



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Briefing by Mrs Naomi Long MLA,
Minister of Justice

25 April 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 Stewart Dickson
Mr Alex Easton
Mrs Sinéad Ennis
Mrs Ciara Ferguson
Mr Justin McNulty

Witnesses:

Mrs Long	Minister of Justice
Ms Deborah Brown	Department of Justice
Mr Hugh Widdis	Department of Justice

The Chairperson (Ms Bunting): Good afternoon, everybody.

Mrs Long (The Minister of Justice): Good afternoon, Chair —

The Chairperson (Ms Bunting): It is nice to see you, Minister.

Mrs Long: — and members and officials. I do not want to leave anybody out.

The Chairperson (Ms Bunting): Indeed. I think we have covered everyone.

The Minister of Justice, Naomi Long; the newly appointed permanent secretary, Hugh Widdis; and Deborah Brown, director of the justice delivery directorate are in attendance. You are all welcome. It is good to have you with us; we appreciate you taking the time to come. Hugh, we congratulate you on your appointment, and we wish you well and success in your role.

Mr Hugh Widdis (Department of Justice): Thank you, Chair. I look forward to working with you all.

The Chairperson (Ms Bunting): Minister, I invite you to give your presentation, and, then, no doubt, we will have questions and issues that we will wish to raise with you and discuss.

Mrs Long: Perfect. First, thank you for the invitation to come to the Committee. Obviously, I have met the Chair and Deputy Chair a number of times since my re-election as Justice Minister, but it is good to meet the full Committee. I know that you have been well briefed by my officials and by all of our

external stakeholders in justice over recent months. I value the role of the Committee, and I look forward to our working together collaboratively to try to develop and deliver the departmental priorities while you carry out your important scrutiny function in that role.

As the Chair indicated, I am joined by Hugh and Deborah. As you know, it is Hugh's second week as permanent secretary, so he is getting up to speed on the challenges facing the Department. You already know Deborah. She has been floored by the new challenges facing the Department, given that the Budget has just been agreed by the Executive. I know that you have a session planned for later this month to look into the Budget in considerably more detail, but there may be some headline issues that you will wish to raise today as a result of that decision. Colleagues have been updating you on the work of the Department, and I trust that that has been helpful. Of course, they are always happy to attend the Committee at any time to brief you on current or emerging issues.

I will make some opening remarks, and then I will be happy to take whatever questions you have. Obviously, I was pleased to be re-elected as Justice Minister and to return to the Department. The last few weeks have been incredibly busy. I have been meeting with partners across the criminal justice sector and seeing the work that is being done to improve the lives of citizens across Northern Ireland.

Last week, I announced a £1.25 million investment in communities through the assets recovery community scheme, and, shortly after re-election, I launched a public awareness campaign to promote the rights of victims and witnesses. I have also had discussions with my counterparts in other jurisdictions, which is important for ensuring best practices and trying to find synergies and opportunities for cooperation.

I had a recent meeting with the Irish Justice Minister, Helen McEntee, and there is ongoing cooperation on a range of criminal justice matters between the two jurisdictions, which is clearly to the benefit of all our citizens. I will update the Assembly on that meeting soon by way of an oral statement, as is the norm with the intergovernmental agreement (IGA) arrangements.

I am particularly pleased that the UK Government have now agreed to the inclusion of Northern Ireland in the scope of the UK legislation to deal with the challenges facing sub-postmasters following the Horizon scandal. It was always my view that that should be the case and that Northern Ireland should receive equitable treatment with the rest of the UK and have those wrongful convictions overturned in the quickest possible manner. It is welcome that that will happen. I discussed it with Executive colleagues this morning, and I will write to the Committee about the legislative consent motion (LCM) that will be required to make that take effect. We are already doing early engagement with our partners in the justice sector on how we can hit the ground running to make sure that we can implement it quickly as well.

The role of government is to protect its citizens, keep communities safe and help them feel secure, as well as giving them the confidence they need to live productively and engage fully in society. My intention is to build on the good work of the Department over recent years, despite the many challenges that we face. It is particularly relevant as we look to the Programme for Government, which is being considered at the moment, and, particularly, the Budget, which was agreed earlier today. I cannot overstate the impact that the Budget, as agreed, will have on the Department of Justice and, indeed, on all Departments. There is inadequate funding from the Northern Ireland block grant. Justice has been historically underfunded, which compounds the problems that we face today, but no Department has received what it needs to maintain even existing services. It is now for the Executive collectively to engage with the UK Treasury to see whether we can improve that situation, even during the course of the year.

We can, of course, also look at how, through partnership working with other Departments, statutory agencies and community organisations, we can achieve our shared objectives. Despite our difficult budget situation last year, we protected, largely, our community and voluntary sector partners because we recognised the work that they do. Whilst there is little discretionary spend in the Department of Justice, we did not glibly say that community and voluntary sector partners would be defunded, because we recognised the valuable role they play. We will have a much more challenging environment this year; nevertheless, we want to continue that collaborative approach.

I want to move on briefly to the legislative programme. Obviously, that is something that we have engaged with the Committee extensively about. You will know that the nature of what we do in the Department means that policy change often requires legislation. There is not a huge amount of policy in the justice sector that is not embedded in statute, which means that the legislative programme for the Department of Justice tends to be challenging. I am sorry to break that to the new members of the

Committee because it tends to mean that this is a busy Committee. Doug is well aware that that is the case from his previous experience. I think that we introduced five Bills in two years, so that was some record. I was grateful to the Committee for being able to do that. With respect, we are not going at that kind of pace in this mandate for a number of reasons. First of all, we do not have the capacity in the system in general, not just in Justice, to introduce more than one Bill per year. That is the advice from the Office of the Legislative Counsel (OLC) and the Executive. Also, in the Department and the justice sector, there is limited capacity to absorb significant new work. We have to restrict what we do. The women's sector, those who work in the domestic abuse field and so on were pretty exhausted last time by the level of engagement required to get so much legislation through, albeit they were keen to see that happen. I want to see that consolidated and embedded in this mandate.

The approved legislative programme that, we hope, will form part of this comprises three Bills. Obviously, we will work with you on that and have the necessary discussions. The mixed content justice Bill, which is the modernisation of justice Bill, we were hoping to introduce in June 2024. We would follow that with the sentencing reform Bill, which would be introduced in spring 2025, and then a hate crime and victims Bill for March 2026, which will be a smaller Bill than we had intended, simply due to the reduced time that we have in the mandate. Taken with the legislative reforms in the last mandate — if you add the two years of the last mandate to the three years of this mandate, you have a single mandate, essentially — that will show that we have delivered a significant volume of legislation through the Committee and in the Department. It is not the full programme that we would have had if we had had five years, and there are things that, we have had to say, will fall into the next mandate. However, it is better to do that than rush to do too much in this mandate and end up not being able to complete it. There has already been discussion around the legislative programme. Also, we tabled a letter with you today to provide some reassurance and comfort, particularly around amendments to the Bill that we hope to introduce. I am happy to take questions on that later, or you may want to discuss it first and come back to me.

Time will not permit me to speak about the entire work of the Department, but I want to draw out a few priority areas. We are looking, in particular, at avoidable delay in the justice system. It is important that cases are dealt with in a timely manner, and that is to the benefit of victims, witnesses and defendants. However, that will require significant investment, and we are concerned in light of a Budget settlement that will not allow that investment to take place. However, there are things that we will be able to do to continue with that work in terms of procedure and practice, but we will be more constrained than I would have hoped.

Modernisation of services remains a priority. The Vision 2030 portfolio of programmes and projects will deliver a reconfigured and modernised courts and tribunals estate that supports new ways of working, as well as exploiting digital and other online service and delivery channels. I believe that you will be viewing some of those opportunities and some of the projects that have been delivered under that scheme.

Another key focus is continued partnership working with justice agencies to tackle domestic and sexual abuse by addressing the root causes, providing victims with protection and access to support and holding people who are abusive to account.

The increasing prison population, as you will understand, is high among our priorities. To put it in context, on 1 April 2021, the prison population in Northern Ireland was 1,374. By 1 April this year, that had increased by 37% to 1,886. There are real operational and resourcing challenges attendant on that. For those in our care and those who work in the prisons estate there is a genuine challenge. Therefore, we are taking a strategic focus on reducing offending, enhancing rehabilitation interventions and ensuring that those individuals are best prepared to integrate back into our communities. We are also looking at the level of remand in the prison population, given that it is particularly high. That is another work stream that is being taken forward. A specific prison population oversight group is working with our partners to drive that down.

Last but not, by any means, least, is budget. When we prepared our introduction, the Budget had not yet been agreed. However, it now has. Members will be aware that there are significant pressures across the Department. I have talked about an increased prison population, but police numbers are at their lowest since formation and are over 1,000 — about 15% — below the 7,500 aspiration in 'New Decade, New Approach'.

Legal aid payments are forecast to be 30% higher than the baseline budget, which is a further challenge, and the Probation Board is now adopting deviations from probation practice standards to manage the existing operational caseload in the context of the levels of vacancy. Our probation

service is all social workers, but they are not tied to the Agenda for Change budget. As a result, they would be better paid if they were to work in the health service, and that is a challenge for recruitment and, particularly, retention. While many work in the Probation Board because they love the job, they certainly do not work there because of the salary.

I could go on. I am sure that you have heard much from officials and, indeed, from justice partners. I know that you will hear more from the Chief Constable about the impact that the Budget will have on front-line service delivery. I am grateful for your commitment to make the case to Treasury for the necessary funding for additional security and justice costs that other parts of the UK do not have. That was highlighted clearly by the Northern Ireland Fiscal Council.

We need to have an agreed Budget for 2024-25 by the end of this month. Not agreeing the Budget and further delay carries cost as well. Realistically — I have to be candid — we will struggle not to breach our budget limit next year and have an overspend. It is difficult to see how we can make the kind of changes and the depth of cuts that will be required to live within the settlement that is there. I am very aware of the challenges that the Department of Finance has in producing a Budget, but I am also acutely conscious of my Department's need and the fact that this difficult budget situation comes off the back of a period of underfunding of the Department of Justice.

I also want to highlight one thing that, I think, is important. We talk a lot about the need for transformation. The Department of Justice has been good at living within its budgets and doing more for less. You know about the additional projects that we have taken on, the new things that we are doing and our innovation, yet our budget has not even kept pace with inflation. We are now in a situation where, had we simply had inflationary uplift since 2011, we would not have unmet budget need in this year. That is even allowing for extraordinary and unexpected things, for example the PSNI data breach, which we could not have predicted. We would have been in a position to absorb that extra cost, had we just matched inflation. Our failure to do that means that we cannot maintain service levels at this point.

This is not something where the Department has been found wanting. We have reformed legal aid, and we have looked at how we can reduce our estate. We have looked at opportunities for revenue raising, because, of course, as you will be acutely aware, many of the services that we provide are on a cost-recovery basis so they are not free at the point of access, as with other services. However, it has to be remembered that almost all of our services are entirely demand-led. We cannot dictate what will come to court. We cannot dictate what the level of crime will be. We cannot dictate who will be remanded in custody or sent to prison, and we cannot dictate how people will be sentenced and for how long. If we try to speed up justice, the legal aid bill will increase proportionately. If we try to cut the legal aid bill, we will slow down the delivery of justice and potentially damage access to justice. I pay tribute to the members of the Committee who attended the access to justice all-party group (APG), earlier this week, because there is really important work to be done there.

I will end my remarks there, and I am happy to take questions. I just wish to say that I was Minister for two years from 2020 to 2022. I was gone for just over 15 months, and I have noticed a significant challenge facing the Department in terms of capacity because of the levels of vacancies that we are running with internally in order not to pass on all of the pain of the Budget to the partners with which we work. However, it is painful, and that is not a sustainable way to run a safe justice system. At times, the impact of cuts to the Department of Justice's budget on the community is misunderstood and underestimated. We are not talking simply about cases taking slightly longer to go through court; we are talking about potentially catastrophic failures that could lead to life-changing experiences for people — life-ending experiences for some people. Therefore, we are conscious that the degree of risk that is attendant to underfunding the justice system is a shared endeavour with the whole Executive and not something that can be carried only by the Department of Justice. If the Department is not properly funded and is continually underfunded, the entire Executive have to accept that the risk that is attendant on that is a shared endeavour and is not simply for the delivery partners that are providing those oversight services and protective measures.

Keeping people safe, protecting life and the preservation of public order are all key things that we have to be able to do, and we cannot really dictate the demand in the system. We remain committed to innovation, to collaborative working and to transformation. We have some creative ideas about things that we can do, even with a difficult budget settlement, but, ultimately, the limitations that budgets will place on delivery and front-line services will be significant.

The Chairperson (Ms Bunting): Minister, thank you very much. We appreciate your candour. We all accept the budgetary position that the Department is in — massive pressures — and the Committee

has supported your call for additional money. We have expressed our concern about budget allocation and the extent to which the budget was previously cut. We have done so publicly in Committee and in the Chamber. We absolutely understand the position that you are in. We are aware that, in some circumstances, you have little flexibility — I think that it is around 5% — and that making more cuts within that is, ultimately, about just shuffling the pieces on the board, which could impact services. We are acutely conscious of that.

I will come to my questions shortly, but we probably need to address a few housekeeping issues first. Members may wish to ask questions about your forthcoming Bill because they have had sight of the letter that you sent to the Deputy Chair and me. We intend to have a conversation about that and update you later, but I do not wish to preclude Members from asking questions about it today. I need to make a couple of points on it, the first of which is that the Committee is not bound by its predecessor Committees. More than that, we note that you have been at pains to demonstrate that the approach of tabling, I think, seven amendments at Consideration Stage is not novel or contentious. However, most of us would agree that it is not an ideal way of working, given the difficulties that can ensue in evidence gathering and in determining the meaning of the words and their unintended consequences. The Committee's position thus far has been that such a *modus operandi* should be the exception rather than the rule and that we should try to move away from that method for the sake of good and accountable lawmaking. That said, we understand that, on some issues, you are under legal obligations and working to statutory time frames, so we take that into account and will update you once we have further deliberated on your letter, but it was important to reiterate the Committee's position thus far.

I will move to questions. Thank you for your briefing. I admit that my day has been such that I have not seen the news and so do not know what budget you have been allocated, but I do not imagine for a second, given your demeanour and the issues that you have outlined, that it is anywhere close to what you had bid for or were hopeful of receiving. With that in mind, what is the plan and how will you prioritise?

Mrs Long: There are a few things. No Minister will have received close to what they bid for. There were funding pressures of £3 billion, with £1 billion of funding available — that is the first thing — and some Ministers' bids outstripped the £1 billion. No Minister could get everything that they wanted.

Our bids, with the exception of about £8 million for the recruitment of new police officers, were all for entirely inescapable pressures. The £8 million that we had set aside for the recruitment of police officers is not inescapable, in that we could choose not to do it, but we are all conscious of the consequences of choosing not to do it. That was the only one that we added as, if you like, a novel piece, and it was required and essential if not inescapable. Everything else was inescapable, and we bid for about £440 million, which is about 40% of our baseline in DOJ.

On how we go forward to manage it, we have, obviously, just had the settlement. We have outlined some of the consequences of the settlement and the impact that it will have on front-line services. There is no way that we can insulate any part of the justice system against the impact of the significant challenges that we face; it is impossible to do so. We will try, in line with the level of attendant risk, to administer the funds as proportionately and fairly as we can.

It is too early for us to talk about allocations because we have only just received our departmental allocation, but we have only about 1% discretionary spend; everything else is contractually committed or related to staff and salary. The budget for the core Department is a tiny fraction of our overall spend. As you know, policing gets around 65% of the overall budget. The remaining 35% largely provides everything else that the justice system has to deliver. There is little scope for us to, as you said, move the pieces round the board. At this stage, it is more about taking pieces off the board, because doing business as usual will not be possible.

I will hand over to Deborah when I finish making these points, but there is a challenge in that some services cannot be salami-sliced. It is not enough to say that we will just spread the pain evenly across all services. Some of those services will become unsustainable if they lose any money, and others will not be able to perform their functions to the required level. We need to look carefully at the things that the Department will and will not do, our ambitions and how we deliver. It is too early to say what those things might look like, but, obviously, there will be an opportunity later in the month for us to brief the Committee in more detail when we have had time to digest what the Budget means and to engage with justice partners. You will also have had the opportunity to scrutinise the Budget and the settlement that we got.

I reassure the Committee that, as you will, no doubt, learn when you talk to your colleagues later, we put up a fight for the Department of Justice; you would not expect us to do anything less. We did our best, but I have to be realistic and say that, with pressures three times the amount of the allocation, it was never going to be a good outcome for anybody. Justice has the third largest allocation in the Budget. Health is the largest, Education is second and Justice is third, which, in fairness, follows the size of the Departments. I argue that Justice had a call for perhaps a slightly higher allocation on the basis of previous underfunding and the impact that that had on services. You would expect me to say that, but I am backed up by the Fiscal Council's assessment.

Ministers will be disappointed, aggrieved and concerned today, but we now need to gather ourselves and go back to the UK Treasury and engage in the conversation that had already started about how we put Northern Ireland's funding for public services on a sustainable footing. It is fairly clear to me that the pressure on us is twofold. First, there is the underfunding of public services across the UK by the current Government. It is clear, when councils are going bankrupt in England, that underfunding is not just a factor that affects us in Northern Ireland. Even if we were funded to relative need, which we historically have not been, that funding would be a proportion of that for England and Wales. If England and Wales are underfunded, we remain underfunded relative to actual need. From our perspective, however, that need has not been met. We have made some progress, as there was an acknowledgement of the need for a shift, but more negotiation with Treasury is to happen. The Department of Finance is leading for the Executive on that, and it has my full support in trying to secure more funding.

Deborah, may I had over to you? You might be able to shine some light on the challenges that you will wrestle with over the next couple of weeks.

Ms Deborah Brown (Department of Justice): Thanks, Minister. I will elaborate on some of the points about the inescapable nature of the pressures that the Department faces. Our bids were for £446 million. Of that, £2 million was for transformation bids. Our ability to take some new transformation forward will now be significantly restricted and, of course, will need to be considered in the context of the Budget settlement and the prioritisation of the Department's budget. In that £446 million, there was also £226 million of what we deem to be truly exceptional costs that the Department faces. It is difficult to see how the Department could be expected to meet those itself. Those pressures relate to the PSNI data breach, holiday pay and McCloud injury-to-feelings cases.

I turn to our business as usual. We have elements that relate to our pay awards. We got the settlement for the 2023-24 pay awards, and, as I previously highlighted, that funding has not been provided into 2024-25. On top of that, we will have the 2024-25 pay award. The majority of those pressures sit in areas relating to staff. As the Minister outlined, we are very much a front-facing service. If you start to take your staff out of your front line, it raises the issue of the safety of the community and our staff. The ability to lose staff is then attached only to normal attrition. There is no vehicle to lose staff and, indeed, that would have costs associated with it. Then there are other inescapable pressures associated with the increase in the employer pension contributions, which, of course, must be paid.

In that £446 million, we had a bid for £27 million for legal aid and that was to try to make some progress on the backlog that we have in legal aid. I reported, last time round, that we were sitting with a backlog in legal aid of around £20 million, and that is about 12 weeks. If we do not get that £27 million or are unable to allocate it to legal aid, it would mean that, by March 2025, those payment times could go out to 22 weeks, and we know that that would have a significant impact on the profession and its viability. It means that some of those providers could end up folding, which then means that the vulnerable in our society are not getting the access to justice that they are entitled to.

There are some smaller elements. The Minister mentioned the £8 million to increase the police numbers by 145, which is the maximum that it could do with its normal recruitment and attrition. There are some elements around legacy inquests as well.

When you go through the list of pressures, you can clearly see that they are truly inescapable, and the Department's ability to live within the Budget settlement that was agreed this morning will be incredibly challenging. There will be difficult decisions in there, but whether there are sufficient decisions that could be taken in order to live within the budget remains pretty uncertain, challenging and potentially unachievable.

The Chairperson (Ms Bunting): Thank you, Deborah. I am sure that members will have follow-up questions with regard to the Budget. I want to move on to a few other areas and more strategic elements.

Minister, you indicated that speeding up justice is a priority for you or that it had been a priority for you until you saw your budget. You outlined some of the curtailments that you face now. Presumably, you were planning that you were not going to get the money that you had bid for anyway. What action is being taken with regard to speeding up justice? What can you do in this mandate, and have you given any direction to the bodies in your Department as to the things that they should look at?

Mrs Long: I reassure you that my concern is more about the delivery of the programme than our commitment to it. There is little more important, at this stage, than being able to speed up justice, because it is clear that the speed with which cases are dispatched through the courts is a real issue for victims and witnesses, their families and communities. It can help perpetrators to better connect with the impact of their offending behaviour if they are held to account for it immediately, as opposed to a long period after. There is also the issue that, if justice is not swift, it has a deleterious impact on our economy. All those things are interconnected, and it is important that we are able to do the best we can with the resource that we have.

In January 2023, the Criminal Justice Board (CJB) reaffirmed its commitment to tackling delay, and we have a new speeding up justice work programme that we are still committed to taking forward. There are five work streams in that, and the first is committal reform. One of the Bills that went through during the last mandate included committal reform and taking forward changes to the committal process to remove the option for oral evidence to be heard at the traditional committal hearing and then to implement provisions to directly commit to the Crown Court for certain offences. That process is ongoing. Its implementation is complex. For example, if somebody pleads to a lesser offence that would normally be heard in the Magistrates' Court, there has to be a way to reverse them out of the Crown Court system, and that is more complex. That in itself is not the complexity: the issue is, if there are bail conditions attendant on them, whether those bail conditions would fall. We are working through all that with the Lady Chief Justice (LCJ), the Public Prosecution Service (PPS) and other partners.

The other issue is early engagement. I am looking at opportunities for early engagement between key criminal justice stakeholders to ask whether there are things that we can do by engaging early in case management so that the delays that often happen or lead to adjournments can be eliminated. Some really progressive work is happening in that work stream, particularly in the space between PPS and the police and between PPS and the courts in scheduling.

The other one is out-of-court disposals, and we are exploring options for diverting more low-level cases. They are the less complex cases: I never like to say "less serious", because every crime is serious for the victim of that crime. However, some cases are less complex and less impactful than others. We are trying to ask whether there are ways to take them out of the formal justice system and deal with them by alternative methods of disposal. Some of that may need legislative underpinning, but some of it may be possible under current arrangements. We are looking at how we can do that.

The fourth issue is the remit of the Magistrates' Court. We are exploring whether some lower-level Crown Court cases could be dealt with more effectively in the Magistrates' Court. That may be a more efficient use of resources and more appropriate for that level of offending. In that context, we are also looking at specialist courts that would deal solely with particular cadres of offender in order to speed up that process. In those less complex cases, in particular, we may be able to remove some of the barriers in the system, so that time in the Crown Court is, essentially, reserved for the most serious cases and they can proceed more quickly.

The fifth element is looking at digital enhancements across the criminal justice agencies to improve the efficiency of the system and looking at legislative barriers to the use of technology. You will be aware of the live links issues and other things, but there are other barriers to using technology in the system, for instance, where things need to be notated and signed in person and so on. We are looking at how we can improve that.

COVID, obviously, had a significant impact. We had been making progress on speeding up justice. In previous quarters, we were seeing a drop in the courts backlog, but then COVID hit and the backlog increased.

We are looking at how we can reduce demand on the system and avoidable delay in the system and make progress. I cannot deny that the budgetary constraints are an issue: there is increasing demand across the justice system, so the resources to undertake those programmes of work, which are not core work for the PPS, the judiciary, the Police Service and so on, become much more constrained. The challenge that we have is in trying to maintain the bandwidth in our partner organisations so that they are able to continue to engage with those innovative projects.

The Chairperson (Ms Bunting): That is fair enough, and we accept that. Thank you.

I have a couple of questions for you about collaborative working in general and, certainly, between your Department and Health. We had a report in front of us today that indicates that some criticism has been levelled at the Department with regard to collaborative working internally in the Department. First, what is being done to address silo working in the Department? Secondly, what work is being done, if any, to ascertain the extent to which Justice acts, essentially, in support of other Departments, particularly Health? What areas have been identified for collaborative working with the Department of Health and at what stage are those conversations and actions? A particular type of collaboration is required between Justice and Health, because there are, clearly, people in the justice system who should not be in the justice system, and your Department is picking up the slack.

Mrs Long: I will start with the question about silo working in the Department. I am not sure that that is necessarily my experience of the Department. However, it is inevitable that, when people are placed in particular roles and are focused on their function, they may not be as fully aware of what other members of the team are doing in the Department of Justice. Nevertheless, that is my role, and not having a Minister makes that much more difficult. Having a Minister means that I get reports from different people. Let me give you a tangible example. Yesterday, I met the Independent Anti-Slavery Commissioner, and I directed her to speak not just to our tackling modern slavery team but to our tackling paramilitarism programme team. If we are looking at local victims of trafficking and exploitation, for example, the tackling paramilitarism programme has a wealth of evidence that it can provide in that space.

I take opportunities to say, "How do we bring together the different strands of work that we are doing in the Department?. Is there learning from, for example, digital projects that we undertake in prisons? Can we learn from that and apply it somewhere else where we do digitisation?". Generally, there is good oversight, particularly through Deborah's section, around where we can streamline things and work together. There will always be the odd occasion when somebody will say something and I will reply, "Have you spoken to this person?", because that person is doing something that is not the same — duplication does not happen — but may inform or support what they are doing, and there may be synergies in working. That will happen in any big organisation, but we are pretty good at picking it up.

On collaborative working with the rest of the Departments, I have said that, increasingly, as all Departments are squeezed, Justice becomes the service of last resort. That is particularly true for people who lead complex and chaotic lives, often without housing and education, and have complex needs due to their mental health or communication, language and speech challenges. They may also have drug addiction or substance misuse issues. The complexity of need that reaches the justice system is much greater than it was previously. Not only is the Prison Service strained by numbers; the complexity of and vulnerabilities attendant to many of the prisoners who come into our care are much more significant than would have been the case previously. They may have unstatemented needs, which means that they went through their education without ever getting a statement for ADHD, autism, learning difficulties and so on, and, as a result, they have disengaged from school early. We know that disengagement from education is one of the key risk factors in offending behaviour. They will often have adverse childhood experiences, such as being a victim of abuse or neglect. That is another precursor to abuse.

In DOJ, we are good at evidence, even with limited resource. We can provide evidence to other Departments that allows them to implement programmes and initiatives that will reduce offending behaviour and, ultimately, benefit us. We do not have the levers to do it ourselves; to do it requires Education, Health, Communities, Economy and others. We are doing some innovative things. For example, we have been working with Health on domestic and sexual violence and abuse. That is something for which we have joint responsibility. We work well in that space. We do quite a bit of work on mental health and general health in prisons. That is challenging, because we are coming at that from two different perspectives. Sometimes, there are challenges with information-sharing. We are looking at some of the work that we have done on how youth services are delivered, which Professor Ray Jones highlighted in his report. We have learned some really important lessons from our work in Woodlands on driving down our juvenile population in terms of custodial environments and, in general,

those who are in contact with the system. There are potential learnings from that for the secure care system and the community care system on how we look after looked-after children. We should learn the lessons of good practice that we are able to share with the Department of Health and work with it on those issues.

We undoubtedly see people with complex needs who would normally have been in institutionalised forms of care — people who pose a risk to themselves and, potentially, others — and are now in the community but often without the required community services to manage them appropriately, because of stretched resources, ending up in the prison system. It is indicative that eight out of 10 calls to the PSNI are not reports of crime; they are from people in distress. That is increasingly the case. That has a toll that is sometimes invisible, but it becomes very visible if you go into an A&E department on any weekend and see lots of police there. They are there because they cannot pick up somebody at the side of the road — that person could have suicidal ideation or serious mental health issues or they could have overdosed — take them to A&E and drop them at the door. They have a duty to make sure that that person is taken care of in the system and fed through it. However, because of the complexity of need, the police cannot take them to the cells. That is not the right place for them. They need to be in a hospital setting to be looked after, but that takes up police time and energy.

Not that long ago, I was up in your neck of the woods, Ciara. The officers in Waterside said that, one Friday night, they had a full neighbourhood team in Altnagelvin Area Hospital. There was nobody on the ground; they were all in Altnagelvin. They have come up with some really innovative solutions and have worked with youth workers and others to see whether there is a way of handing over young people in distress to somebody who is not a police officer but can do that accompanying work. We are trying to be creative and work with our partners.

There are other areas where there are opportunities, and I will talk in a more positive way about what we can do. There is some great work going on in prisons on rehabilitation. That is under pressure, and I have acknowledged that already. We can do other things. We are looking at having skills academies in the prisons and getting local businesses to tell us what their needs are. There is a real shortage of people to be employed by employers. Businesses — hospitality, retail and others — are saying, "We struggle to get workers": we have workers. We have people who desperately need employment when they leave prison, and that is critical to their rehabilitation. We need to work in partnership. I met Business in the Community yesterday, and I have been talking to other potential providers. If we can build on those partnerships, we can potentially educate and skill up people in the prison system so that, when they come out, they have an opportunity to start to reintegrate into society and make a contribution. That also ticks boxes for the Department for the Economy, because it wants not just a more vibrant economy but a more inclusive economy so that nobody is excluded.

There are real opportunities here. I am writing to some of my Executive colleagues about this at the moment. Yes, we are all stretched for resources, but we also have opportunities, for relatively small amounts of money, to partner, for example, with business, which is really keen to work with us. We can say, "Can you bring some cash to the table if we bring some cash to the table?". There are people who have gone through the prison system and are coming out the other end and want to put their life back together, and we can ask, "Can you help us find them employment? Can you help us get them settled in the community?". I am positive about those opportunities. It is not all doom and gloom, but there is always a question about how much resource we have to commit to it, and that is the biggest challenge that we face.

The Chairperson (Ms Bunting): Thank you.

This is my final question before I open it up to members. A recurrent theme on our visits to prisons and when the Prison Service gave evidence to us is that there is a significant problem because personality disorder is not recognised. Have you had conversations with the Minister of Health about the recognition of personality disorder?

Mrs Long: We have had conversations with the Minister of Health about serious mental health problems, personality disorder, addiction, dual diagnosis and all those issues. How we manage that is really challenging. We also have a cadre of people who end up in prison and may, for example, have acquired brain injuries and therefore have lost some capacity. We get people with those kinds of complex needs whose behaviours can be misread and misinterpreted in a prison setting. One of the key things for us is how we identify the things that prison officers need to know about somebody's health and well-being that are essential to how we provide their day-to-day care while maintaining the prisoner's privacy, as we absolutely should, when it comes to their general healthcare. There is a balance to be struck, and that is an area that we are exploring with the Minister.

There is also a need, as was highlighted by Criminal Justice Inspection Northern Ireland (CJINI), for a secure mental health facility. That was in a CJINI report that came to the Department of Justice, but I have no vires whatever to produce a secure mental health unit. Given the scale of our population and the size of the problem, we do not need a Broadmoor-type facility. That is not the route that we would go down, but we need to ask whether there are secure facilities to which we can send people with serious mental health issues who are a risk to themselves or to others and may have offended. Such people, because of their unmet mental health needs — for example, if they are not on their medication — may need to go somewhere other than prison, because the truth is that, if somebody has significant unmet mental health issues, personality disorders or other complex needs, the general population in prison is not a good environment for them because it is not a therapeutic environment.

More than that, though, I have said previously that the care and supervision unit (CSU) is not the right environment for them either. The care and supervision unit in prison is not a hospital setting; it is not a therapeutic setting. It is there for prisoners who need more supervision, often because of behaviours, and more protection because they might be vulnerable or whatever, but they should not be there for long periods. The purpose of them being in the CSU is to work intensively with them and then return them to the main population, but, unfortunately, it is becoming the default setting for people with complex needs. You have met the director general. At times, it is a battle to get people into the correct facility for their needs when it is obvious to us that their needs are fairly clearly not prison-based.

The Chairperson (Ms Bunting): Particularly for women.

Mrs Long: It is incredibly complicated. The other area that is a growing challenge for us is the ageing population in prisons. For example, providing personal care for older people in prison is a really challenging space, because it is not something that prison officers are equipped or trained to do. Equally, it is not something that the trust is funded for at this stage. We will have people who are in prison for very long periods, and it will be challenging.

The Chairperson (Ms Bunting): Thank you, Minister.

Briefly, I want to ask you about a situation that arose in the last budgetary period, and I do not envisage that it will be any different this time. It was not a conflict but a source of concern between the Department and the PSNI over the balance to be struck between the Chief Constable's role in keeping people safe and his responsibilities as accounting officer. How does the Department intend to handle that going forward?

Mrs Long: The legal situation is that the Chief Constable is the accounting officer. He is responsible for living within his budget, just as Hugh, as the accounting officer for the Department, is responsible for ensuring that we live within our budget. That cannot and will not change, because it is part of the legislative framework for policing. I cannot dictate to the police how they spend their money and where they put their priorities, nor can I provide them with endless resource unless I am willing to asset-strip every other part of the justice system, which would not be effective in keeping people safe.

My responsibilities are wider than merely policing. I have to look at policing as a significant part of that, which is why it gets the lion's share of the budget, but I also have to look at all the other moving parts of the justice system to ensure that the entire system is able to function. There is no doubt that policing will face increasing pressures. It is the inevitable consequence of a poor budget settlement. Ultimately, the Chief Constable is the accounting officer for his funding and is accountable to the Policing Board on how he spends it. It is really down to the Policing Board now to scrutinise the budget and decisions that will be made and to look at how that will be managed, going forward, with the Chief Constable. I certainly do not want to tramp on his toes.

Lest anybody be under any illusions, there is no cash that I can reach for down the back of the sofa in my office if things get tough. What we have is going out the door. The police will get their fair share, because we recognise the crucial role that they play.

The Chairperson (Ms Bunting): Thank you for your candour. I will open the floor to others now.

Ms Ferguson: I did not realise that I was first. *[Laughter.]* I welcome the Minister, Hugh and Deborah here this afternoon. I want to focus on two areas. First and foremost, I welcome the innovation on skills academies etc, regarding rehabilitation, but we are well aware, as you know, that we are talking about more than 700 prisoners on remand — over 36% — who have not been sentenced and do not get rehabilitation. They get out, and many come straight back in because they have had no

rehabilitation. I am interested to hear whether there is anything that we can do. Is there any innovation, or what more can be done in the short term whilst they are in prison? Maybe there could be collaboration with other organisations, particularly in the community sector, when they go back out into the community and, particularly, when they have no fixed abode. Is that a growing issue? I am conscious that there might be a pilot project between the Housing Executive and prisons, and work is being done on that. I would like a bit of information on that.

Finally, when is the Prisoner Ombudsman due to be appointed? Do we have a date? Are we looking to progress that to a statutory footing? With regard to death-in-custody investigations, this week, I met a family who have been waiting for 26 months for a draft report from the ombudsman or just confirmation that there is a draft report, despite the target time being around nine months and then 18 weeks subsequently. Basically, can you provide some insight into the scale of the backlog of investigations into death in custody, maybe the reason for that and what actions can be taken, particularly given the budget now?

Mrs Long: OK. I will start with the last question and work my way back, if I may.

First, in 2023, we ran a competition to appoint a Prisoner Ombudsman. The successful candidate accepted the role in December. However, in January, that person decided that they did not wish to take up the role. As no other candidates were deemed suitable in that round, we will have to run a new competition, planning for which is under way. We hope to make an appointment as quickly as possible, but there is a process that we have to go through.

In the meantime, an interim arrangement is in place. The Chief Inspector of Criminal Justice, Jacqui Durkin, has agreed to provide support to the ombudsman's office to ensure, as best she can within the resource, that work can continue on, for example, progressing investigations of sensitive issues such as deaths in custody, post-release deaths and any serious adverse incidents that occur in prison, as well as on investigating complaints. I am really grateful to Jacqui for her support on that. She understands that it is challenging. She is inheriting, I guess, a bit of a backlog because of that timeline. I am very appreciative of her support.

Over the past few years, the ombudsman's office has also been impacted by staffing issues, which have slowed down progress on turning around those reports, particularly in the spaces of deaths in custody, post-release deaths and serious adverse incidents, as quickly as we would have hoped. With the interim arrangements in place, we hope that a number of death-in-custody reports will be issued in the coming months. Unlike other work that goes on in the ombudsman's office, those reports require sign-off from an ombudsman or an interim person. We have not had that function, but we hope that we will be able to do that. My understanding is that around 26 outstanding reports need to be cleared and that those will be worked through in the next few months. I think that there are three further reports being reviewed for publication that will then make their way through. Therefore, in total, under 30 are sitting with us at the moment. We are trying to make progress to get those issued as quickly as possible.

On the collaboration work that is done with the community and voluntary sector and on preparing people for rehabilitation, you are, of course, correct that, if we cannot do rehabilitation actively with prisoners, the likelihood of reoffending increases. We see some indications of reoffending rates increasing. You are also correct to say that, when somebody is on remand, they are not obliged to comply with the prison regime or rehabilitation programmes, though they may engage with the regime if they choose to do so. However, most people on remand still deny that they are guilty of any offence. They may later plead guilty to the offence or be convicted, but, at that point, they do not acknowledge their guilt. It is difficult to work with someone who does not acknowledge their guilt or to challenge them on their offending behaviour if they do not accept that they have offended. Therefore, there is a limitation to what we can do. We can certainly provide productive activity for them, but it is harder to make any inroads into the offending behaviour.

It also has an impact on victims. While somebody is held on remand — they may be held on remand for a considerable time if the justice system moves slowly — two things can happen. The first is that the judge may decide that they have been on remand for too long, because the offence itself would not justify a prison sentence of that length on conviction, and release them on bail. That can increase risk, if that person has not been convicted and, therefore, is not monitored in the way we would have hoped. It is just bail conditions. The second thing, which is probably worse, is that many victims will be pleased that they have had their day in court but will then see the person walk away with their time served. It feels as though it was a pointless exercise because the individual who has just been

convicted walks free. That is because they have served their sentence on remand, but it is still a really difficult thing for a victim to come to terms with.

There are real challenges. We have a remand working group. The difficulty is that the Department itself has no levers in remand. We are trying to bottom it out. There are lots of theories as to why we have issues with remand. Is it about approved premises? Do we have places where people can be bailed to? Are people able to make out their bail conditions? Some choose not to, because they do not feel safe going back into the community after having been arrested for an offence, so they would rather be in prison, because they feel that it is safer. Others cannot make out their bail conditions in order to make bail for a host of reasons, including not being able to return to their original accommodation because there is the potential for them to influence victims or witnesses.

There are lots of moving parts in this. We are still trying to get a handle on the degree to which each of those parts is relevant. The judiciary here would say that it is no more likely to remand people in custody than that in any other part of the UK. However, our remand population is higher. We are working to get to the bottom of why our remand population is higher. Ultimately, if we can find approved premises, for example, by working with the Department for Communities on how that can be delivered, that is a cheaper solution than holding people on remand. It means that, if a person is convicted and subsequently goes to prison, we can work with them on rehabilitation. It also means that a person who is not convicted has not been sitting in prison. We always imagine that somebody will receive a conviction at the end of the remand journey. However, at the end of that journey, somebody could be found not guilty but have spent seven or eight months in prison. That is appalling; it is not where we want to be.

People are remanded only if they cannot secure bail or if the risk of reoffending is too high. We need to look at the risk of reoffending. If people could, for example, enter treatment programmes for mental health or substance abuse issues, the courts might have more confidence that the risk of reoffending could be managed in the community better. The absence of that kind of supportive environment may mean that the courts feel that the best place for such people is in custody.

Mr Widdis: You asked about other agencies and other partners coming in to help with this. If we can get the rehabilitation funding to do it, there is a personal development programme and a release phase for pretty much every prisoner. In the personal development bit, we bring in all sorts of partners: for example, the Department for Communities comes in with work coaches, psychologists come in, the hospitality and IT industries do training. We are trying to build tracks like that for everybody. Some of that work is skills-based, and some of it involves personal intervention with the individual.

You mentioned accommodation. On the release plan, the Housing Executive is working with us at a much earlier stage to avoid the nightmare scenario of somebody being released on a Friday night with nowhere to go and ending up in unsuitable accommodation that just increases the risk to that individual, the risk to society and the risk of reoffending. We work with the Housing Executive and other partners and with the individual at a much earlier stage as part of the release plan.

Mrs Long: On Hugh's point about the Housing Executive coming in to give advice on housing, even telling a person which emergency accommodation or shelter they might be going to can be helpful in identifying where they should register with a GP. That would allow us to get somebody registered. Often, people walk out of prison with only three days' medication, and, if they are not able to access medication because they cannot register with a GP, they may end up taking illicit drugs to supplement what they have in their possession. That is an issue.

Hugh also mentioned in passing the issue of people being released on a Friday. We know that it is not a good idea to have decisions on bail or remand made on a Friday, because it means that somebody will emerge from prison on Friday and all the services are gone until Monday. One of the things that the Lady Chief Justice is doing on her own initiative is a pilot to move those decisions to earlier in the week, so that people will generally be released earlier in the week and, therefore, have access to services.

One of the key issues is that there is a lot of management when people go into prison. We do the plan for them, and they are supported through their journey in prison. As people progress towards exit, we try to give them more agency over things such as keeping their appointments, knowing where they need to be, making sure that they get there on time and so on, in order to prepare them for living outside. Nevertheless, all the services are provided for them on-site and in-house. Suddenly, they walk through the prison gate and are told, "You have to go here. You have to go there. You have to talk to this person. You need to make an appointment there". That is overwhelming for many people,

particularly for those who are more vulnerable. We need to find a way of supporting people when they leave through the gate.

One of the things that we talked about in our meeting with Business in the Community yesterday is the degree to which it would be possible to interview prisoners for jobs while they are in prison. We have the facilities for remote access. If somebody wants to apply for a job while they are in prison so that they can start when they leave and if the business is supportive of it, perhaps the first-stage interview could take place while the person is in prison so that they have something to aim towards when they come out. It is about trying to incentivise and inspire people at each stage to keep on that journey of recovery so that they can reintegrate into society. It is also about making sure that there is the right support for more vulnerable prisoners.

The difficulty is that our responsibility ends abruptly at the gate. We cannot spend money on prisoners once they have left through the gate. That falls immediately to the Department for Communities, the Department of Health and everybody else. I am trying to find out if there are ways in which we could work collaboratively so that, as well as people being brought into our side of the house when they come through the gate to us, we help other Departments phase people back out through the prison gates. Ultimately, it is better for society, the economy and, certainly, our financial position, if people who go through prison go through it once and never go back. It is also better for the individuals. There is still a tendency for people to think that, if you have been in prison, all you will ever be is an ex-prisoner. People who are in prison are lots of things, and people who leave prison become lots of things. We need to change the mindset that prison defines your entire life. It does not have to define a person's life in a negative way; it can be a transformational place where people get their lives back on track and are able to make a contribution. That is what we want it to be.

The Chairperson (Ms Bunting): You will forgive me, Minister and members, but, as ever, we are under time pressure. The Chief Constable is due in a few minutes.

Mrs Long: I shall be brief. *[Laughter.]*

The Chairperson (Ms Bunting): I have a list for you, Minister. I have Stewart, then Deirdre and then Justin.

Mr Dickson: Thank you, Minister, for coming in, and "Welcome" to your team, particularly your new permanent secretary.

I have two areas to cover with you briefly. The first relates to what will inevitably be the story of the day: the Budget and the difficulties that you have clearly articulated for us. You referred to having to work your budget with all your justice partners. How do you plan to keep them on board, considering the difficult constraints that you will inevitably have with that budget?

As the Chair said, the Chief Constable will be the next person through the door to us today. We hear in the Chamber and other places about the number of police officers required or the amount of funding that is required for the PSNI to keep it going. It is a responsibility of your Department to do that. Is there agreement between the Department and the Chief Constable on what those numbers are? We know that you can train only 145 police officers per annum, for example, because that is the limitation of the college, but, as regards the broad expectation, is there agreement on the numbers?

For brevity, I will turn to my other issue now. Minister, you will be aware that the Government have, disgracefully, passed the Rwanda Bill. What impact will that have on those who are currently housed for asylum in Northern Ireland? From speaking to colleagues who work with asylum seekers across Northern Ireland, I know that the Bill has struck a great deal of fear into that community here. What impact will that have on your Department, particularly with regard to modern slavery?

Mrs Long: There are a couple of things in that, Stewart. The college can produce more than 145 graduates in a year. The problem is that, when you take account of the attrition rate and people leaving, you end up with 145 net. You train a lot more new people, but then people leave and so on. I will be slightly facetious and say that the figure that we land on at the top end of the scale is academic, because, at 145 officers a year, we will not reach it any time soon. In some ways, getting into a dispute as to whether it is 7,500 or 8,500 is a moot point, because we are not even at 6,500, and it will be a struggle to get there this year. It is about acknowledging that our number, at the minute, is too low. We all are in agreement on that: the Chief Constable and I agree that it is too low. That is why we put a bid in to try to increase the number to the maximum that we can this year.

We have used a couple of pieces of evidence. Patten suggested that there should be 7,500 officers, and there is a range of numbers in the Leapwise report that was commissioned by the PSNI. It is important to note that the Leapwise report concluded that the number should be in the region of 6,900 to 7,200, which is broadly in line with the previous recommendations, which some of you will remember, from the then Deputy Chief Constable Stephen Martin, who reckoned that it was about 7,200. That allows for two things. Yes, there has been an increase in population since the previous iteration of the 7,500, but there has also been an increase in technology. For example, one of the reasons that every police officer got a handheld digital pad was so that they would not have to keep going back to base to take statements and all those things. That should mean more officers on the ground. We are nowhere near 6,900 to 7,200, and we need to be realistic that it will take us three or four years to get there. Key for us in the Department is maintaining cohesion.

There is no point in us squabbling over the slice of the pie that we get when we know that the pie is too small. We have to be realistic. The entire justice system must be equitably funded. If we throw it all at policing, what will we do with the people who are convicted? How will we get them through court? When arrests are made, where do they go next? We have to make sure that we do it properly across the piece. If we underinvest in probation to overinvest in prisons, for example, we will ultimately force more people into prison who could otherwise be monitored in the community.

On your final point about the impact of the Rwanda Bill, I met the Independent Anti-Slavery Commissioner about human trafficking yesterday. Her experience is that it has been absolutely chilling. The Bill applies in Northern Ireland, as it is a reserved matter. My Department has no involvement at all with migration. Legal and illegal migration and managing those people is a matter for the Executive Office, though the overall policy is a reserved matter. The Anti-Slavery Commissioner was clear that people who have been trafficked are afraid to come forward because they fear deportation to Rwanda. She brought two things to my attention that I was aware of from conversations with people in the sector here. First, the victims are afraid to disclose that they have been trafficked or to make any complaint. They want to stay under the radar, because they are afraid that, if they do not, they will be immediately placed as illegal immigrants. We are conflating two separate issues: illegal migration and human trafficking. Secondly, it is creating an ethical dilemma for first responders. If you are a nurse working in a hospital, a police officer going to the scene of a crime or an ambulance or fire person turning up at an overcrowded house and you suspect that modern slavery is taking place, there is this ethical dilemma: do you close your eyes to it and leave those people be, knowing that they could be exploited; or do you raise a red flag and run the risk of them being deported? That is a genuine concern. We are treating people who have been trafficked and who are victims as criminals. In doing that, we potentially make the actual criminals who trafficked them harder to reach. It is a genuine concern, Stewart, and one that we are alert to.

Miss Hargey: Thanks very much, Naomi and team. I want to quickly cover two issues about legal aid. There was the independent review of criminal legal aid by Judge Burgess. There has been a call for evidence about civil legal aid. Will there be an element of independent oversight in that? Budget has been touched on. There has been a legal challenge to the Department on payment delays, and that is a concern. Will the review also look at the amounts and thresholds, the state of legal firms and the changes that have happened over the last 15 years, particularly for the smaller, high-street firms? There is a big concern that smaller firms could face closure, and those are the very firms that, as you say, have the most impact on the most vulnerable in our communities who go through the system.

There is the broader issue of how the system reflects society in terms of class, gender, disability and minority ethnic background. The more local firms are normally more reflective of society. There are unintended consequences and impacts with some of these things.

Will there be an independent review of civil legal aid as there has been with criminal legal aid? My understanding is that solicitors have to itemise all their costs but barristers do not. I do not understand that. May we have some feedback or follow-up on why that is the case? Will that be looked at as part of the review?

The Commissioner Designate for Victims of Crime came to the Committee a while ago. Will that be placed on a statutory footing and be part of any legislation that you will introduce?

On the Victim Charter, concerns have been raised about statutory powers for compliance, needs assessment and the important issue of disclosure of third-party material. Will there be any strengthening of the legislation or rules around some of those issues of concern?

Sorry. That was quite a lot.

Mrs Long: It was quite a lot. I will try to be brief.

On the foundational review of legal aid, yes, we are looking at criminal and civil. I would argue that Tom Burgess is independent in the sense that he is not a legal aid recipient. It is a complex system, so you need somebody who understands —

Miss Hargey: Will you have a similar approach for the civil end of it? He is reviewing criminal legal aid.

Mrs Long: We are looking at civil legal aid, though the issue there is slightly different in its complexity. I can get back to you with more detail on that.

You asked about the difference between barristers and solicitors regarding costs. It depends on how the bills are done. There is someone called the "Taxing Master" in the legal aid system. Having been briefed on it a number of times, I would struggle to define how that system works. Yes, we are looking at it. We are conscious that this is public money. It has to be fully transparent and accountable. If I am looking at part of the system and finding it opaque in how it operates and functions, so would the public. We are looking at that and have raised it with the legal profession. That is not by any means to suggest that the Taxing Master is anything less than open and transparent about their role and their dealings. They are doing their job well: the issue is about the system and whether it needs to change. We are looking at that.

You asked about access to justice because of geographical contraction. At the moment, there is no evidence of significant geographical contraction in the profession. We are conscious that they are small businesses. They have cash flow challenges like every other small business. Legal aid is only part of their income: a large part in some cases, a small part in others. If they also do housing conveyancing and other legal work, that will be a separate income stream. However, for businesses that are more reliant on legal aid, experiencing long delay in payment will absolutely have a knock-on effect on availability. One of our challenges is not just administering legal aid but ensuring access to justice. That is why I welcomed the idea of having that separate APG to work alongside you and look at how we can improve that.

You mentioned the impact on diversity, and you are right: there is an issue when you stop recruiting new people or there is a hole in the profession as people drop out. There is a perception that young barristers have to work for a number of years for almost no pay in order to establish their credibility before they can submit bills for payment. You can do that only if you have the support of a wealthy family or a benefactor, which few of us have. You are correct in saying that that is a challenge as regards diversity.

On the plus side, we have a Lady Chief Justice now. I was there when the King's Counsels were called to the Inner Bar at the start of the mandate. The diversity there was incredible, not just in gender but in the legal areas in which they work. Some were in corporate, others were in family law and so on. There is a genuine drive in the judiciary, the Bar and the Law Society to promote diversity. Ultimately, however, regulation of the legal profession is a matter for the Department of Finance. It is another one of those weird things where we are responsible for the legal system but the regulation of solicitors and so on lies with DOF.

I think that your last point was on —

Miss Hargey: The Commissioner Designate for Victims of Crime

Mrs Long: Yes, the Commissioner Designate for Victims of Crime; it was hiding in open sight. We want to put the commissioner on a statutory footing. It is a priority for legislation. We can do that before the end of the mandate. The intention is to do it in the hate crime and victims Bill. We need to work through how the office would be structured and make sure that the challenges that we experienced with other commissioner offices across the Executive are addressed at this point. We are keen to do that. Hopefully, we will complete a public consultation, do the preparatory work, including a business case, and submit that Bill in 2026. Hopefully, that will allow that to happen in this mandate.

The Chairperson (Ms Bunting): Deirdre, can we ask for a written response to your question about a statutory footing for the Victim Charter?

Miss Hargey: Yes, we can get a follow-up in writing. It was about the Victim Charter statutory powers, needs assessments and disclosure of data.

The Chairperson (Ms Bunting): I am really conscious that the Chief Constable has now been waiting for 15 minutes.

Mr McNulty: Minister, best wishes on your delayed new mandate. In the past month, I have asked you a series of questions about rape and sexual crimes. I will not go into the details of the questions, but I will give one example:

"To ask the Minister of Justice how many police officers, on average, are assigned to the investigation of (i) murder cases; and (ii) rape and sexual violence cases."

You referred me to the Chief Constable and the Police Service to get answers to those questions. Is that in keeping with the Speaker's ruling on 8 April 2024 that Ministers must answer questions and that it is not in order simply to refer MLAs to someone else or another organisation? Is it one rule for other Ministers and a separate rule for you?

Mrs Long: No, but the Speaker has written and made clear that there is an exception for the Department of Justice. Tripartite arrangements have been put in place with the new policing rules, which mean that oversight of the Chief Constable is a role of the Policing Board and that the Chief Constable is not only the chief accounting officer but the chief operating officer of the PSNI. It would be entirely inappropriate for me either to guide how he allocates his officers or to speak to his decisions and choices in that regard. It is quite in order, though, for you to pass it to your colleague on the Policing Board to get those figures. There is another similarly public, formal mechanism through which you can obtain those: through written questions from your party colleague to the Policing Board.

Mr McNulty: OK. Do you hold that information?

Mrs Long: I do not hold that information. I have no reason to hold that information, because I am not the Chief Constable and they are not my staff.

The Chairperson (Ms Bunting): There also has to be an element of independence for the police in all of this.

Mrs Long: For me to step into the space where the Chief Constable makes those decisions or for me to hold that information would not be appropriate. To be fair to the Speaker, he made it clear that he recognises that the Justice brief is unusual in that regard.

The Chairperson (Ms Bunting): There must be no political interference in policing operation.

Mr McNulty: OK. I struggle with that. I am fearful that you do not hold that information or have access to it, given that there is such a problem of sexual violence, which disproportionately impacts women and girls. I do not understand how the Justice Minister does not have access to information that will allow her to —

Mrs Long: With respect, Chair, I did not say that I did not have access to it. If I asked the Chief Constable for that information, I am sure that he would be more than happy to furnish me with it.

The Chairperson (Ms Bunting): But you do not hold it.

Mrs Long: But I do not hold it. I am not the owner of the information, and, therefore, it would be inappropriate for me to answer questions on it.

Mr McNulty: OK. Thank you, Minister.

I have a question about the data breach. You said that it would have been dealt with if budget increases had stayed in line with inflation. I do not understand how an inflationary increase in the Justice budget would have covered £116 million. Is that what you meant?

Mrs Long: I meant that, had our budget increased in line with inflation from 2011, we would have had around £424 million additional funding this year. Our entire pressures were £446 million. Therefore, we would have been able to absorb the differential. That £446 million includes the money for the data breach that you referred to.

Mr McNulty: OK. In another question for written answer, you told me that the personal injury discount rate was set not by your Department but by the Government Actuary. The personal injury discount rate impacts all of us in that insurance costs across the North are crippling for businesses, families and car drivers. Our discount rate is different from that in Scotland, England and Wales. Secondary legislation was brought forward in May 2021, when the Department of Justice changed the discount rate, on an interim basis, to -1.75%.

Mrs Long: There are two parts to that. The first part is about policy, and I can answer on that. The second part is about the interim rate, and I cannot answer on that.

The Chairperson (Ms Bunting): It is in our pack today, so we will be discussing it.

Mrs Long: I cannot answer on that, because, as you know, I have recused myself from decisions on the figure because my husband is a member of a medical defence union — I declare that interest — and have, therefore, delegated those to my permanent secretary. I made that clear during the passage in the previous mandate of the primary legislation that you referred to.

On the policy, we do not set the personal injury discount rate. We set the parameters within which it is set; that was set in legislation. We also set the portfolio. The Government Actuary asks us to confirm or deny a series of questions, which then leads to them saying what the discount rate should be. I did not answer those questions. They were answered by my previous permanent secretary, because they influence the outcome and the actual number. We have a responsibility to set that rate, but we do not choose the rate, if that makes sense. It is the Department's responsibility to set the rate in the sense that we have to say what it is and bring forward the regulation, but we do not choose the rate. It is calculated independently by the Government Actuary, and it is based on the legislation, the portfolio and the structures that we put in place. That is what I mean by saying that we do not set the rate. We do not decide what it will be.

We have one legal duty in this regard, which is to ensure that recipients of criminal injury payments are compensated by receiving 100% of their entitlement; no more, no less. We cannot adjust the rate according to the impact that it might have on the Department of Health or the insurance industry or on the basis of any other factor. It is simply that the person who has been injured receives 100% of the compensation; no more, no less. That is our legal duty, and that is what the Government Actuary is bound by as she brings back the figure. We then bring forward the regulation for it to take effect.

Do you want to add anything, Hugh, about how that process works?

The Chairperson (Ms Bunting): I am really conscious of time.

Mr Widdis: I will say just that I absolutely will take on the responsibility for the decisions from which the Minister has recused herself. How the rate is set has been clearly set out.

Mr McNulty: I have one quick question.

The Chairperson (Ms Bunting): Please be really brief, Justin.

Mr McNulty: You talked about budgetary pressures leading to catastrophic failures that could have life-changing or even life-ending consequences. Will you give us some more information on what you meant by that?

Mrs Long: The reality is that part of the role of justice agencies and partners is to manage category 1 offenders, vulnerable people in prisons and people in the community who might pose a risk to themselves or others. If we are not able to provide the level of supervision required by our statutory duties, if we do not have the funding for the police to be able to respond speedily to 999 calls, if probation officers are not able to supervise all prisoners to the degree that they might wish or if prisons are overcrowded and potentially more dangerous, someone could lose their life or experience life-altering consequences as a result of a crime being committed against them and their becoming a

victim. Those are serious issues. They are not trivial. It is not just about timing; it is about preservation of life and ensuring that people are safe.

Our Department's overarching objective is to keep people safe. If we do not have sufficient resource to do that, of course, there could be catastrophic failures in the system. We do everything in our ability to manage that risk carefully, but, as things become more strained, undoubtedly, the risk will continue to increase.

The Chairperson (Ms Bunting): Happy enough, Justin?

Mr McNulty: Thank you, Minister. Thank you, Chair.

Mr Beattie: I will be brief. I want to tap into something that Deirdre said about putting the Victims of Crime Commissioner on a statutory footing. I absolutely get that you want to bring that in through the hate crime legislation. Will you consider bringing it in as part of the miscellaneous Bill? It would be really useful to have the Victims of Crime Commissioner on a statutory footing before we go into sentencing reform. It could add real value to the process. That is just a plea; I do not necessarily need an answer.

Mrs Long: It is important that I give you one, though. *[Laughter.]*

Mr Beattie: I will accept that.

The Chairperson (Ms Bunting): Minister, will you please make it short?

Mrs Long: I will.

The Chairperson (Ms Bunting): Try not to table it as an amendment, Doug.

Mr Beattie: There is a real lack of confidence around sentencing in Northern Ireland, particularly our 50:50 style of sentencing. Will you please look at that in the sentencing Bill?

Finally, I asked you a question for written answer, which you kindly answered. We are paying £0.5 million for 6.5 full-time-equivalent staff from His Majesty's Prison and Probation Service to look after our terrorism-related offenders (TROs). We have 42 TROs in Northern Ireland. Some are out on licence, and some are behind bars. I never supported using that outside agency to do that. In light of that cost for that number of people working on this, is there any way to review it in the coming years? I know that our probation service still deals with some of our TROs in the separated prison regime.

Mrs Long: I will canter through those questions quickly. First, the 50:50 stuff to which you refer to is not an automatic provision that applies to all sentences. There might need to be more conversations with my officials. I think that there is a misunderstanding that everyone is entitled to 50% remission of their sentence: that is not the case, and we need to bottom that out. I think, on the basis of some of the conversations that we have had, that there is confusion around that.

Multi-agency risk assessment conferences (MARACs) have been extremely effective. Members will know the history of this. Probation staff were being threatened and were unable to do any monitoring of TROs for some time, placing the community at significant risk of harm and, indeed, placing our peace process at significant risk of harm as a result of the lack of supervision and the challenges around that. MARACs have been introduced to allow us to effectively monitor and supervise ex-prisoners by making good choices about their management. MARACs have been very effective and will be reviewed as of right, anyway, because we are going through that process.

The Chairperson (Ms Bunting): We are due to get a briefing on that shortly.

Mrs Long: There is due to be a briefing because, obviously, it is a sensitive issue. I have to say that it has worked in managing TROs. It is a sensitive area and an important one when it comes to safety and security. It is an area for which we cannot simply abdicate responsibility, given the sensitivities of it, nor can we place people who live in the community at additional risk of harm when they are carrying out their probation duties.

If I am correct, you also asked whether we could advance the introduction of the statutory Commissioner for Victims of Crime. I do not want to be cheeky on my way out the door, Doug, but it would require a further amendment to the seven that you already object to. The answer is no, because, even if we were able to consider that, first, it would have to be an amendment, but, more than that, we would not have time to do the policy development that I described. We have to go to consultation on this; we have to do the policy development; and we have to consult other justice partners. However, I reassure you that, when it comes to the sentencing Bill, the Commissioner Designate for Victims of Crime has a significant role and is already influencing the system in a really constructive way. We see her as a critical friend. She rightly holds us to account and holds our feet to the fire if she thinks that we are getting it wrong, but she also invests time and energy early in policy development, including on the sentencing issues, to ensure that we get the balance right.

The statutory footing is more about the commissioner's ability, frankly, to hold other agencies to account than her ability to collaborate with the Department, so I am not exercised about that. It is not possible to expedite it, and, if we rush it through without having done due diligence, we risk creating issues in that office that we may live to regret. The right time to do it is in the hate crime and victims Bill, but there is no barrier to her participating in the interim.

The Chairperson (Ms Bunting): I am pleased to hear you say that. Minister, thank you very much. You have been generous with your time and your answers. We appreciate it.

Mrs Long: As have you. Thank you, Chair and Committee. I am very appreciative of your time.

The Chairperson (Ms Bunting): Thank you very much. All the very best. Hugh and Deborah, thank you. No doubt we will see you again in due course.