



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Briefing by Rt Hon Dame Siobhan Keegan,
Lady Chief Justice of Northern Ireland

21 March 2024

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Joanne Bunting (Chairperson)
Miss Deirdre Hargey (Deputy Chairperson)
Mr Doug Beattie
Mr Maurice Bradley
Mr Stewart Dickson
Mrs Sinéad Ennis
Mrs Ciara Ferguson
Mr Justin McNulty

Witnesses:

The Right Hon Dame Siobhan Keegan Lady Chief Justice Keegan

The Chairperson (Ms Bunting): I welcome the Rt Hon Dame Siobhan Keegan, the Lady Chief Justice of Northern Ireland, to our meeting. We look forward to hearing your presentation. Members have been apprised of the issues that the Deputy Chair and I discussed with you at our meeting last week, so they are familiar with those topics. After your presentation, if you are content, we will have some time for questions. Is that OK?

The Right Hon Dame Siobhan Keegan (Lady Chief Justice): Yes, certainly.

The Chairperson (Ms Bunting): Thank you very much. I will hand over to you.

The Right Hon Dame Siobhan Keegan: Thank you very much for the invitation to speak at this Committee. I am delighted to be here. I understand that I am the third Chief Justice to appear before this Committee of the Assembly. I hope that we can have a constructive discussion. It is very much part of my role to engage, so, thank you.

At the outset, it is important to state that, in accordance with constitutional conventions, I cannot discuss policy issues, nor can I discuss individual cases, as you will imagine. I do, however, want to work constructively with the Committee in an open and engaged way, as best I can.

Before we turn to the questions that you will have for me, I thought that I would outline some of my priorities. You have probably heard this theme before, but some of them are, of course, dependent on funding: that is, funding of either the judiciary or the Northern Ireland Courts and Tribunals Service. I should say that I understand that, in making these comments to you, any request for funding for Justice clearly has a knock-on effect on other Departments, in particular on Health and Education.

At the outset, I will highlight a number of points that strike me as particularly important as context for what I want to say. We are all aware that, compared with those of other Departments, Department of Justice figures are fairly stark. Whilst the total Northern Ireland block grant has increased by 43% in the last 12 years to 2023-24, the Department of Justice has seen only a 3% growth in budget allocation. I doubt that I am the first to make that representation to you, but it is worth remembering. The Department of Health and the Department of Education, which, of course, are very important, have grown by 70% and 45% respectively in the same period.

What does that mean in real terms? The Department of Justice's 2023-24 budget is around £423 million below where it should have been if it had kept pace with inflation. You have already heard from others about the recurring theme of serious underfunding in the justice system, so I will not say too much more about it. However, there is now a significant risk to the ability to deliver services to support the administration of justice, which will have ramifications, as you can understand, for the provision of fair and expeditious justice for citizens.

Those are my opening comments, which really set the context of any current justice debate. I want to move to a perennial issue, about which I have spoken before and that, I imagine, many of your constituents have raised with you, which is delay in the criminal justice system. The impact of that on victims is not lost to me. As an independent judge, I must, and do, note that it is important to remember that central to the rule of law is the concept that citizens should be equally treated before the law and that legal obligations and basic rights apply to all. That extends to victims, witnesses and defendants.

I am conscious that the impact of delay is raised consistently with you and with me. The problem with delay that is particularly pertinent and of great concern to me is the impact that it can have on attrition rates in criminal justice. I am also aware of the impact, on the other side of the debate, on the remand population. That leads to increased pressures on our prisons and to some human rights issues with people being on remand. Those cases sometimes involve very serious offences. On that point, I want to say that I continue to work collaboratively with all those involved in the justice system on those issues, with a view to dealing with delay and, in particular, trying to tackle delay from the start of a criminal justice case to the end — that is, end-to-end justice considerations from report of an offence to disposal in court. That is quite a wide remit.

The court stage, as you may or may not know, is only one of five stages in that system. There are other stages, involving investigation, report and decision to prosecute or not, that come before the court process. I am a member of the Criminal Justice Board, which is a very useful organisation because it brings together all the justice partners and all the bodies that operate throughout the five stages. It is fair to say that we can see that there are systemic issues, and we are engaging collaboratively to deal with them. By that, I mean me, representing the courts; the Public Prosecution Service (PPS); and the police in particular. I engage with the work streams through the Criminal Justice Board, but, separately, I also engage with other organisations that have a particular interest in the issue of delay, due to the victims who approach different organisations.

I will give you a few examples. The first relates to work being undertaken by the Commissioner Designate for Victims of Crime. Geri Hanna has met me on a number of occasions. She also recently attended a meeting of the criminal courts liaison committee, where there was a discussion about issues that she has raised with me and victims have raised with her. Those relate largely to issues of third-party disclosure in criminal justice. Victims are particularly concerned about the disclosure of medical and counselling records. That is a practical issue that we have to look at, but there is a broader panorama of the re-traumatising of victims in criminal justice. That is a very strong and potent issue that we have to deal with. I continue to engage with Geri Hanna, and it has been very purposeful.

The second example follows my recent meeting with the Director of Public Prosecutions (DPP). Again, I have ongoing meetings with Mr Herron. It is about early engagement and better case management to try to deal with delay in the criminal justice system. I have looked at that broadly with him. We have thought about looking at and visiting, collectively, other jurisdictions to see how we can perhaps adapt our practices. With the help of Glyn Capper from the Courts and Tribunals Service, we have thought about having a better monitoring form in the Crown Court for collecting data on why cases are adjourned or taking too long.

I did some specific work on that, through my office, to look at cases in the Crown Court and adjournments. I am content that there is no adjournment culture on the part of judges. Judges want to get on with the cases. However, some issues are clogging the system, principally with cases not being

ready due to disclosure issues. The data shows that there are different applications made for adjournments coming from prosecution and defence. We now have some empirical evidence to work on to deal with the issue.

The third area that I have engaged on recently, which you might be interested in, is with the director general of the Prison Service, Beverley Wall. She has spoken to me, as I mentioned, about the growing prison population and the knock-on effects of that. One issue that she raised with me, which we have worked out on a practical level, was about bail courts sitting on a Friday, releasing late on a Friday afternoon, and the people released having no access to housing or services and immediately reoffending. Beverley clearly articulated the issue, and I have changed the listing to a Thursday rather than a Friday. That is a win, and we have dealt with an issue collaboratively and put in place a different structure of working that will help. It might be a small gain, but it is important, nonetheless.

Criminal justice is a large part of this address to the Committee given the delay issues. I do not want to lose sight of the fact that there are other areas in the courts that are of interest to the Committee and to people. There are still some delays in family justice, and I am alive to that. I am also alive to how the delays there may adversely affect parents and children. If ever there is an area where there needs to be early intervention and early decision-making, it is family law, and I say that from my experience. I wanted to mention that and to assure the Committee that it is on the agenda with the shadow Family Justice Board. One area in that sphere that is a recurring issue is the resourcing of social services and guardians to help in family justice. It is vital to have that in place in those cases. That service from those agencies is vital.

Finally, in the wider context, I recognise that family and civil courts in Northern Ireland also need to be fully resourced and structured. There are Gillen review recommendations on specialist courts. Specialist courts in family law, for instance, would assist people who have suffered from domestic violence or coercive control. In civil law — we cannot forget that many people are affected by law outside the criminal arena — people may have an injury at work, a car collision or some other case that is very important to them. Therefore, I am alive to the issues not just in criminal law but in civil and family law.

On the wider plain, the principle of open justice, which I have spoken about before, is very important to me. The reason for that is fairly obvious: it is to maintain public confidence in the justice system. I am a strong proponent of it. You may have heard that I started a pilot to look at some filming of sentencing remarks in the Court of Appeal. We have nearly finished that pilot; it finishes tomorrow. We looked at four cases not for broadcast to see whether we could roll that out. I personally think that it would be a good thing. It would allow people to see how the courts operate and, hopefully, to get some explanation orally as to how sentences are reached. I hope that that will progress positively. It needs legislative change, and I have spoken to the Minister about that. She is encouraging of the project. The next step is legislative change to allow for broadcasting. Let me say that it is not one size fits all: it would be monitored; I would manage it; and it would not be for every case. We are behind other jurisdictions on that, and I personally think that it is time that we move on it.

Another aspect of the open and transparent piece is communication with victims and witnesses in the justice system about what is happening in their cases. Having engaged on that, I think that it is a perennial issue. I am concerned that, particularly in criminal justice, over 50% of victims feel that they are not being updated fully on what is happening in their case. That adds to the stress of an ongoing case. I am fearful that that can lead to re-traumatisation or drop-out rates rising in criminal justice.

I have spoken to the PPS and the police about that. It is achievable, with not an enormous amount of effort, to set up more robust and effective communication systems. One example that victims have written to me about is when the court venue changes and that has not been communicated until the last minute, or there has to be an adjournment because a case is not ready. I hope that we can make some improvements through collaborative working.

Problem-solving justice in our system is another important topic. It is important to avoid lengthy hearings and to have early engagement in criminal justice and early intervention in family justice. There have been a number of pilots on it. The drug and alcohol court in Belfast, which I myself observed twice, has been a revelation. The point was made to me, "Well, is there not recidivism in that area? Is it a small gain?". I am not so convinced about that. Even if one or two people succeed and get through that and are not back in the criminal justice system within the month, it is worthwhile. I have seen, at first hand, how the judges and probation encourage people with supports to deal with their addictions. I have always been slightly concerned that those areas remain as pilots and we have not embedded them fully within our system. The domestic violence court is another one that is piloted

and we could probably build on. That is an important area for me. It is along with modernisation of the justice system. I am not going to speak at any length on that. There are papers that have been created by the Courts Service in liaison with my office on that. We work together on it. It is a very important part of the justice infrastructure to modernise, and we are committed to it. That is all well in train.

I will mention a couple of other areas that are important and that I would like to flag with you. The first is the issue of a Northern Ireland Law Commission. We have not had a functioning and effective law reform body since 2015. A decision was taken then by a previous Minister of Justice to wind down the commission. That was to prioritise services as a result of pressures facing the Department of Justice. I am concerned about us being out of step with other jurisdictions and missing out on a law commission. We are the only jurisdiction in the United Kingdom and Ireland without a functioning law reform body. Some economic analysis has highlighted the benefits of meaningful law reform to the economy, society and businesses. Furthermore, there are issues out there that require a specialist body such as that to look at whether there should be reform to law. There are also projects ongoing in sister law commissions, where Northern Ireland is left out. Therefore, I am very clear that it would be a benefit to us to re-establish the commission. The other law commissions keep our designated judge in the loop on what is happening, but we are not at the table on it, and Northern Ireland loses out by not having law reform on the agenda in that structured way.

I also want to speak briefly about a matter that is of immediate concern to me, which I have raised in correspondence with the Minister. That is the need for additional judges, specifically County Court judges. That ties in with what I said about delay in the criminal courts and the backlog that came about as a result of the pandemic. There is also a broader picture here, because the complexity of Crown Court work has increased substantially in recent years. That is because of the legislative changes that have been made and the serious nature of much of the work. The ability for victims to come forward has been recognised and supported, so we have more cases in the system that are more complicated. County Court judges are also dealing with murder trials, which would previously have been heard by High Court judges, and hearing most of the non-jury cases.

I am now deploying 15 of the 18 County Court judges, whom I currently have, most of the time to hear criminal trials. The statistics show a real increase here, because the Crown Court is now dealing with defendants at a rate that is nearly 64% higher than pre-COVID. It is predicted to recover from the backlog built up during COVID by January 2025, but the rate of cases coming in remains greater. The statistic that we have on that is that the overall number of defendants in the court system is now 45% higher than pre-COVID, and that is adding to the burden of work, delay and unsatisfactory waiting times that we really need to correct.

I also point to the fact, which, I am sure, will not be lost on you, that the cohort of specialist judges is dealing with a constant caseload of historical serious sex offence cases. They have those day in, day out. They are very difficult for victims, as we know, but they are also difficult for the profession. You have to be a specialist to deal with those cases, and the judges are conscientiously working through them. They are also dedicated to prioritising those cases.

A success story on that front is the protocol to deal with complainants who are under the age of 13, which is now extended to those under the age of 16. The time frames for those cases is a great example of how we can fast-track and prioritise cases to avoid re-traumatising those young children and to get them through the system. That is a success story, but the knock-on effect is that people are working really hard, and there are other cases that do not involve that age of complainant.

I am concerned about the effect on recruitment and retention if funding is not provided for additional judges, because the current cohort is carrying a substantial burden in dealing with those cases and helping to reduce delays, as well, in the Crown Courts. I understand that that is a difficult point to make at a time when funding is difficult, but I feel strongly about it, and that is why I wanted to finish on that note today. I have written to the Minister about it and asked her to look at it for me. It would be of great benefit to our system, in particular to dealing with delay and serious sex offence cases, if I could have that support.

In relation to all these matters, I have very much benefited from collaborative working with the Courts Service, the Minister, the Criminal Justice Board, voluntary agencies and the profession.

I look forward to answering any questions that you may have in relation to anything that I said or anything else that I can help with.

The Chairperson (Ms Bunting): Thank you very much, Chief Justice. Usually, in these circumstances, I go last, but last week I learned my lesson as time was tight. *[Laughter.]* For once, I may use my Chairman's prerogative, if that would be all right.

The Right Hon Dame Siobhan Keegan: Yes.

The Chairperson (Ms Bunting): I have a couple of questions. I am interested in the issues that you raised around the Northern Ireland Law Commission. I would be interested to hear about what you envisage that that could do and the benefits that it would bring for Northern Ireland.

The Right Hon Dame Siobhan Keegan: There are UK-wide issues that Northern Ireland should be sighted on in terms of law reform. Down the line, there are going to be lots of issues arising as a result of regulation of our profession and the use of AI. There is a consultation, I think, in the Law Commission for England and Wales about driverless cars, and that is an indication of where we are going and how law has to adapt to changing societal norms.

Other areas that cross boundaries are electoral law and surrogacy law. We have other issues that affect citizens day in, day out on which they may write to you and ask, "Why are we different from what is happening in other jurisdictions?". There is a cross-border element, as well, with the Republic of Ireland's Law Reform Commission, which has looked at issues that cross over our jurisdictions.

We did, in the past, have a functioning Law Commission, which dealt with a number of legal subject matters that have been of use. Bail reform was one; there was a report on bail reform. Land law was another. Lots of things come up in that area that are, perhaps, not highlighted in the press but are very important to people: property, land law and that type of thing. Frankly, we should be at the table on law reform. I understand that the other heads of Law Commission are exercised about that as well. They invite us as a courtesy, but, without the infrastructure and the funding, there is very little that we can do. As I said, it has been brought to my attention that there is data and empirical evidence that it is of benefit and helps. It probably speeds up any law reform projects that would be taken to the Assembly for legislation as well.

The Chairperson (Ms Bunting): I wanted to raise another issue. Your visit to the Committee is timely, given that the Second Reading in the House of Commons of the Post Office (Horizon System) Offences Bill was yesterday. You will appreciate our perspective on Northern Ireland not being included in the Bill, despite the fact that our First Minister and deputy First Minister, our Justice Minister, our MPs and, I think, a number of Members will be keen for people in Northern Ireland who have suffered a wrong to be included in and covered by that Bill. On behalf of the judiciary, would you be amenable to Northern Ireland being covered by that law?

The Right Hon Dame Siobhan Keegan: I have to be careful not to step into a policy area, but I can say a little about that. As my counterpart in England and Wales indicated to the House of Commons Justice Committee, no green light for this type of legislation was given by the judiciary as such. You can understand that, due to constitutional convention, those convictions would be quashed by legislation. That did not come from judiciary, but I understand that the Bill is going through Parliament.

The position in Northern Ireland is slightly different from that in other jurisdictions because of volume. We think that there are about 28 related cases in Northern Ireland. In the Court of Appeal, I have dealt with two, which were quashed last year, and one is pending. There could be another 23 to 25 cases in the system. There is no issue with capacity in Northern Ireland. Actually, I do not think that there is a capacity issue in other jurisdictions. If the courts were asked to deal with those cases, we would deal with them, and we would do so quickly.

Now that the legislation has been drafted, it is unfortunate to think of people in Northern Ireland being left in a different situation from people in other jurisdictions. I understand that point, because it has been described as a very stark, recent miscarriage of justice for lots of people. In answer to your question, I can see the issue with treating people in different jurisdictions in different ways. I am a bit worried that we are on different planes, but it is not for me to create policy or deal with the practicalities of it. I just hope that there is no delay for Northern Irish people, who have the same right to a compensation package and having their name cleared as people in England. That will be very important to people.

The Chairperson (Ms Bunting): What you said is key. The issue is timing. Why should people in Northern Ireland be disproportionately disadvantaged because of timing and because we are not included in the Bill? Thank you very much for that.

I have one more question. Again, I am not clear on whether you can answer it, and, if you choose not to do so, so be it. At the meeting that the Deputy Chair and I had with you, I omitted the issue of court bail. Would you care to share any views that you may have on the effectiveness and enforcement of court bail and whether changes or improvements could be made in that area?

The Right Hon Dame Siobhan Keegan: Court bail is determined by each judge on the basis of the facts of each case. There is quite a clear set of well-established criteria, emanating in domestic and European law, first, on whether bail should be granted and, secondly, if it is granted, on what conditions. We have quite a remit to impose conditions on anyone who achieves bail, which are designed to militate against a risk that is identified. Usually, that is a risk of reoffending or interference with witnesses. If those conditions are breached, the person has to come back to court and face being remanded. The courts are very alive to the idea of trying to regulate bail as best they can with conditions. I cannot say that every case results in people abiding by conditions, but anybody who breaches bail conditions knows quite well that there are serious repercussions: they are unlikely to achieve bail again, or they will have a much harder job achieving it. I am not sure that I can say much more about that.

The Chairperson (Ms Bunting): That is fine. I just wanted to establish whether you feel that there are areas that need improvement or that things are working smoothly. You will appreciate our point of view: the issue of people being given bail — whether that is police bail, court bail or some other kind of bail — can have a massive impact on public confidence, depending on the type of case. I just wanted to hear your view on that.

The Right Hon Dame Keegan: I understand that, but, pending trial, there is a presumption of innocence.. I understand that it is difficult for people to rationalise why someone is released pending a trial, but the court weighs all of that up, and it has to apply a fairness standard to both parties in such cases: the accused, who is presumed innocent until found guilty, and the victim. By and large, I think that we get the balance right.

The Chairperson (Ms Bunting): That is helpful, and it is helpful for the public to hear what you have to say on that. Thank you. I will open up to Committee members.

Mr Beattie: Thank you, Lady Chief Justice. That was insightful. You have an awful lot going on. I was not going to raise the issue of delays in justice — an issue that we talk about a lot — but you raised it. Confidence in our criminal justice system is being undermined because of delays to justice. My question seeks to expand on that a little and maybe to look forward slightly, because we are not in a good place now. I hear that the Criminal Bar Association may well take a vote tomorrow to go down to a four-day week. It would be interesting to know what effect you think that will have on us. If it votes to go down to a four-day week, it will do so over the pay dispute. You talked about the delays in our criminal justice system. I have been hearing about that for many years on this Committee, and this Committee has talked about it for many years. The reality is that, in Northern Ireland, it takes us twice as long as England And Wales to do the same thing. I do not fully understand that.

I do not know whether you can answer this, but I am concerned about the reduction in sentencing for a guilty plea if a guy makes that plea on the day that he goes to court. Having used all the resources and delayed various things coming forward, he gives a guilty plea and gets a third taken off his sentence. Should we be looking at that?

The Right Hon Dame Keegan: There were a couple of elements there.

Mr Beattie: There were. I am sorry

The Right Hon Dame Keegan: First, I agree that we have been talking about delay for a long time, but I think that we are at the point of trying to deal with it robustly. Secondly, my running of the courts, dealing with delay and the current cases, depends on the legal profession. The criminal Bar and solicitors are parts of a specialist criminal profession. It would be wrong of me to start to talk about their issues, although I know that they have some. We work together, and I would not want to see that

being, let us say, put off track. I hope that some of the things that you mentioned will not come to pass. Everyone needs to be supported and funded in this. That is all that I will say about that.

You asked about guilty pleas. There is a statutory provision that a court must take into account when giving a reduction for a plea. You can imagine why that is. The legislation refers to the fact that that saves court time and resources — that is what the legislation says. The legislation also says that the reduction that is to be given will depend on the stage at which the plea is given. In Northern Ireland, we have maintained a good system of discretion on this and do not have hard edges. A couple of years ago, the Maughan case went from our jurisdiction to the Supreme Court. The case referred to maximum credit being given to somebody who pleads guilty early. It is very important to the victims, in any event. There should be a sliding scale up to the day of trial. It is a nuanced issue, however, because each case is different, and, in some cases, the benefit of a guilty plea, even if it is at the court door, is really strong and important. Judges look at this. It is not an automatic third off if you plead at the door of the court; in fact, it is usually less. If, however, you plead at arraignment, for instance, when the charge is first put to you, or if, when you were interviewed, with the help of a solicitor, you said, "I am going to plead guilty to this", there should, I think, be good credit. It helps the criminal justice system to operate. We have such a lot of delays in cases that need forensic evidence — drugs cases, for instance, or phone evidence — that, if there were an early plea, I could see a real benefit in enhancing credit.

At the same time, I understand that some victims feel hard done by in a way. I am not really a proponent of the thinking that saving the victim from giving evidence at the door of the court is the best argument. It is a broader panorama, and judges are alert to that. I do not like the idea of anyone feeling hard done by in the justice system, but we need guilty pleas in order to keep the system going, and they are important in providing vindication for victims; I see a real strength in that. That is a long-winded way of saying that it is not automatically the case that maximum credit is given at the door of the court — that should not be presumed — but that may happen in certain circumstances, depending on fact, if a judge thinks that it is merited. That is where I come back to the importance of the public's understanding sentencing and sentencing remarks. I am keen on that. This is my project: televising some sentencing remarks and otherwise making them available so that people can see what the rationale is, down to the "why". I understand the point; I just think that our system is better for being flexible on that.

Mr Beattie: I will follow up on that, if I may. What you said raises this question: how do we protect victims and witnesses who go through all the trauma of getting ready to give evidence only to find that, on the day that they are due to do so, somebody pleads guilty and it all stops dead? You need, nearly, a cut-off before that to say, "Look, you are going through here, regardless". People need their moment in court, if you have dragged them all the way to that last safe moment.

The Right Hon Dame Siobhan Keegan: I agree with you. That is why we have a rule of thumb that it is not maximum credit at the door of the court. It is not to be presumed. If a judge gives that, there has to be a really strong reason for it. It reduces. You will definitely get maximum credit if you say at the police station or in interview, "I am guilty of some of this". In Northern Ireland, arraignment is the first port of call at which the charge is put to you. There should be a sliding scale up to trial, but it is hard to set hard and fast or bright-line rules on it because of the complexion of each case.

Mr Beattie: If I may, Chair, I have one last question. Again, it is about something that you said. It is important, I think, because you are talking about televising and letting people see and understand the sentence being handed out. It follows on from that, in that some of the remarks from judges in sentencing have not been great. We all remember the, "Find a wife" comment in a sexual offences case. I wrote to you about that and asked for a meeting, which we did not have, for reasons that I understand. We talked about training for judges, and you did training for judges, and that is really important, but the question is this: is the training mandatory? Do they have to attend, or do they have the choice to say, "I am not going"? If they do not attend training, are you able to say, "You must do this mandatory training" yearly or twice yearly?

The Right Hon Dame Siobhan Keegan: You will know that I intervened in that case —

Mr Beattie: Yes.

The Right Hon Dame Siobhan Keegan: — and I brought in the training. I have changed the way in which we train, in that training is on days when I have the court list cleared, so you have to go — that is the bottom line. That has been really good. I usually do it just before holiday times, so the profession

is quite happy with my doing that, and all the judges come. That is really important. Part of my rationale for increasing the number of judges is actually to have more time for judges to do that sort of thing. It is really important. I do not think that, across the board, there are issues here that are of such concern that I have to do anything more, let us say. I have the training programmes on track. You might be interested in the next one. I will have a day with the judiciary and the Bar on proper cross-examination of vulnerable witnesses using the advocates' toolkit and third-party disclosures. I will do that as joint training, and, again, the courts will not be sitting, so you have to go.

By and large, I think that judges are responsible. Some days are not the greatest days. I do not see very many of them, to be honest with you. If I do, I will take action on it.

Mr Beattie: In fairness, you are probably right: there is always the one that undermines it. It takes us into a bigger conversation that we cannot have today, which is on the whole sentencing issue. There is not huge confidence out there about sentencing. Certainly, for sexual offences, the general perception is that it is lenient. That is an issue for another day, but it is one that we will probably have to discuss. Thank you.

The Right Hon Dame Siobhan Keegan: All right.

The Chairperson (Ms Bunting): I am conscious that we have 15 minutes and a full list. Again, I remind members to avoid commentary and hit the question, please, just to try to ensure that everybody gets a chance to ask the questions that they wish to raise with the Chief Justice.

Mr Bradley: Thank you, Lady Chief Justice, for coming before us and giving your presentation. You mentioned family law. I have a query that you or may not be able to answer. It relates to the perception that fathers receive unfair treatment from the courts in custody cases. I actually agree that children rightly belong with their mother, but there are fathers out there who want to play a full part in their children's upbringing, and they seem to be penalised by the judicial system, which, sometimes, can preclude their getting full access to their children. Have you any thoughts on that?

The Right Hon Dame Siobhan Keegan: I do. As you may or may not know, I used to practise at the Bar in family law. I did a lot of that work. I do not see an imbalance in how the law treats parents. The Children (Northern Ireland) Order 1995 was enacted here, which was really important, in that it changed the whole structure. If you get parental responsibility, you can be a residential parent whether you are a father or a mother.

I think, though, that, as you have appreciated, currently, most of the cases probably involve either joint custody, or shared care, or mothers having custody or care and fathers having contact. I do not see the law as discriminating against fathers on that. We have developed a law whereby the right of the child is to have a relationship with both parents. That is what should be at the heart of it, subject to safety issues, such as somebody not being good for a child or safety issues between parents. There is a big debate about the responsibility of parents towards each other and whether that should impact on contact.

I am fairly clear that we, as a jurisdiction, are tuned in to the perspectives of both mothers and fathers. For what it is worth, I have represented both mothers and fathers in cases and judged on cases where both sides have succeeded, if you know what I mean, in having care of children and contact.

Mr Bradley: Thank you very much, Lady Chief Justice. However, I have had a few cases in my office where the relationship between the father and mother is not good, but the relationship with the children is good. The poor relationship at parent level is impacting on the health of the father. In one case, I had a father who was deeply depressed and on the verge of suicide through being denied access to see his child.

The Right Hon Dame Keegan: I find those cases really heartbreaking. I remember representing a man who walked away because he had had enough. I said, "Look, I want to get you contact — you should have contact." That is hard, but I think that that is where other agencies come in. For example, help from the court children's officer in courts is really important, as is help from social services and guardians in public law cases. Help from wider family also tends to sometimes unlock the impasse. We also have brilliant child contact centres in Northern Ireland, which are a neutral environment in which to try to set up contact. Some of the sting in those cases is due to handovers. You have to take the two parents away from each other to try to promote the relationship. I would be sad if men felt

disenfranchised in this. It is certainly not the ethos of our family courts in relation to contact, because, as I said, it is the right of the child to have a relationship with both parents.

Mr Bradley: Thank you very much. I had a couple of other questions, but I will leave it there and let others in.

The Chairperson (Ms Bunting): Thanks, Maurice. I appreciate that.

Ms Ferguson: I have a quick question that follows on from what Maurice asked. You mentioned family justice and the delays in it. You said that resources are required for family support services and guardians in public law. What level and type of resources are required for that?

My second question is, again, about delays with disclosures. You mentioned the five tiers. Where are the biggest delays with disclosures, between which organisations are they, and how can that be sped up?

Finally, you flagged up the NI Law Commission. Have you any idea of the cost, scale and size of what is required to re-establish it? I am quite new to the Justice Committee, so I was not aware of the previous commission in 2015.

The Right Hon Dame Keegan: OK. There are a couple of questions there. The first was about resourcing family justice. There is a crossover with the Department of Health on this, in that social services need to have enough people at the front line. In offices, they do not have enough resource to take on the family and child protection work. Guardians are similar. A backlog of appointments delays cases being dealt with, and they advocate about that. The bigger picture is support services. I find that what is most effective in family law, if you drill down, is help through organisations with the issues of, for example, neglect in families, which can be dealt with. Sure Start used to be on the front line doing this type of work. I am not sure whether it has been replaced, but there are similar types of organisations to assist families to have early intervention to prevent them coming into the care and family system.

Since I started practice 30 years ago, there has been talk about early intervention projects and putting the money in. The principle is there, and everybody is well motivated, but it is about how you make it accessible to people who are vulnerable and may not be able to advocate for themselves. How do you sustain it? It would be unethical to set somebody up with support and then take it away. People need ongoing support to keep families together. I am very strong on this, and I see cases coming to the courts where I think that, had they had a bit of help at an earlier stage, they would never be before the court.

Ms Ferguson: I probably should declare that, in my previous job, I managed the family support hub.

The Right Hon Dame Keegan: Then, you know.

Ms Ferguson: These were core cases, and I tried to advocate for and support the parents at that early stage.

The Right Hon Dame Keegan: Then, you know exactly what I am talking about.

Ms Ferguson: You will be well aware that £25,000 a year, through the Department of Health, sustains family support hubs. That is what is there, so there is no cross-departmental investment in it.

The Right Hon Dame Siobhan Keegan: I am not sure that it is a massive amount, but it could make such a difference.

On the Law Commission, I do not have an actual figure, but I can get that for the Committee to show you how much that would mean in monetary terms. I do not want to speculate on that.

Ms Ferguson: Can you even say something on scale, size and resource?

The Right Hon Dame Siobhan Keegan: On resource, I have appointed a judge who is in shadow, so I have a judge in place who keeps up the connection. There would be a staff team. I do not think that a new commission would require too many staff. In the past, one particular person was the secretariat,

and then other interested people, such as academics and lawyers, came on board in the Law Commission. That could be on an ad hoc basis in relation to a project. If it was a specialist area, the chair of that would bring people in. I think, though, that a committee of specialist people was involved in it. There was a secretariat and a chair. Actually, I have a chair in place who is very willing and ready to go if we get that set up. I can provide some further information on that.

Ms Ferguson: What about disclosures?

The Right Hon Dame Siobhan Keegan: Disclosures in relation to abuse?

Ms Ferguson: In relation to delays in the justice process.

The Right Hon Dame Siobhan Keegan: A disclosure of —.

Ms Ferguson: A disclosure of information between, for example, the PSNI and the courts or the prosecution.

The Right Hon Dame Siobhan Keegan: In the criminal field, it is usually what is called third-party disclosure, so, if there is a criminal complaint, there is usually an application for disclosure from, say, social service records. That causes a bit of delay. The other delay on disclosure is, to be honest, a product of our modern world: phones. Phone records are used a lot in criminal cases in this area, and that takes a long time to triage. That builds in a delay. Third-party disclosure is the biggest issue, I think, and then it is phones and other evidence gathering that take a while.

Ms Ferguson: It is a key area that requires work.

The Right Hon Dame Siobhan Keegan: As far as I can see, if you drill down, it is the main issue that stands in the way of cases getting on.

Miss Hargey: Thanks very much for your presentation. There are a couple of issues. We all get the issue around funding and the pressures that the Department and the services under it are facing. We are well in tune with that.

The other issue that I want to touch on is outside the funding demands, and that is the structural changes that need to happen, not all of which need money to transform. It is about what outcomes they will achieve and how we can monitor that. The Commissioner Designate for Victims of Crime, who was at the Committee, said that the system was not designed with a victim focus and that cultural changes need to happen. What is your view on that? Do you agree that there needs to be system change beyond just the resourcing and, if so, in what areas? How can we start a cultural shift? What is your view on how to make that more victim-centred? Also, should it be more rehabilitation-centred and about trying to rehabilitate people who go through the system, to try to reduce reoffending?

The Right Hon Dame Siobhan Keegan: Right. There are two areas there. Is the system sufficiently attuned to victims' needs? I ran some training on that in trauma-informed practice, because I am committed to it and think that it is really important. I think that we know where we stand on this and know that we have to be attuned. We have practice directions, and we understand good practice on this. We have special measures in court. We have support systems. We now have legal advisers for complainants in cases, which is really good. We have remote evidence centres. As I said, I am training judges on this. We have a brilliant voluntary sector that assists us. We have Women's Aid and Voices of Young People in Care (VOYPIC). I think that we have it all; we just need to build on it. We need to make sure that victims do not feel re-traumatised by the court itself, and I think that we have the armoury in place to do that with the profession; that is, the judiciary with the profession. That is why I wanted to have the joint training with the profession on how you question witnesses, and I have continually tried to say, "Why can we not have witnesses giving evidence remotely?", as that would assist with and move cases on. I think that we are attuned to victims in the system, and we can continue to educate ourselves and everybody who works in the system to improve on it. I have spoken to Geri Hanna about a number of other things on that front, including practical issues about entrances to and exits from courts and more consultation facilities. I am aware of all that, and I am trying my best, within the resources that I have, to facilitate those points. Obviously, I have to speak to Courts Service about courthouses and improvements that way. I am aware of all that, and I value the direct engagement.

The flip side of the coin is a point that you have touched on, which is those who are perpetrators in the system. It is a given that somebody who is accused has to have a fair trial. That is fine. However, some perpetrators in the system plead guilty, for instance, and that is of benefit. We need to invest in perpetrator programmes. I think that victims can be part of that programme, but not, obviously, the direct victim. That should be about educating the perpetrators about why behaviour is totally unacceptable. That is important in not only sex offences cases but domestic violence and coercive control cases. We need to put the work and the support in there, because, otherwise, there is a revolving door. Part of sentencing is punishment, but another part is rehabilitation and deterrence. To be honest, the educative piece goes back to schools teaching about healthy relationships. We do a bit of that in our jurisdiction, and that is good. If you are in the system, you have to have the chance to come to the table with professionals who can try to change your view on things. I see too many people coming back in, and I wonder about that. I do not think that they have the support system or the ethos to think that they should change their behaviour, and it is really important. It feeds into initiatives such as rolling out more enhanced combination orders, for instance. Where, for example, there is a sentence that is under 12 months, rehabilitative work rather than a short prison sentence is looked at. They deal with that type of thing. The Probation Board is really good on that, but, if its representatives were with you today, they would probably say that they were stretched.

The Chairperson (Ms Bunting): They came last week.

The Right Hon Dame Siobhan Keegan: They probably said that they were stretched. We cannot just sit on our hands on this. You are quite right to talk about programmes for perpetrators as well. However uncomfortable that might be, it is the way to change behaviour and behaviour patterns.

Miss Hargey: Thanks for that. I am sure that we will come back to those issues as part of the discussion. We have been having discussions with the Department where we have looked at delays, early prevention and intervention and, obviously, cross-departmental working. Are you feeding into the reform plan at the board with recommendations that you see? Is there that ongoing dialogue with the Department and, indeed, with the board that is taking it forward? Obviously, we are asking for the plan to be published when it is ready, so I am keen to hear whether you are directly feeding into that.

When we met, I discussed representation and whether the system from judges down is reflective of society. It is not reflective of it, so what work can we do, particularly on social class and ethnicity, given the new communities that are here, and on gender? I know that there is a bit of a focus on gender, but those other areas are important. As you said, for those who are going through the system, including the perpetrators and the victims, there are patterns for people with certain community descriptors or from certain backgrounds. Is the system, through those who are charged with overseeing it, responsive to that? Do they have an understanding of the complexities in neighbourhoods, and is the work reflective of that?

The Right Hon Dame Siobhan Keegan: In answer to the first question, I can say that my office feeds into the reform programmes, and that is a dynamic relationship. That is useful.

On the second question, diversity in the judiciary is a given. It should reflect society. We are in a good place in terms of balance in community background and gender. The problem, if I may say this, with gender is that we are at the start of a journey. We do not have enough females getting into the higher judicial positions, but we have lots at the lower tiers, and I am very encouraged by that, because I think that they are going to build up. I think that more than half of law undergraduates now are female. That will work its way through. It has taken a while, but I am committed to it.

There are other areas that perhaps do not get the same attention but that we need to think about as well. Social background is one. Ethnicity in Northern Ireland is another. We have low numbers on that, yet our society is changing. That should develop. Disability is the third one. People who have a disability should be encouraged not to feel that a career in the judiciary is beyond them.

As part of the Northern Ireland Judicial Appointments Commission, we outreach to the professions to make sure that people come forward who might not have thought of judicial office before. There is no model or paradigm for judicial office. We have a younger cohort and a different spread of people coming forward to even senior positions. We need to tap into schools and encourage and support students from areas that might not have thought about law, let us say, or the professions. Queen's is involved in the Pathways project, which I also support and which is really good. That goes into schools that would not have traditionally sent people to study law. We have had some success stories with that. That is what we need. We need to have society as a whole here represented. I am confident that

we are attuned to that. There is a bit more work to be done, but it is really an outreach issue. I can look at judicial office stats only from the perspective of what the pool is in the profession, that is, the solicitors and barristers who are coming forward. We need to get in early to schools to encourage young people from whatever background to think about law.

Miss Hargey: We will not get to it now because of time, but you are right: we need to look further downstream. Legal aid comes in as an issue that we will need to come back to in order to discuss how it blocks the impact of women in the profession, particularly, as the Law Society said, with the high street firms and the impact on payments and reviews. I would be keen to hear your thoughts at another time on some of those issues further downstream that have an impact.

The Right Hon Dame Siobhan Keegan: I could speak for a bit on that, but thank you.

The Chairperson (Ms Bunting): We have two more. Sorry, Chief Justice; we are nearly there.

Mr Dickson: Thank you, Chief Justice, for your comments this afternoon. They have been very helpful and comprehensive. You said that you have a desire to have some additional judges, but, in a court system that is running at 100%, where would you put those judges in the physical estate? How would you use additional judges in the court resource?

The Right Hon Dame Siobhan Keegan: There is a tie-in with the estate. That is why I am not coming to you and saying that I could do with a massive amount. I could do with a massive amount more. I am trying to keep my horizons as modest as possible with the three who are needed in the County Court, which can be accommodated in the estate. However, if you get me going on this, I will tell you that the estate needs improvements as well. It is a bit like what I said about the specialist family court. I think that I can work with it on that level.

Mr Dickson: I remember from my time on the previous Justice Committee the work that Fiona Bagnall in particular did on the problem-solving courts pilot. When does a pilot cease to be a pilot, when does it become mainstream and who makes that decision?

The Right Hon Dame Siobhan Keegan: The sponsoring Department that funds the pilot makes that decision. I worry a bit about that, because, as you pointed out, we have so many pilots. Why are they not becoming permanent? There is also a psychological issue, because if something is always determined to be a pilot, there is a question mark over it. However, there are reports that analyse their success as they have progressed. I do not think that they are negative, although I stand to be corrected. Would it not add to the confidence of that type of work if it were embedded as something permanent?

Mr Dickson: I would encourage that. Pilots have to come to an end. They have to be analysed and the outcomes have to be worked through, and then you decide whether it becomes mainstream. You have dealt well with the questions on the remand population, particularly on the Friday situation, and that has been very helpful. Some of us met the Prison Service, and we had that discussion.

However, there is an overall concern about the number of people who are held on remand. What relationship does the judiciary have in assessing the physical terms of that with the Courts Service? It can lead to very difficult circumstances if there is doubling-up on other issues.

I have one final question. How many of your judges have been to prisons to see what the conditions are physically like? Is that part of your training?

The Right Hon Dame Siobhan Keegan: Right. On the last question, quite a lot have been to the prisons, me included. When I became a judge in 2015, there was a programme for all new judges to visit the prisons. I went with a number of new judges, so quite a lot of us have been. I have not been to Magilligan. I have been to Maghaberry and Hydebank. I am going again to all three, and I will probably take some colleagues with me. Those visits are offered as part of our training. I probably need to refresh it a bit, and people need to go again. It is really important, and I learnt a lot when I went, so I support that.

We have to be careful that the remand population as an issue does not drive a judicial decision. However, in some cases the balance in favour of bail will be tipped by virtue of delay and the length of time spent, and that can cause problems too. My worry about remand is that you do not get the

programmes of work that you would get if you were sentenced. Judges can be effective on that by saying, "Can this not be fast-tracked at the Magistrates' Court?", "Is there an attitude here?", or "Are you going to plead guilty because it would be to your client's benefit?". My judges are quite robust on that to try to move it on.

Short sentences is another issue. Are they really productive versus a rehabilitative programme, as I have been asked about?

Mr Dickson: That is a fair point — a rehabilitative programme to replace a short sentence, depending on the offence.

The Right Hon Dame Siobhan Keegan: It is not one size fits all.

Mr Dickson: It is not one size fits all. Very briefly, I want to touch on visiting the Prison Service. Having done it a few years ago and then again recently in the last couple of months, the changes that there have been in the programmes, resources and activities that go on is incredibly good and new. It would be very helpful if judges had the opportunity to refresh their view and sight of what goes on inside prison.

The Right Hon Dame Siobhan Keegan: We are open to it, and I want to do it. We are open to other initiatives, which I will very briefly mention, if I may. There is a tie-in with sport. I have tied in with the IFA, and I want to continue to do that in order to see whether there is a diversion for young men in particular through sport that might keep them out of criminal justice. All those programmes are on my radar and could be of benefit.

Mr McNulty: May I take this opportunity to say what an honour and privilege it is to meet you and have you here before the Committee? I congratulate you on becoming the first Lady Chief Justice in the history of the North, so I say well done. By coincidence, we had a group of pupils from your old school here yesterday, and I was telling them to follow your lead, dream big, be as good as they can be and break glass ceilings. I congratulate you on being a lodestar, particularly for young women and girls. You have probably positively disrupted what was potentially perceived previously as a bit of an old-boy's club judiciary, so fair play to you.

How does the Department of Justice's policy on payment delays impact access to justice and the delivery of justice, especially for those who are on legal aid? I know that you might not necessarily be able to mention legal aid specifically, but can you give me your perspective on that, please?

The Right Hon Dame Siobhan Keegan: OK. I can very briefly say that delays in legal aid payments for the profession are problematic. They are particularly problematic for the small operator solicitors in Northern Ireland, which, I think, are the backbone of the service in Northern Ireland. We have lots of large firms, but we need solicitors in our towns who need to have a turnover in order to run their practices. I am sure that the Law Society representatives said to you that some solicitor firms could be in trouble if they are not paid in time for work that they have done. In no other area would you have to wait so long. If you had kitchen fitters or an electrician in the house, they would have to be paid within a certain period of time. That is not difficult to work out.

The problem with the Bar is that the barristers are self-employed. I worry that, if there are delays, barristers who take on legal aid work will be frozen out. We have a really good system here, where barristers across the board do publicly funded work. In other jurisdictions, they do not. I would not want that to change. I do not want young barristers and people who do not come from privileged backgrounds to be adversely affected and leave the profession because they cannot get money from publicly paid work in a reasonable time. That has a knock-on effect, because if you lose those types of people, you do not have the diverse profession that you should have.

Mr McNulty: You mentioned serious underfunding in the justice system and the risk to the provision of fair and expeditious justice, which was an incredible thing for you to say at the Committee meeting. You also mentioned the backlogs that threaten to undermine public confidence in the criminal justice system. Is it not scary for you to say that?

The Right Hon Dame Siobhan Keegan: I just think that it is a given that, if we do not get back on track with funding the system at every end, we could have a problem with delivery. We already have a problem with delays. I told you that I need more judges in order to address the issue. The profession

needs to be funded. People need law to sort out problems and to regulate society. There is always a flip side if those things are lost, dropped or not prioritised. I think that they are prioritised, though, and that everybody is attuned to the situation. To be honest, additional funding can clearly make a difference in justice. It can be directed fairly easily towards the things that I talked about. It is not as complicated an exercise as it is in other areas to get that through.

Mr McNulty: You mentioned that too many people are coming back into prison, which is also very worrying for rehabilitation, reintegrating prisoners into society and the important role that support can play. I am a big believer in and supporter of that. On reintegration and getting people jobs when they come out of prison, prisoners — I mean people who have done the crime, yes, and have done their time and then come out — cannot get a house. They cannot get on the housing list because of their criminal past. How does that support reintegration?

The Right Hon Dame Siobhan Keegan: It does not. To be honest, I am surprised to hear that they cannot get a house. There needs to be —.

Mr McNulty: They cannot get on a housing list.

The Right Hon Dame Siobhan Keegan: They cannot get on a housing list, yes. Some good work is being done with the Housing Executive at the moment. Remand prisoners have direct access to the Housing Executive, but you are right: there is a sort of pecking order — I think that that is what you mean — and people are not getting on the list. The Prison Service and the courts are alive to that. I often take a lead on that by saying that I will, for example, grant bail if all that is put in place in order to fast-track it.

People make mistakes in their life, and they can be accused or convicted of crimes, but, unless they are in the very, very serious category, they have to reintegrate at some stage. We have to do better on that. I have seen employers come to the table in courts and say that they will employ people, which is right, but there then needs to be a tie-up with housing and education. Health is another area, given that the need for ongoing mental health support or addiction support is probably at the heart of it. If you look at the stats on it, you will see that addiction support is at the bottom line of a lot of the recidivism that we have. We need to make sure that all that is in place if people do not have family support, which, unfortunately, a lot of people in this area do not have.

The Chairperson (Ms Bunting): Chief Justice, thank you for being inordinately generous with your time again today. It has been really helpful to hear from you, and we are grateful for your taking the time to come to give evidence to us.

The Right Hon Dame Siobhan Keegan: Thank you very much.