the prosecution wins no victories, it suffers no defeats—in other words, we bring the evidence and we leave it to a jury to decide," would he accept it? Or would he say, "What are you talking about? Victory is when you get the guy down"?

Mike Cunningham: I would invite you to test it. I think you would find that the former is very much the case.

Nick Ephgrave: I have to agree. You are more than welcome to come and visit my people. You will find what you find, but I am confident that there is not this overwhelming desire at all costs to get someone convicted. They want to present the best case they can, and what happens thereafter happens thereafter.

Q321 **Alex Chalk:** You accept that that was not the culture in the past, was it?

Nick Ephgrave: No.

Q322 **Alex Chalk:** The culture in the past was, "I've got our man. Take him down."

Nick Ephgrave: No doubt you will find examples of it, but I do not think it is widespread and I think it is changing rapidly.

Q323 **Chair:** There is objectivity—you always treat a complainant fairly and respectfully—but sometimes the idea that everybody must always be believed is not a helpful culture, perhaps.

Mike Cunningham: Yes. We in the college are examining the issue of belief of victims because we know that it is certainly a controversial point. We know that it divides opinion. There are very strongly held views on either side of that argument, and that is why we are undertaking that review.

Q324 **Chair:** Your job is to be objective, as police officers.

Mike Cunningham: Our job is absolutely to be objective and to ensure that victims have the confidence to come forward and report crimes.



Nick Ephgrave: One thing we know from the evidence, because victims have told us, is that the offender will often say, "Do not bother going to the police. They will never believe you." It is exactly that type of belief that we are trying to challenge by the approach we have taken. There is a live debate, as Mike has said, about whether "belief" is the correct word to use. I absolutely take your point: our job is to be impartial and search for the truth wherever it takes us. But we need to get the balance right and we do not want to reverse the very significant advances we have made in terms of people's confidence in coming forward and disclosing very sensitive matters to us.

Q325 **Chair:** Perhaps the Commissioner of the Metropolitan Police has got it right when she nuances that approach. Would you agree with that?

Mike Cunningham: We are looking at that at the moment. Her approach is very akin to the approach we are considering. One challenge is—Mr Chalk touched on this in relation to a culture in the past—that there was at times a culture where victims did not feel empathised with, encouraged and listened to, and we needed to deal with a culture of disbelief. It is really important that we do not take backward steps in this, and that, whatever we do going forward, we retain the gains we have made, especially with vulnerable victims and especially with victims of sexual crime, so that they have the confidence to report to the police.

Q326 **Chair:** At the same time, the defendant, regardless of the nature of the case, must have the same protections of fearless and honest disclosure.

Mike Cunningham: Absolutely.

Q327 **Alex Chalk:** Reflecting on some of the points you have been making, the impression I am getting from your evidence is, "Yes, Mr Chalk, it was pretty bad 10 years ago or so, but the culture has changed since." If that is right, how do you explain so many of the miscarriages of justice in the last couple of years? If you are right, all our police officers are as pure as the driven snow and they understand that integrity, integrity, integrity is so important. Yet there are extensive examples where that simply has not been the case, so is the training failing or are you perhaps sugar-coating it a bit?

Mike Cunningham: First, I do not think we are sugar-coating it. I do not think either of us would say that everybody is as pure as the driven snow. I think there is a slightly different cultural challenge to the one that you have described. The different cultural challenge is that disclosure is seen as a bureaucratic add-on to the investigation. That is not about, "We must get our man and convict them"; that is about, "This is a blinking tortuous bit of work" and not seen as integral to the investigation. That is what we need to change.

Nick Ephgrave: I echo that. That is it exactly. The nail has been hit on the head in terms of the issue we need to tackle in officers' attitude towards disclosure, and that is why the training is so important and the senior sponsorship and leadership is so important.



HOUSE OF COMMONS

Q328 **Chair:** There might be correspondence on the MG6 or something like that, without wanting to say what it, is because it is a chore and you might want to get it out of the way.

Nick Ephgrave: This is not, by the way, trying to provide excuses, but there are very practical issues. At the end of an investigation, if you are the officer in the case, it might be 3 o'clock in the morning and you might have been on duty for 14 hours and now have to fill in a very complicated schedule. The temptation is, not through misdeeds, just not to put enough detail in there because you have just about had enough. These are very human issues. We need to find solutions to some of those, and technology may help with some of that.

Q329 **Ruth Cadbury:** We know that there has been a 25% cut in Government finance for police forces and a 19% drop in the workforce in the last seven or eight years. How much is that impacting on the ability to address the disclosure challenge, particularly with the increase in the sheer data load with social media. Is the resource challenge also affecting the ability to train, develop and roll out best practice?

Nick Ephgrave: I really want to start the debate around disclosure by talking about resources, and we have not, clearly. This is a subsequent point you make, but I think that the fundamental issue is the one that we have been discussing mostly today, which is mindset and attitude. I want us to focus very much on resolving those issues before we worry as much about whether we need more resources, but of course what has exacerbated the mindset around disclosure is the increase in the complexity of the crime we are investigating and, as you have referenced, the fact that most people these days below a certain age effectively live their lives online and their every waking thought is often documented. That has created a huge burden that was not anticipated when the legislation was passed.

When you add into that the very real challenges that we have had as a service around the austerity measures, it does create quite a toxic mix, but the answer is not just more resources. I think we need to fix the mindset issue, try to harness technology to solve some of the issues that technology is presenting, if you see what I mean—we have a technology working group doing that—and, once we have done those things, maybe put our minds to resourcing. But I would not want resourcing to dominate the issue because I think there are more fundamental issues underneath it.

Q330 **Mrs Badenoch:** My questions are around the growth in digital material, but I want very briefly to ask a question related to what Mr Chalk was asking around culture. Are there any punitive measures for police officers who deliberately do not disclose? Does anything like that happen where someone has been found to have deliberately withheld information? In reinforcing the culture of disclosure, if people know they will get in trouble, so to speak, for not providing information, does that happen at all?



HOUSE OF COMMONS

Nick Ephgrave: Absolutely. Any deliberate act to not do something they should do is a misconduct issue, and as soon as it becomes apparent that would be dealt with through the misconduct process. In my experience, the issues we have with disclosure are not to do with the deliberate hiding of material. It is misunderstanding, the lack of it, and all the things we have talked about already, but were there to be examples of genuine misconduct, then absolutely we would deal with them.

Mike Cunningham: That is potentially criminal, of course.

Nick Ephgrave: And potentially criminal.

Q331 **Mrs Badenoch:** Is it often very easy to spot where someone says, "I did not see it," as opposed to withheld it?

Nick Ephgrave: When these types of things become apparent, certainly in my force, we ask our professional standards department to look at what the error was and to make a judgment about whether it was as a result of a lack of training, poor direction, not enough vision or whether the officer was negligent. If it falls into the negligence category, we will consider misconduct and take it further.

Q332 **Mrs Badenoch:** On digital material, we heard from witnesses in our last session about the huge growth in the material that you need to process. We were told that police are using kiosks to extract and analyse information from mobiles and other devices. Are the kiosks for this forensic imaging available across all police forces?

Nick Ephgrave: I can talk about my own force, obviously, and the answer is yes. As far as I am aware, most forces have this type of approach in place. There is a tiered approach, usually. The kiosks are the first tier. An operation officer can go along, embed the device and, after a period of time—it can be several hours—come back and have a download from that device in the form of files containing images, moving images, messages, internet addresses and all that kind of stuff.

That is the easy bit. The issue then is that the officer has the problem of how on earth they review all that material. That is the bigger challenge: having extracted it, if you are running a fairly straightforward investigation but you now have what could amount to 30,000 pages of documents, how do you realistically prioritise which bits to look at first? That is the bit that we are grappling with through the NDIP in our technology working group. We are looking at whether we can incorporate some elements of AI to do some searching and whether we can use some off-the-shelf analytical tools to help officers identify and analyse the material they have downloaded more quickly. But it is a real challenge for us, there is no doubt.

Mike Cunningham: I think it is fair to say that forces are in different places in relation to this, as Nick has alluded to. Some forces are pushing ahead. I have been in two forces recently where I have seen really good practice around digital forensics, and other forces have more catching up



to do. This has been commented on in other HMIC reports. The effectiveness reports of last year and the year before showed—certainly the year before—that forces were behind the game in relation to digital forensics. There were significant backlogs in some forces, and although progress has been made in the subsequent 12 months there is more to do.

Q333 Mrs Badenoch: You touched on the volume of information that you need to process. In that last session, Dr Collie, I believe, said that it is not just about having the information; it is about interpreting it appropriately. She used the phrase that a little knowledge is a dangerous thing, that sometimes people can see things that do not actually mean literally what you think you have seen, and sometimes it is the way a browser processes information as opposed to a search term that someone has put in. So, it is not just about the sheer amount that they have to go through but about understanding what it is they are looking at. Once that information is downloaded, who looks at it and how do you ensure that they have the skills to analyse what they are looking at rather than just go through it?

Nick Ephgrave: To answer the first question, the officer in the case or the disclosure officer—often it is the same person in most volume cases—has the responsibility for reviewing that material. There is no way round that. That is their responsibility under the CPIA. I was walking through my CID office, late turn, a couple of weeks ago and came across an officer sitting at his desk with a stack of paper like that, literally doing this, and each piece of paper had about four or five bubbles with messages on. I asked what on earth he was doing and he said that it was a domestic abuse case he was running, that this was the victim's phone and there was some chat messaging going on. He had no option but to print the whole lot and literally read every one because they were trying to be as diligent as they could be in identifying whether there was anything in the messages that might cast doubt.

So, I do not know what the answer is to the issue of officers being able to speed that process up other than to rely on the technology working group we have set up, which has some very clever people on it, to look at technological solutions that will help us to do that. The analysis of the product is the key issue, as you have pointed out, and I do not have an answer for you right now. We are searching for an answer to that issue.

Mike Cunningham: One piece of work that the college is involved in is helping forces to think about the workforce they need now and in the future. It is very clear that the skills that you are talking about, the sorts of things that people will be required to do, are significantly needed in policing. That is not just skills that chief constables will appoint and have available, so they will have to think about the types of people that they bring into their organisation, not necessarily police officers. People with the technological skills to enable these things to happen are in short supply. There needs to be more of that, but also skills that chief



constables can access. A number of forces are having relationships with local universities looking at what technological capability they can get access to via those arrangements. But I think you are right in identifying that there is a skills issue here for the service going forward and more to do.

Nick Ephgrave: Can I add something to what Mike has said? In terms of the volume of material and how one possibly works out where to start, a lot of work has been done under the NDIP—and I am sorry to keep referring to the national disclosure improvement plan, but I am very proud of it—that seeks to address that volume issue. The only practical way the service can address it is to identify and document what reasonable lines of inquiry the investigator or the disclosure officer is going to take with respect to unused material, because this is only going to increase; it is not going to get any smaller.

We have to start thinking of practical solutions. The answer cannot be that you have to review everything. In fact, the Attorney-General's guidelines make clear that there is no responsibility to review everything just in case.

We have introduced a couple of things that are now being piloted across the country. For all rape and serious sexual offences, we have a document called the disclosure management document, which the CPS uses and shares with the defence, in which we document the reasonable lines of inquiry we are taking in respect of unused material and invite the defence to comment and to say, "Actually, we think you should look at these messages," or, "You have not covered this period of time that we think might be relevant." It gives the prosecutor a real sense of what the officer has done and gets earlier engagement with the defence community so that we can better focus on the issues that are in dispute.

Secondly, we have brought forward earlier in the process the sharing of unused material with the CPS prosecutor. Officers are now obliged, particularly in RASSO cases, to document on a form we call the MG3, which is what we send to the CPS with the outline of the case, what their lines of inquiry have been in respect of unused material, particularly electronic media. The prosecutor has a really early sense of what we think might be relevant in these three phones and a laptop and what we are not even going to look at because, as far as we can tell, there is no value to be gained from looking there.

That approach is entirely in line with the Attorney-General's guidelines and is the only practical way forward. We are piloting it now. We have had some anecdotal positive feedback about the value it has added and we will evaluate the pilot once it comes to a conclusion.

Q334 **Alex Chalk:** But it is not really working, is it? Your point, as I understand it, is basically, "Look, folks, there is nothing to see here. There is no malice on the part of officers. We have to improve our protocols in getting this stuff on the schedule, properly recorded and disclosed to



HOUSE OF COMMONS

prosecutors.” But if that is right and things have changed, how do you explain cases like that of Liam Allan, where the police never put the phone material on to the schedule in the first place? The defence did not see it, so the defence could not say, “Well, look, there is going to be stuff in there that is going to exonerate my client.” You say there are all these protocols and it is all great, but in fact here is an example where the key evidence, or the key unused material, rather, never got on to the schedule. What went wrong there?

Nick Ephgrave: The point you make is a good one, but of course Liam Allan is one of the cases that prompted all the changes we have now made. The processes I described just now were not in place at the time that Liam Allan’s case was being progressed. You put your finger on a very important point, which is that often cases are stopped and it is flagged as a disclosure issue, when actually it is a lack of robust investigation or an officer misunderstanding the relevancy test at the earlier stage so material comes out very late in the day. It is shown as a disclosure failing, but if you wanted to be really picky you would say that is just an investigative failing.

Q335 **Alex Chalk:** Let us suppose there is an allegation of rape, a phone is seized and we know that on the phone are communications between the two. What will my junior officer, who is a trainee detective constable and the investigating officer, now do in scheduling that document?

Nick Ephgrave: On the MG3, the form on which we communicate the case details to the CPS, they will document in the additional section what electronic media they have, what their approach, in terms of reasonable lines of inquiry, is to that media and what work they have currently done—they may have downloaded some of it already. That then goes at a really early stage to the prosecutor, who might come back and say, “You need to go further back in the records,” or to do this or—

Q336 **Alex Chalk:** Forgive me, you have neatly gone on to my second point that there has been criticism in the past that prosecutors have received these schedules, taken them at face value, probably thought in their heart of hearts, “This is a bit thin; this is not terribly clear,” but have not pushed back on the police. To what extent are prosecutors now coming back to police officers and saying, “This is rubbish. This MG6C or MG6D that you have provided is, frankly, useless to me because it does not properly identify what is on there, and if it does not identify it to me it will not identify it to the defence”? To what extent are they pushing back on the police to improve the quality of the schedules?

Nick Ephgrave: We will find out when the pilot concludes and we can have a look at whether it has made a difference and get some anecdotal evidence, and, hopefully, some quantitative evidence. Above and beyond the pilot, the other thing we are doing with the disclosure improvement plan is to look at what—I hate to use this term but cannot think of another—key performance indicators we are going to look at that describe the failure rates and attribute it to either the police or the CPS.



HOUSE OF COMMONS

We have a draft set of KPIs. I have not been able to share them with the Committee, but I will do so once we have finalised them. Those KPIs are going to be the subject of scrutiny at the existing performance team management meetings that happen across all CPS regions, so that there is a real understanding of where the failures are lying, and the CPS and the police can have a better conversation about what they need to do to resolve the issues.

Q337 Alex Chalk: My last question is on sensitive material and non-sensitive material—a bit of a minefield. To what extent has your improved training assisted officers with truly understanding what is actually sensitive material rather than their own personal assessment? Do you see what I mean? It is quite a technical area? Have you considered that?

Mike Cunningham: The simple answer is that we do not know yet how effective the training has been in that area. Sensitive material is covered in the training, but—and I suppose this goes to the point I was going to mention in your previous question, Mr Chalk—I would not want to characterise our evidence as we are saying everything is great. We are not saying that. We are saying that we have put improvements in place. We have really put a lot of work into this to ensure improvements are in place, but there is some way to go. Some of the practice on the ground will still be not what it needs to be. There will be some improvements and we absolutely fully expect to see those improvements continue to develop. But we do not underestimate the challenges that we are going to have.

Alex Chalk: It is quite difficult for individual officers to understand. Some commonality and some consistency across the piece would be very valuable.

Q338 Victoria Prentis: Victims of sexual cases might be put off by the fact that their phone or their iPad might be taken away from them for a long time so that it can be interrogated. What is your current guidance on this?

Nick Ephgrave: It is a great question and something I am trying to resolve nationally. A number of forces have adopted different ways of approaching this. Some forces have created, effectively, consent forms in which the victim or the complainant is invited to describe which bits of their phone or computer they are willing to reveal and which bits they are unwilling to reveal. Of course, that document itself becomes disclosable because there may be questions asked about why you are unhappy. However, it is an attempt to try to get the balance right between our duty to properly investigate under CPIA and understand what material exists against the right to privacy that all individuals in this country enjoy.

Getting that balance right is difficult. I am trying to find a nationally consistent way of approaching that problem. We have a seminar set up—in fact, I think it is next week—to bring together people from the domestic abuse world, from the crime investigation world and from my



part of the world, the CJ world, to see if we can find a way through this minefield, because we do not want different forces creating different templates and different methodologies to try to address this very real issue.

Chair: Thank you very much for taking the time to give us your evidence. It is most helpful to us. We are very grateful to you and we will move straight on to the director, who has been very patient.

Examination of witness

Witness: Alison Saunders.

Q339 **Chair:** Director, good morning.

Alison Saunders: Good morning.

Chair: You have been director and head of the Crown Prosecution Service since 2013, so it is not the first time we have had the pleasure of your giving evidence before us.

Since 2013, Lord Leveson's review of efficiency said that one "major issue" was the "failure of the police and the CPS to meet deadlines for disclosure"; Mr Horwell QC said in July 2017, "Disclosure problems have blighted our criminal justice system for too long." The joint inspectorate report, which I know you have been alert to, referred to "extensive issues." Frankly, they said, "It's nothing new."

All this has happened on your watch. Why did it take the Liam Allan case and other high-profile cases for it to get some action?

Alison Saunders: It is difficult to say that it is just on my watch. Disclosure has been a systemic issue for quite some years.

Q340 **Chair:** But those reports were all issued.

Alison Saunders: They have been issued on my watch, and indeed there were previous reports before I took the position.

Q341 **Chair:** It certainly goes back before your time, but these reports—

Alison Saunders: It is a long-standing systemic issue. We have done lots of things during the course of the past 20-odd years around disclosure. What is different this time, and what we need to ensure that we do this time, is to take action that sticks.

Things have happened previously. We have done training, and the inspectorate commended our training. Richard Horwell commended the work that we had done on serious complex cases and the improvements that we have made.

We need to translate those into all cases and to ensure that the improvements—there is unprecedented activity happening now and, as you have heard, there is leadership from Chief Constable Ephgrave, from



HOUSE OF COMMONS

me and from Mr Cunningham around disclosure that really does make a difference.

We need to ensure that that is maintained. Sometimes we solve a problem and we deal with it. We think it is dealt with and we move on to something else. Actually, behind us, it falls apart again. We need to learn that lesson, as well as dealing with all the other issues that are there.

Q342 Chair: You, and any future director, have ownership of the national disclosure improvement plan. That is fair enough. Have we met the deadlines in that plan so far?

Alison Saunders: As you have heard from Mr Ephgrave, we have for the majority of them. All the training is up and running. We have had a pilot, we have taken feedback and we have improved it. That is now rolling out. We do not just have the national disclosure improvement plan but area disclosure improvement plans with each chief constable around the country.

You have heard a little bit—and I can expand on this—about the disclosure management document work that we are doing. We hope that, by the end of this year, we will have three pilots doing technology. A lot of activity has gone on. In the main, we have met our deadlines. If they have not been met, they have been extended by just a month or so.

Q343 Chair: The police have told us about their disclosure champions. Have you done the same in every CPS area?

Alison Saunders: Yes. Indeed, we already had those. We have reinvigorated their roles and made it clear what they are. I was at CPS London just a couple of weeks ago, talking to the RASSO team. They were telling me about their disclosure champion, who had been talking to their equivalent on the policing side. That is really important, because that is where some of the detailed operational discussions are taking place around what is and is not a good schedule and what should happen.

Q344 Chair: At the time cases such as that of Liam Allan hit the press you were quoted as saying that the case showed that the system was “working”—I think that was the phrase you used. If somebody has been either on bail or, even worse, on remand for many months before a case is stopped, the system has not worked very well for them, has it?

Alison Saunders: No. I have accepted, and I would accept now, that we have been reacting too late in the process. That is one of the reasons why, with the police, we have agreed that we will bring the disclosure scrutiny earlier in the process, so that it is not happening too late, because I quite appreciate the impact it has on individuals’ lives. We would want to ensure that anything happens as early as possible.

We have cases that we charge on the threshold test, which get into the court system, and we will always then have a look at whether or not things happen during the course of the proceedings. I would not wish to



HOUSE OF COMMONS

mislead the Committee to think that we were never going to charge a case where something does not happen during the course of it that we then stop. It is about making sure we do it as early as we possibly can, and that is what we are looking at.

Q345 **Chair:** I understand that, Director, and I welcome what you have said. However, this has been around: for those of us who would practise day to day at the criminal Bar, this was always there, ever since PACE and perhaps beyond. Why do you think it has taken so long for these perfectly sensible actions to be taken, which could perfectly sensibly have been done 10 years ago, never mind five years ago? Why?

Alison Saunders: As I have said, there have been actions. Where we have perhaps failed in the past is that we have always thought we have taken actions, those have worked, and we have moved on, but it has not been sustained. That is the lesson that has been learned.

Q346 **Alex Chalk:** It should not have taken the Liam Allan case, surely.

Alison Saunders: No—I agree.

Q347 **Alex Chalk:** People have been talking about this. Horwell was talking about it, Leveson was talking about it and practitioners were talking about it in robing rooms up and down the land. Why did it take something to get into the public consciousness before the CPS thought, “Actually, we had probably better do something about this now”?

Alison Saunders: I am not saying at all that we have not done anything in the past—because we have. We took lots of actions after the inspectorate report last year. We had put in place a complete revision of the disclosure manual. We had looked again at our training. We had looked again at our champions. It was not just the Liam Allan case.

We have taken lots of actions in the past. Richard Horwell acknowledged the actions that we had taken in serious complex cases and thought that they had made improvements. It is about ensuring that those improvements are sustained and are really getting into the culture.

Q348 **Alex Chalk:** The fact that you now have something that is all-singing and all-dancing, a national disclosure improvement plan, itself acknowledges that the efforts that were taken to date were manifestly inadequate. Do you not accept that?

Alison Saunders: That is why we have the national improvement plan. That is why Chief Constable Ephgrave, Mr Cunningham and I are fronting this up.

Q349 **Alex Chalk:** But why were the steps that were taken before manifestly inadequate? What is the explanation for that?

Alison Saunders: As I have said, I do not think they were inadequate; there were lots of improvements, and we have improved. As Richard Horwell’s report said, we had improved in serious casework. The



HOUSE OF COMMONS

inspectorate report said that our training was good. It is about ensuring that they are sustained and get all the way through all organisations and across the whole system. This is not just about the CPS and the police; it is the whole system. It should get right through and right into the culture so that we do not have to have national disclosure improvement plans again.

Q350 **Chair:** To me, there is some cherry-picking going on here. Mr Horwell praises your training, but at the same time he says that failure of disclosure has been a “blight” that has been going on “for too long.” That is manifestly inadequate, isn’t it?

Alison Saunders: I am not cherry-picking; I am just pointing out some of the alternatives that he also said.

Q351 **Chair:** The overall tenor of the Horwell report, like the others, was exceedingly critical. Why did the CPS not “fess” up to that?

Alison Saunders: That is why we have the national disclosure improvement plan. That is why an unprecedented amount of work is going on. I am not at all seeking to shirk the fact that improvements need to take place and that this has been an issue for some time across the whole system. I am certainly not seeking to shirk that. I know that that is the case.

Q352 **Chair:** People will have been wrongly imprisoned because of failures of disclosure, won’t they?

Alison Saunders: Some people have been. They have been referred through to the CCRC. Indeed, we have referred some of those to the CCRC.

Q353 **Chair:** That must have been degrading.

Alison Saunders: Absolutely. Any failure at all—

Q354 **Chair:** Does it weigh on you personally?

Alison Saunders: Yes, it does.

Q355 **Chair:** I know that, when I prosecuted a case and somebody went to prison for a disclosure failure, I have never forgotten it.

Alison Saunders: I feel any failure personally, because it is bad for individuals, it is bad for all those involved in the cases and it is bad for the system and confidence in the system. Certainly I do.

Q356 **Chair:** That has to be a real matter of urgency, doesn’t it?

Alison Saunders: Absolutely.

Q357 **Victoria Prentis:** You have just answered my questions fully. I remember, as a practitioner, how deeply disturbing and ethically difficult some of the decisions on disclosure are. I hope you are not trying to bat away in a glib fashion the real failings that were found in that report.



HOUSE OF COMMONS

Alison Saunders: No—absolutely not. What I am trying to do—and every prosecutor who comes to work does so because they want to make the right decisions. They do not come to work because they just want to get through the day; they appreciate—

Q358 **Victoria Prentis:** But you have engendered a system that enabled a culture where it was perhaps not easy to really question and look in a forensic manner at what was going on. Otherwise, Liam Allan would not have been so badly treated.

Alison Saunders: No—absolutely not. The review that we did clearly showed—as the inspectorate showed—that we should have challenged a bit more. It is sometimes very difficult to know what we do not know. If it is not on a schedule, how do we know it is not there?

Q359 **Victoria Prentis:** But we need a system where it is essential that we question those schedules.

Alison Saunders: I entirely agree with you, which is why we now have the pilot that Chief Constable Ephgrave was talking to you about, where we are talking with the police at a very early stage about reasonable lines of inquiry. What are those? Sometimes it helps to talk about reasonable lines of inquiry, because it is about the investigation.

Q360 **Victoria Prentis:** Do you think there is enough urgency in this? That is a pilot. Do you think people are being wrongly convicted at the moment because of disclosure failings?

Alison Saunders: I think the work that we are doing around the reasonable lines of inquiry and the focus that we have on disclosure and ensuring that we check and challenge will be those checks and balances to ensure it does not happen. It is about making sure that we do that.

There is a sense of urgency, and we have talked about disclosure at every single meeting with our chief Crown prosecutors for the past six months. We talk about it at the board, and we talk about it on every single occasion when I meet staff.

Nobody wants to see people going through the things that they have been through, and nobody wants to see our prosecutions or the system being called into question. That is not what anybody across the organisation, especially me, wants.

Q361 **Victoria Prentis:** Do you accept that some of the cultural failings are yours?

Alison Saunders: No, because I do not think that the cultural failings are in the last five years. As I have said, it is a systemic issue, which has been there for a long time. We have talked and do talk endlessly about this: I have talked about the importance of ensuring that the code is applied properly and that we question when we think things are not right.



Indeed, we stop a lot of cases. We do not blindly take cases to court. Our last figures showed that, in more than 30% of cases, we do not prosecute—we decide not to take cases to court. Where I think we have perhaps let things drift through, so it has been too late, is that we have not dealt with disclosure early enough in the system. That is where I think the real improvements, urgency and pace need to come in—talking about disclosure, almost pre-charge, rather than waiting for it to get into the system, where we are up against the clock in the court, which also acts against us.

Chair: I understand that.

Q362 **Ms Marie Rimmer:** Good morning. You wrote to us and told us that last year 841 cases had collapsed due to disclosure errors, but you also say that that data included “cases where the CPS or police have not met their disclosure obligations.” We have heard about the Liam Allan case. Is it likely that the true number of cases of disclosure is much higher than 841, but we cannot know because it is not information that is collected? Is that correct?

Alison Saunders: It might help if I explain the data. Where a case has been stopped—which does not necessarily mean “collapsed” in a negative way, but where they have stopped—we ask prosecutors to choose one of 28 different reasons. The disclosure one is where that is the sole reason. As you say, we do not break down whether it is a police or CPS failing, but there has been a disclosure failing.

Sometimes, we will have cases where disclosure is not the only reason. We have seen that through our recent RASSO review, where we have looked at the cases. Disclosure is not necessarily the only reason. It may be that we have some materials that have been given to us late, which undermines a witness’s credibility. That may well go down as a witness credibility issue—or where we have some material and a witness also decides that they are not going to attend court. That will go down as a witness not appearing.

What it has shown us is that we perhaps need to do some more work. We are working with the inspectorate to say, “What is the best way of getting into the detailed reasons around this?”

Q363 **Ms Marie Rimmer:** But how can that be scrutinised?

Alison Saunders: That is one of the reasons why we are looking at the data. This will only be the 800 cases where disclosure is the only issue. Cases often fail because of a number of different issues, and it is difficult to pinpoint just one.

Q364 **Ms Marie Rimmer:** The report released this morning states that 47 rape cases with disclosure problems were stopped in six weeks in 2018—that is, cases that had issues with disclosure of unused material. Of the 47 cases, only five were recorded on the CPS case management system under the classification “disclosure issues with CPS.” That is just 11%—



HOUSE OF COMMONS

five out of 47. Where are the other 42? Where do they all fall?

Alison Saunders: They will have gone under different categories, because of this explanation that we ask prosecutors to pick one of 28 reasons as the main reason. There may have been a disclosure issue, but at the same time it may have been that a complainant or a witness decided not to support the prosecution, and we dropped it because of that reason. It could have been because there was something material that conflicted with evidence, so it has gone down as a conflict of evidence.

I think that 28 reasons is too many to ask prosecutors to choose from. It gives them a whole range, which might be too wide. That is why we are looking at it again, to see whether this is the right way of collecting the data, or do we need to do something that is more sophisticated but simpler?

Q365 **Ms Marie Rimmer:** The number of reports has significantly increased, yet the number of cases prosecuted has not really increased that much. It makes up only 3% of disclosure errors in the data. Have you considered going any further into those 28 reasons and into any depth? Only 1% of cases proceeded against in any one year are rape or serious sexual assault cases.

Alison Saunders: I am sorry, but—

Q366 **Ms Marie Rimmer:** Only 1% of cases proceeded against in any one year are rape or serious sexual assault cases.

Alison Saunders: I am not sure what the—

Q367 **Ms Marie Rimmer:** It is in the report that has been released this morning.

Alison Saunders: In the RASSO report—yes. RASSO cases and violence against women and girls make up quite a large proportion of our casework. It is one of the types of cases that have increased as a proportion of our casework.

On the RASSO report, we looked at all those cases—just over 3,600—that went through our RASSO unit in a six-week period. We stopped 47 of those where there were disclosure issues. We have gone into more detail on those 47 cases and we have looked at them.

For example, we know that about 18 of them were on threshold tests—the test where we charge very early, because we think there is an issue with bail, further offences or witness intimidation, and we then seek the evidence afterwards.

Likewise, we know that, in many of those cases, third-party material—which we obtained from social services or education, or medical issues—was also an issue in about 14 of those cases, I think. We have gone into a lot more depth in relation to those 47.



HOUSE OF COMMONS

Q368 **Ms Marie Rimmer:** How do you feel the discrepancy in data has influenced the way the CPS has viewed the scale and severity of the disclosure problem?

Alison Saunders: I do not think it has necessarily taken away from the seriousness with which we view it because, as well as doing the performance indicators, we always look at reports about why cases have not gone through the courts to a successful conclusion.

We also do what we call individual quality assessments. We have changed that, following the inspectorate report last year, to ensure that we include more disclosure questions. That is looking at individual prosecutor's decision making and their live cases, asking, "What have they done?" "Have they done the right things on disclosure?" and "Have they asked the right questions?" There is a lot of material that we will look at.

Your point is well made, and that is why we are looking at that coding system again, because 28 seems like a lot of choices and a lot of reasons, especially where not one reason may itself be the reason a case is stopped.

Q369 **Ms Marie Rimmer:** In your view, what are the key findings from this report?

Alison Saunders: The key finding from this report is that sometimes we charge threshold cases too early. We need to be more robust in that, and we have already started work, so our charging division is already sending more cases back and we are charging fewer threshold cases already. We have put more management checks into those so, after a short period of time, managers are sitting down with lawyers to go through and review those cases.

Likewise, there are the lessons that we have learned around ensuring that we are dealing with disclosure at an earlier stage. That is why we have the pilot around the reasonable lines of inquiry in the disclosure management document that we serve on both the court and the defence, so that we are transparent about what approach we have taken to disclosure and why, and we can therefore start that discussion with the defence and the court at an early stage.

That is in a pilot phase. We are already getting good feedback about it, and the anticipation is that we will extend that to more cases, depending on the conclusion of the pilot. I think, from the feedback that I have already had, that that is what we will be doing.

Q370 **Alex Chalk:** The point of this rape and serious sexual offences prosecution assessment was, in the light of all the Liam Allan debacle, to have a little look at our sex cases and work out the extent of this problem. That is basically the point of it, is it not?

Alison Saunders: Yes.



HOUSE OF COMMONS

Q371 **Alex Chalk:** So, in six weeks, between January and February, you found 47 cases that were stopped, and the reason for it, having analysed it, was that there were disclosure concerns. Correct?

Alison Saunders: There were some disclosure issues, yes.

Q372 **Alex Chalk:** Right. Yet only five of them had been recorded on your CPS records as having anything to do with disclosure. Correct?

Alison Saunders: Yes.

Q373 **Alex Chalk:** That in itself is extremely concerning, isn't it? How can we have any confidence in future, when you or your successor comes to us with a whole load of data and says, "Don't worry, Justice Select Committee: we only had 20 cases this year that were recorded as cases that fell over because of disclosure failings"? In fact, there could be multiples of 20, because the data capture does not work, does it?

Alison Saunders: It is because we only record—as I am obviously not explaining properly, but it shows how complicated it is—

Q374 **Alex Chalk:** I understand—you have explained why—but I invite you to acknowledge that the data capture system is not fit for purpose, is it?

Alison Saunders: And that is absolutely why we are looking at it again.

Q375 **Alex Chalk:** Okay. On the second thing of real concern, as it seems to me, in the light of what we have heard from the police—"We are doing all this early investigation"—it says at page 6 of your report: "This analysis has found examples of communications evidence," which is phones, "that ought to have been reviewed by the investigator and prosecutor not being examined until after the case had been charged."

In other words, someone could have been banged up—locked up, remanded in custody. This is about this year. It is not something that happened back in 2014. This was in January of this year: "communications evidence that ought to have been reviewed by the investigator and prosecutor"—in other words, the police officer and the CPS—"not being examined." It is not working, is it? It is not getting any better.

Alison Saunders: That is why we have since—at the same time as that—partly put out our reasonable lines of inquiry guidance and guidance to prosecutors around communication evidence, which has gone to police forces as well. It would not have taken place at this stage in those cases. What we are finding—which is how I know things are changing; again, I am not going to say that anything is perfect—and one of the things we have seen is that the delay in our charging RASSO cases in particular has been extended and is going up. That is another thing that we measure, because we are concerned to ensure that cases do not hang around too long without decisions. That is extending, because we are challenging more and we are having those discussions pre-charge.

Q376 **Alex Chalk:** It always seems that the historic malpractice, so to speak, is



becoming more recent. This is the concern. It goes on, and it is so damning: "In some of the cases that were stopped this evidence was so undermining that there was no longer a realistic prospect of conviction." That is pretty damning.

What I want to understand is: what has changed between February of this year and June of this year that means that you can have confidence that the next one of these that comes along—perhaps we will get one in May 2019—will not have the same problems?

Alison Saunders: A lot has changed. We have brought disclosure forward, so it is pre-charge. Rather than charging and then dealing with disclosure, which is what has traditionally happened, we have brought it pre-charge. At that pre-charge stage, prosecutors are asking police officers, "What has been your reasonable line of inquiry?" and "What have you looked at on the phone?"

We are also being clearer about what is downloaded. That is one thing that we found to be an issue. Nobody has the same understanding of what a download is. When we talk about "download," what does that mean? It depends on your phone and on what tier of technology is applied to the phone. In some instances, it also depends, as you have heard from Chief Constable Ephgrave, on what the complainant in the case has granted access to.

We are very clear now that prosecutors must ask police officers what it is that they have downloaded and what they have looked at. That is what then goes on the MG3, so it is recorded. It also goes on to the disclosure management document, so that that is what the court and the defence are seeing.

I have had unsolicited conversations with the judiciary, and indeed with some defence practitioners, and they have said they think that is beginning to have a positive impact.

Q377 **Alex Chalk:** That is encouraging, but smartphones have been with us for a while. I am not saying your job is easy—it is not easy; it is a tough job—but is not the reality that this issue should have been gripped a long time ago?

Alison Saunders: We have been too slow to respond to the increase in technology. The amount of cases where people know each other—and not just in RASSO cases—has taken us by surprise, although it should not have. We have been faster about digital downloads of computers and, in the main, we are pretty good about some of those issues. Those tend to be in the fraud cases—we can download it, and you can word-search it.

This is very different. Sometimes you cannot word-search. How do you deal with that? You have to look at the paper that is churned out by a machine, which sometimes does not make sense.



HOUSE OF COMMONS

What we have learned from some of the cases that we saw in January and December is that it is not even the direct communications. People live their lives on phones. They talk to other people, and they might say things that ordinarily would not be recorded, but now are. That is a whole different ball game for us to consider. I accept we have been too slow.

Q378 Ellie Reeves: To follow up about resources, between 2009 and 2017, there was a cut in the CPS's expenditure of 27%. Between 2014 and 2017, there was an 11% reduction in headcount. What has been the impact of those budget cuts on disclosure processes in the CPS?

Alison Saunders: As I think Chief Constable Ephgrave said, it is not all about disclosure and resources. We have lost 30% of our staffing. That has meant that it has been challenging to continue to do what we need to do. To some extent, we were assisted—some might say—by a reduction in case load at the same time. What that has meant is that the lower-end casework has disappeared out of the system, which to some extent was easier. We have seen an increase in the top-end, complex and more sensitive cases. At the same time as we have reduced our headcount, we are seeing more complex cases.

At the last spending review we said to the Treasury that we could not take any more cuts. I am pleased to say that the Treasury listened to us at that point last year, so we are now in a position where we are recruiting more lawyers, and we have been recruiting lawyers for the past year. We are not always able to get them. Certainly, I do not think we can take any more cuts to our resources if we are to do what we are doing. Indeed, some of the disclosure issues may mean that we need more.

Q379 Ellie Reeves: Do you accept, then, that cuts have had an impact?

Alison Saunders: I think it is a combination of cuts, culture and ensuring that we really keep pace on this.

Q380 Ellie Reeves: How much money do you think is wasted by the CPS for not getting disclosure right from the outset?

Alison Saunders: We do not look at that, so I could not answer that question. What I do know is that our staff are fully engaged on the cases as much as they possibly can be. That is part of the reason why we look at cases that do not always succeed, asking, "Is there anything more that we can do?"

I should qualify that, when I say "do not succeed," that does not mean that they were not rightly brought. One of the big issues that I have never been able to get across is that it is not for us to bring cases that always end in conviction. It is quite right for us to take cases through the court that do not end in conviction, so long as we are satisfied that there is a reasonable prospect of conviction, we have the evidence and it is in the public interest to bring it. Then, it is for the jury or the court to decide on guilt or innocence. That is not our role, and it never should be



HOUSE OF COMMONS

our role. We have to be very careful that we do not equate failures with non-convictions.

Q381 Ellie Reeves: The National Audit Office published a report in 2016 that stated that “the CPS spent £21.5 million preparing cases that were not heard in court.” That is not about the jury convicting or not convicting; those are cases that did not even get to court. What is your view on that?

Alison Saunders: This is where we get back to the point that there are lots of reasons and it is all quite complex—it is not just about cases that have failed because of actions that we have or have not taken; some of it is about witnesses disengaging or evidence coming to light later, which we would not have known about before. We need to ensure that we look at those cases—and we do—so that we can eradicate any inefficiencies as quickly as possible.

Chair: That report also picked up other costs to the public purse: defence costs, court costs and so on. Fixing the system early is obviously a logical thing to do.

Q382 Bambos Charalambous: You have partly touched on this, but how often does the CPS make charging decisions before all the evidence is available to make a fully informed decision?

Alison Saunders: We do not charge in every single case. Now, about 60% of cases are charged; I think it is about 60% by the police. We terminate quite a few of those at magistrates court hearings. We will review those and stop them at the first hearing.

In those cases that come to us pre-charge, our current figures show that we have taken no further action in just over 30% of cases, so we have prosecuted about 60%.

Q383 Bambos Charalambous: In the report this morning you mentioned that 18 of the 47 disclosure cases that were stopped in the first six weeks of 2018 were threshold cases—ones that had a higher bail risk and that had to charge early. How do you respond to that finding?

Alison Saunders: In relation to the threshold test?

Bambos Charalambous: Yes.

Alison Saunders: We have been looking at the threshold test cases, which is why we have put more action in place—because of concerns around them. They are often very difficult decisions. Very often you have a police officer on the end of the line and somebody who appears to be a bail risk or who may on the face of it commit further offences or threaten the witnesses, so there are lots of issues to take into account.

What we know from having looked at these cases more is that, in some of those, we have charged too early, and we could push back—and we are doing so. It is about ensuring that we only charge threshold cases when we really have to, and we review them very quickly. Again, that is



HOUSE OF COMMONS

one of the lessons that we have seen. There is a management check within seven days to ensure that there is an action plan and the action plan is being acted on.

Q384 Bambos Charalambous: Earlier, you mentioned cases that are not pursued. Regarding the review of rape cases that has been referred to, those are referred by the police for a charging decision. Are you happy that the police are advised to look into the potential digital evidence regarding the accused person as well as the evidence related to the complainants? Are you happy with that situation?

Alison Saunders: Yes. Part of the guidance that we issued at the beginning of this year, to both officers and prosecutors, was to talk to both complainants and suspects at the early stage, to ask them if there was anything on the phones that should be looked at, but also to ensure that downloads are being looked at very early, that we know about them and that we are talking to officers about what is on there.

The issues that complainants have raised include concern around privacy—that we will download their whole phones. That is why the point about reasonable inquiries is so important. If the person concerned has been in a relationship for hours, days or weeks, the reasonable line of inquiry is going to be very different, compared with that regarding somebody who has been in a relationship for two or three years. The scale of the download that you would need to do there is very different. It is about that conversation about what a reasonable line of inquiry is.

Q385 Bambos Charalambous: Taking us into the realm of Stafford statements and reports to the police, we have been told that CPS prosecutors are told not to proceed with investigations where the claimants have refused to sign Stafford statements. What is your view on that?

Alison Saunders: That is a really difficult issue. If we cannot look at a complainant's phone and there is a reasonable line of inquiry that might exonerate a suspect, or inculcate, we need to be able to do that. If we are not granted access to that, we have to consider whether we will have enough evidence to proceed.

Q386 Bambos Charalambous: The Stafford statement goes far wider than just the telephone records. It covers a whole variety of other areas.

Alison Saunders: It is the same issue with third-party material. If, for example, it is medical evidence or social services records, that is why we have third-party protocols, where we need to know what is being held and what we can have access to or not.

Q387 Bambos Charalambous: Going back to disclosure statements or disclosure schedules, defence solicitors are sometimes provided with blank or very brief disclosure schedules from the CPS, which a prosecutor is meant to have signed off. What are you doing to ensure that prosecutors are discharging their statutory responsibilities with regard to



disclosure?

Alison Saunders: All prosecutors are being retrained. They have already had training, but all prosecutors are being retrained by the end of September. It is not just about the training; chief Crown prosecutors or deputies are all leading that to ensure that everyone understands the importance of doing disclosure—rightly, because it impacts on people's lives.

We are changing and have changed our individual quality assurance assessments, which managers are doing. They pick out cases at random, and their staff look at them. Part of that individual quality assessment is around disclosure and ensuring that it has been handled correctly.

Q388 **Bambos Charalambous:** How often do they send blank disclosures, or ones that are not good enough, back to the police?

Alison Saunders: We have not done that enough. Part of what we are doing now is making sure that we do that. I cannot give you a figure, as we do not collect those figures, but I accept that we have not done that enough in the past.

Q389 **Chair:** Given that signing off a disclosure schedule by the prosecutor when it was clearly inadequate—you therefore cannot properly review the material—is a breach of your statutory duty, and is potentially misleading to the other parties in the court, surely you should be collecting data on how often that happens and how often it is thrown back, shouldn't you?

Alison Saunders: It may be that we should.

Chair: It is pretty obvious.

Alison Saunders: We could collect data on an awful lot of things. It is about what we do and do not collect data on. We do not collect data on that, and we never have, but we do it through the individual quality assessment, looking at individuals, checking their schedules and ensuring that they have done it properly and have not sent something through that they should not have done or that was not signed, and then talking to the prosecutor about that and what has happened. Is it a training issue? Do we need to develop that? Is it a performance issue? Indeed, is it a disciplinary issue?

Q390 **Chair:** Is that going to be reviewed in every case?

Alison Saunders: Sorry?

Chair: Is that reviewed on every file in that fashion?

Alison Saunders: No, it is not, and we do not have the resources to do that.

Q391 **Alex Chalk:** There is an important thing about messaging. If there is a risk of someone being released from custody because their custody time



HOUSE OF COMMONS

limit has been breached—in other words, you have run out of time and no application has been made to extend CTLs and the person is out on their toes—a prosecutor is very concerned about that potentially happening, because it could be a disciplinary matter and they could be for the high jump. They are concerned about it. I know that, culturally, they would be very anxious about that happening.

Would they feel the same level of anxiety if a disclosure schedule was manifestly inadequate? In other words, are the right signals being sent from the top—that what we want a good prosecutor to do is, first, to ensure that people remain in custody when they should be in custody and, secondly, that the disclosure schedules should be good?

On one view, if you are trying to observe justice, both are just as important, are they not?

Alison Saunders: I agree that they are both as important. I think the right signals are being sent out. I talk all the time to prosecutors about how important it is. This is about people's lives. We have spent a lot of energy talking to prosecutors about it. This is not just a file of paper; this is a lot of people's lives that you are making decisions on. I know that, and prosecutors know that, because they talk to people all the time. They talk to people who are impacted by the case. We talk to complainants, and we talk to witnesses. We know the import of our decision making and how awful it is if we get it wrong.

Q392 **Alex Chalk:** I realise that, but I am asking specifically about the disciplinary regime. There are disciplinary consequences if someone is released because a CTL has not been extended. What are the consequences for the individual prosecutor in circumstances where a poor MG6C has contributed to or led to an injustice for the defendant?

Alison Saunders: They are just the same. The disciplinary process is there. It does not distinguish between whether it is a CTL failure or any other sort of failure. If it is a performance issue—and what we have seen through a lot of the reviews is that it is not deliberate, wilful or misfeasance, but a matter of error and training—

Q393 **Alex Chalk:** By the way, I am not making an allegation of misfeasance.

Alison Saunders: If it is around performance, we will take steps, whether it is an informal action plan, which is what we would do first to ensure that somebody is back on track—if it becomes intractable, it becomes a formal performance measure and it could lead to dismissal—

Q394 **Alex Chalk:** So, your evidence is that it is just as serious to do a sub-standard MG6C as it is to breach a custody time limit.

Alison Saunders: For any prosecutor to not perform and not to do their duty, and both those issues are our duty: first, to deal with custody time limits in a proper manner, and to deal with disclosure and evidence in a proper manner. We launch investigations into cases where prosecutors have not done that.



HOUSE OF COMMONS

Q395 **Gavin Newlands:** The RASSO review published this morning reinforces the improvement plan by stating: "We are making sure prosecutors and police receive the training they need on disclosure." We heard from the first panel that a relatively low percentage of police officers have accessed that training. How many of your staff have completed the training up to this point?

Alison Saunders: We will have trained all prosecutors by September this year. Our training is different, because it is not just e-learning. It is much easier for us, because there are many fewer prosecutors than there are police officers. The existing prosecutors will have already been trained, but we are retraining all those who have been through the training, and we are training all prosecutors by September.

Q396 **Gavin Newlands:** Could you give us a rough ballpark figure for how many that is? Are you on course to do that?

Alison Saunders: The number of prosecutors is just under 3,000 at the moment, I think.

Q397 **Gavin Newlands:** As a percentage, how many have received the training?

Alison Saunders: We have held a pilot course already, and we have taken feedback on it. I am not sure exactly how many others we have already carried out, but I can let the Committee have that information.

Q398 **Gavin Newlands:** That does not sound like a huge amount, to be honest.

I am not sure if you will be able to answer this. Regarding your initial assessment of the efficacy of that training, have you noticed any impact? Has there been any noticeable difference in the number of disclosure errors?

Alison Saunders: I think it is too early for me to answer that question. What I can say is that we have taken feedback from the first pilot course that we did, about how effective it was and whether it got to the right issues. We have changed it slightly since it has gone out.

Q399 **Gavin Newlands:** The plan talks a lot about complex disclosure cases, but disclosure is an important element of each and every case. Can you define a complex case for the Committee?

Alison Saunders: For me, complex cases are ones that are not just about more than one defendant; it is about the offence, the number of witnesses, the number of statements, how much digital material there might be or whether there are complex legal issues. We do not have a standard definition as such.

Q400 **Gavin Newlands:** The Committee has heard that prosecutors are getting some of the basics wrong in volume cases, in addition to complex cases. What steps are you taking to ensure that the CPS is getting those basics right?



HOUSE OF COMMONS

Alison Saunders: The training goes through the whole gamut. We have a staged training process, which starts from the basics, going all the way through to more complex matters, dealing with sensitive material, which you might not need to use in the more basic cases. We can let you have more information about that if you would like.

Gavin Newlands: That would be useful.

Q401 **Chair:** Yes—that would be most helpful.

There was a time when the same prosecutor would perhaps have ownership of a file pretty much right the way through. The officer knew who to go to—they would ring up X at the CPS. Once you knew who the defence solicitors were—I know you have made that point in the past, about when they are appointed—they knew who to go to as well.

We have heard evidence that that is not the case now. The London model and the review of the Liam Allan case have suggested that that should be an approach, that people should have ownership. What steps are being taken to achieve that?

Alison Saunders: That had disappeared some time ago, but we brought it back two or three years ago. There should be an allocated lawyer in every trial case. That name should appear in Crown court cases on the digital case system, so it should be clear who it is. We are ensuring that that happens in all cases.

Sometimes they will change. I think that was one of the issues in the Liam Allan case—that the lawyer had changed. Sometimes that will be inevitable, but it is a matter of ensuring that the name goes on to the digital case system so that they can be contacted, as far as we can ensuring that counsel remains the same throughout, particularly in RASSO and serious cases.

That is why it is important for us to speak to the defence at an earlier stage—as early as we can—to identify what the issues are, saying, “This is what we are doing on disclosure. Is that right, or is there something that you want to tell us that would make us look at it again?” That conversation has perhaps been missing, too.

Q402 **Chair:** We have had evidence from defence solicitors. They would agree with that as a principle, but they get correspondence from the CPS or communications in one form or another that do not even have a contact name or details on them, or a phone number to pick up. That cannot be right, can it?

Alison Saunders: No—it should have a contact name, and it should have the details that they can provide. Likewise, we sometimes have problems finding out who the person is to contact. We all need to get better at that; that is one of the things that came out very clearly from the seminar that I held in January with the defence. We are continuing those discussions with them about how to resolve that.



HOUSE OF COMMONS

Q403 **Chair:** It is accepted that there is a problem.

Alison Saunders: Yes.

Q404 **Chair:** No business would send out things without details on how to get back to them.

Alison Saunders: No—absolutely not.

Q405 **Chair:** Is that sorted now?

Alison Saunders: Absolutely. There should be an allocated lawyer in every single Crown court trial case, and that lawyer should make themselves known. There is no point having an allocated lawyer if they are not there to answer the questions.

Q406 **Chair:** Is that in place now, or when will it be in place?

Alison Saunders: Yes—it is in place now. It is a matter of enforcing it and ensuring that it happens.

Q407 **Chair:** So, if we get evidence that that is not happening for any reason, that is a failure to comply with what you are seeking to set out.

Alison Saunders: Absolutely, and it is very clearly set out for all.

Q408 **Chair:** Director, thank you for your evidence in this matter. It is fair to say, isn't it, that the system as a whole—no one individual and no one group—probably owes quite a number of people, both victims and people who may have been wrongly charged, an apology for all of this business over disclosure over the years?

Alison Saunders: Absolutely. As I said before, I feel every single failure. It is not something that we want. We have been very clear about where our failings are. We will apologise for those. I hope and I believe that the initiatives that we have in place will make a difference.

Q409 **Chair:** Thank you for that, Director. We know that you are leaving the post later this year. You may give evidence to us again; if not, I would like to thank you, on behalf of all the Committee, for the co-operation you have always shown us while you have been in post and while we have been working as a Committee, and to wish you well for your future career.

Alison Saunders: Thank you very much.

Chair: This session is concluded.