
From: Caroline Perry
Clerk to the Committee for Justice
Date: 17 May 2024
To: Peter Hall, Clerk to the Committee for Finance
Subject: Scrutiny of the draft Executive Budget for 2024-2025

Dear Peter

At its meeting of 16 May, the Committee for Justice considered your correspondence regarding scrutiny of the draft Executive Budget for 2024-2025.

The Committee agreed to write to the Committee for Finance to outline its views. As the Committee has not yet received a detailed budget briefing from the Department of Justice on the 2024-2025 draft Budget, its views are based on broad parameters.

The Committee for Justice is deeply concerned about the real-terms cut to the Department's budget and the potential implications of this for service delivery. As the majority of the Department's spend is demand-led, it has limited scope to make additional savings. While the criminal justice system should be a place of last resort, in many cases it is becoming the opposite, placing further additional burdens onto an already challenging budgetary position.

The Committee also agreed to forward a copy of the Hansard reports of the following scrutiny sessions: oral evidence on the Budget from 29 February and evidence from the Minister and Permanent Secretary on the 25 April. A copy of both Hansard reports are attached for your Committee's information together with the Chairperson's contribution to the previous Budget debate.

Caroline Perry
Clerk, Committee for Justice



Committee for Justice

OFFICIAL REPORT (Hansard)

Justice Budget: Department of Justice

29 February 2024

NORTHERN IRELAND ASSEMBLY

Committee for Justice

Justice Budget: Department of Justice

29 February 2024

Members present for all or part of the proceedings:

Miss Deirdre Hargey (Deputy Chairperson)

Mr Doug Beattie

Mr Maurice Bradley

Mr Stewart Dickson

Mr Alex Easton

Mrs Sinéad Ennis

Mrs Ciara Ferguson

Mr Justin McNulty

Witnesses:

Ms Deborah Brown

Department of Justice

Mr Richard Logan

Department of Justice

Ms Andrea Quail

Department of Justice

The Deputy Chairperson (Miss Hargey): I welcome Deborah Brown, director of the justice delivery directorate — very long-winded; Richard Logan, deputy director of the financial services division; and Andrea Quail, head of financial planning, strategy and support. You are very welcome to the new Justice Committee. I will give you the opportunity to open up your presentations. Members may indicate as we move through if there is a lot of detail, or we will try to wait until the end for any questions. Over to you.

Ms Deborah Brown (Department of Justice): Thank you, Deputy Chair, and to the Committee, for the opportunity to come along this afternoon to provide you with an overview of the Department's budget. Joining me this afternoon are our finance director —

Mr Richard Logan (Department of Justice): Richard Logan. Hello.

Ms Brown: — Richard Logan, and Andrea Quail, who is our head of financial planning.

This afternoon is an opportunity for us to give you an introduction to the Department's finances and to outline how the budget is allocated and the types of issues that we currently face. We thought that it would be useful at this stage to give you a high-level overview, but of course we will come back to the Committee with further information on the 2024-25 budget as that process progresses. We very much value the input of the Committee, and we will engage with you throughout this process and take your views on board.

The approach this afternoon will be to talk through the slide pack, which, hopefully, you have all had access to. Before we get into the slide pack, however, I want at the outset to highlight a couple of key

issues around the current year's budget and next year's budget. As I am sure you are all very aware, the budget situation has been extremely challenging for the Department of Justice and, indeed, for all Northern Ireland Civil Service (NICS) Departments.

First, in the current year, the Department is on course to report a break-even or a small underspend at this stage of the year. That result has only been possible due to the very welcome decision by the Executive to provide additional funding of £75.3 million in order to manage the forecast overspends that the Department was showing and to meet the pay awards. Prior to that announcement, we had been forecasting a potential overspend of around £35 million, which mainly related to the PSNI. That amount excluded some of the elements of pay that we were subsequently funded for.

Secondly, looking ahead to 2024-25, the Department continues to face significant and unprecedented pressures. The Department's most recent analysis has now identified potential pressures of £444 million, which is 40% of our budget, and that assumes that there is no uplift on the current baseline. Further detail and the factors contributing to those pressures will be outlined as we go through the slide pack. You may be aware that the new Executive have already written to the Prime Minister, the Chancellor and the Northern Ireland Secretary of State to press for urgent discussions on the Government's financial package for Northern Ireland. Until a final Budget is set for 2024-25, we cannot be definitive about the impact on the Department's spending areas and their ability to absorb pressures, particularly the recurrent implications of the pay awards that are being negotiated and settled for 2023-24. However, we will seek to ensure that there is openness and transparency with the Committee throughout this process.

We will turn to the slide pack. Slide 2 shows the Department's organisational structure and provides an overview of our structure from a financial governance perspective. There are five directorates within the core Department, and you are in the process of receiving a briefing from each director on their area of work. One of the features shown by the diagram is that there are a range of agencies and non-departmental public bodies (NDPBs). You will see that we have five agencies, and it is worth noting that there are only nine agencies in total across all NICS Departments. The bottom two rows are the eight executive NDPBs, the largest of which, by quite a margin, is the PSNI, followed by police pensions. This range of bodies adds to the complexity of our budget management.

Slide 3 shows at a high level how the budget is allocated. You will note that the vast majority of our budget — 69% — sits with our non-departmental public bodies, including the PSNI, which makes up 65% of our budget. The executive agencies account for 25% of the Department's budget, the largest of those being the Prison Service, the Northern Ireland Courts and Tribunals Service (NICTS) and the Legal Services Agency (LSA). You can also see from the slide that only a very small amount is allocated to the core Department: 6% of our budget.

Slide 4 shows the engagement that the finance team normally expects to have with the Committee through the in-year monitoring round process. While the specific details have still to be confirmed for the upcoming year, there are normally three monitoring rounds each year. The Department of Finance is responsible for coordinating the in-year monitoring process and providing advice to the Finance Minister on the proposals in each round. The Finance Minister will then bring her proposals to the Executive for approval. DOF will issue a commissioning letter in respect of each monitoring round to notify Departments of the scope of the exercise and the deadlines for the returns.

An indicative timetable for the in-year monitoring rounds is generally set out at the start of the financial year. Those are the times for the planned engagement with the Committee, but, as well as the in-year monitoring rounds, we expect to provide the Committee with a briefing on any specific issues requested in light of emerging public expenditure issues throughout the year. As I said, we anticipate coming back to the Committee on the 2024-25 budget.

Previously, we have provided a briefing to the Committee on our monitoring round returns and the spring Supplementary Estimates (SSEs), which are the technical outworking of those returns. The Committee may be aware that the Budget Bill and the spring Supplementary Estimates debate took place in the week of 19 February. In line with our normal engagement with the Committee, we will provide a briefing to the Committee on the Main Estimates for 2024-25, which is normally around May.

I will also highlight that, in the current financial year, DOF did not commission any in-year monitoring rounds. Therefore, Departments were not in a position to bid for additional funding. Instead, DOF carried out a series of exercises to accommodate technical transfers, reduced requirements and the allocation of centrally held funds. That is a reflection of the uncertainties and challenges around the

Northern Ireland Budget in the 2023-24 year. We anticipate that the annual Budget process will return to the normal timescales for 2024-25 once that Budget is finalised.

I will pass to Richard, who will take us through the rest of the slides.

Mr Logan: I will start with slide 5, which shows how the Department's budget is broken down. The main source of financing for public expenditure remains the departmental expenditure limit, referred to as DEL. All DEL allocations are made on the basis of a clear distinction between resource DEL and capital DEL. Resource DEL is further broken down into ring-fenced resource and non-ring-fenced resource. Ring-fenced resource is the budget that has been ring-fenced by Treasury to cover the cost of depreciation and impairments, and those are accounting costs and do not result in actual cash costs. The ring-fenced budget cannot be used for any other purpose, and the Department's opening budget for 2023-24 was £93 million. However, the main focus of any budget is the non-ring-fenced resource DEL, and you will sometimes hear it referred to it as cash. It reflects the ongoing cost of providing services: for example, pay and pension costs for staff; and operating costs, including the maintenance of buildings, utilities and IT costs. The Department's opening budget for that allocation was £1.157 billion. Finally, capital DEL reflects investments in assets that provide or underpin services in the longer term, such as buildings, IT and vehicles. The Department's current year opening budget was £129 million.

Slide 6 outlines the key features of this year's non-ring-fenced resource DEL budget. On 27 April, the Secretary of State announced the 2023-24 resource and capital allocations for Northern Ireland Departments. The opening budget for DOJ was £1.157 billion, and that included a budget cut of £19.4 million — 1.7% — as well as Treasury allocations of £31.2 million towards additional security funding and £3.2 million for NI protocol funding for the PSNI. An additional in-year allocation of £11 million for legal aid pressures was provided by the Secretary of State in November 2023. DOF also recently confirmed a £6 million allocation to cover the in-year costs of the PSNI data breach. However, that does not include expenditure for any associated compensation claims and legal costs that will be incurred in future years. On 15 February, the Executive confirmed an additional £75.3 million to cover forecast overspends and pressures in 2023-24.

The chart on slide 7 provides you with an illustration of how the DOJ budget is allocated. The Department has a range of agencies and NDPBs, so the budget is split across quite a range of areas. The PSNI's opening allocation of £750.3 million represents about 65% of the Department's overall budget. Significant elements of the budget sit with the Prison Service, £122 million; the Legal Services Agency, £101.9 million; and the Courts and Tribunals Service, £51.7 million. It should also be noted that the budget for courts is shown net as it receives income of approximately £40 million, so its gross spend is in the region of £90 million.

Slide 8 provides a high-level overview of how the Department's budget is allocated. As I mentioned before, 65% of it is allocated to the PSNI. However, 69% of our total budget is spent on staff costs. Of the remaining budget spent on non-staff costs, 30% is statutory and contractually committed, leaving less than 1% that is discretionary. This means that the final outcome of pay awards and availability of recurrent funding will have a significant impact on the Department in affordability and its ability to manage these costs within a limited budget.

I turn to slide 9. The Finance Minister's written ministerial statement on 15 February provided additional allocations for Justice. First, the £75.3 million non-ring-fenced resource DEL for forecast overspends and pay awards and, secondly, £4.9 million for ring-fenced resource DEL in respect of depreciation charges. Taking into account those additional allocations, the Department's final resource DEL budget, non-ring-fenced, for 2023-24 is £1.259 billion. It is currently expected that the Department will report a break-even or small underspend position at year end.

Up to this point, we have been forecasting a potential overspend of approximately £35 million, mainly in respect of the PSNI. That £35 million excluded the cost of pressures relating to pay awards for 2023-24. It is important to note, however, that the additional £75.3 million allocation from the Executive has been provided in respect of pressures in 2023-24 only. This is not a recurrent allocation that will automatically be included in the Department's baseline budget for 2024-25.

Slide 10 shows the key features of our 2023-24 capital budget. We initially received £128.8 million of funding, and this capital allocation contributes to a number of important projects, including ongoing maintenance of the ageing estates in police, prisons and courts, as well as key IT and digitisation projects. Of the opening allocation, £36.8 million was subsequently returned to the Department of Finance as part of the in-year technical exercises. The majority of that — £30 million — was in respect

of the police college. The easements identified are largely due to delays in commencing projects, which means that the costs will now move into 2024-25 and future years.

Slide 11 shows how our capital is allocated. You will see that our main capital spending areas are police, prisons and courts, and they make up most of the Justice estate. Business areas within Justice receive capital allocations each year based on the prioritisation of their bids.

I move on to next year's budget. The Department of Finance initially commissioned an information-gathering exercise for Budget 2024-25 purposes on 8 December 2023. The Executive subsequently agreed that a different approach for next year's Budget is more appropriate, and a revised Budget exercise was commissioned on 18 February, with a return date of 29 February — today. That will be followed by a series of bilateral meetings with the Finance Minister and Executive colleagues, with the aim of bringing a Budget paper to the Executive for consideration in early April.

One of the key issues for consideration will be the long-term affordability consequences of accruing pay awards for 2023-24 in the absence of any guarantee that recurrent funding will be provided for future years. If there is no increase in the Department's baseline allocation for 2024-25, our most recent assessment indicates that we will start the new financial year with pressures in the region of £444 million, or just under 40% of our baseline. Of this, £217 million relates to operational pressures, including pay and pension increases, inflationary costs, increased legal aid requirements, the continuing increase in the prison population and additional demand on courts and police services. The remaining £227 million of pressures relates to items of exceptional nature outside the direct control of the Department. Those include estimated costs due to legal claims for the PSNI data breach, holiday pay and McCloud injury-to-feelings cases. There is a general level of uncertainty regarding the final outcome of the cases and the range of potential costs that will be involved.

Slide 13 relates to capital DEL. As in previous years, Departments will take a zero-based approach to capital DEL and will have to bid for their share of the capital budget that is available to the Northern Ireland block. The Department's initial assessment of requirement was £140.9 million, of which £70.8 million related to inescapable projects, for which there are firm legal or contractual obligations, and £70 million related to high-priority projects. Based on our most recent information, the value of high-priority bids has been revised down to £51.6 million, bringing the overall total to £122.4 million.

The DOJ capital budget allocation for 2024-25 is expected to be significantly below the £120 million requirement that was identified, and we will therefore need to prioritise the bids that are received. A number of high-value building and IT projects over the next 10 years have also been identified, particularly in the Prison Service, the Courts Service, Forensic Science and the PSNI. Given the likely constraints on capital budgets, it will be necessary to take a strategic approach to allocating funding to those projects over the next five to 10 years, in line with ministerial priorities and within the limited budget that is available.

That brings to a close our overview of the Department's finances. We will be happy to take any questions from the Committee.

The Deputy Chairperson (Miss Hargey): Thanks very much for your presentations. I open the meeting to members.

Mr Beattie: Thank you for that. Richard, you kept saying that there was a small underspend. What was it? What figure are we talking about?

Mr Logan: By year end?

Mr Beattie: Yes.

Mr Logan: There are a couple of factors. One is when the pay awards are made. If they are not paid before the end of March, additional employer contribution rates will kick in, and that will increase costs. The underspend will ideally be within 1%, or less than £10 million. That is our expectation.

Mr Beattie: Yes, that is perfect. Do you know what the £6 million that has been spent on the PSNI data breach has been spent on? Has it been spent on legal costs, or on moving police officers' homes — do we know?

Mr Logan: Yes. It involves overtime costs and personal and physical security measures that have been implemented for staff across the PSNI.

Mr Beattie: Those are just the first year costs. What is the rough projection for future costs?

Mr Logan: Our understanding is that those costs are contained in this year. The bid that went in was for costs incurred this year. We have not gone out to bid for any increase, if there is one, next year. We expect the future costs to be more to do with compensation and legal costs. That will be the significant cost, and it will follow on into next year or beyond.

Mr Beattie: Yes. You are looking at £444 million of pressures next year. I take it that the pressures from the data breach are contained in that.

Mr Logan: Yes.

Mr Beattie: You must be analysing roughly, somewhere, what the cost of that will be. I am just trying to see what the baseline is. I understand the pressures.

Mr Logan: For the data breach?

Mr Beattie: Yes.

Mr Logan: The PSNI has given us the figure of £116 million as the cost of the data breach in compensation and legal costs.

Mr Beattie: Is that £116 million part of the £444 million of pressures?

Mr Logan: The £444 million is roughly split, with £270 million for operational, recurring pressures. When the balance of the one-off legal costs is paid, that is the end of them, but that figure is made up of the data breach costs of £116 million and the costs of holiday pay and McCloud injury-to-feelings cases. The biggest single figure, however, is for the PSNI data breach.

Mr Beattie: So it is £116 million. That is perfect.

Mr Easton: Thanks for your presentation. Your figure of £440 million of pressures in the next financial year, which is 40% of your budget, is absolutely massive. I note that 65% of your budget goes to the PSNI. Will those pressures affect recruitment in the next financial year? Will any police officers be recruited next year? Considering the attrition rate of police officers who are retiring, are we looking at a situation in which there may not be any recruitment of police officers in the next financial year because of those pressures?

Ms Brown: The bid that has been constructed by the PSNI is for maintaining existing services and starting to recruit again to get it back to a more sustainable position. There is a limit to how many officers the PSNI can recruit in one year, so there is an element in its bid to increase police numbers by approximately 145. That is a net figure, which means recruiting probably about 500 officers and a normal attrition of about 355. That is included in the bid. That would start to bring the number back up from the 6,358 that the PSNI expects to reach at the end of March, which is an all-time low and nowhere near the figure of 7,500 that was recommended in New Decade, New Approach (NDNA) or, indeed, the sorts of numbers that we heard the Chief Constable talk specifically about yesterday. It will take the PSNI time to get back to that position. The bid that is reflected for 2024-25 is the maximum that it could bring in in one year.

Mr Easton: So, there will be a slight increase in numbers, but not nearly enough.

Ms Brown: That is dependent on the bid being met, of course. Its bid is quite substantial. The bid from the PSNI, outside the exceptional items that Richard outlined, is £141 million. That is over and above the holiday pay, the data breach and the McCloud judgement. Within that £141 million is £8 million for starting to grow police officer numbers again.

Mr Easton: I am deeply concerned about the police numbers. That is a big worry for me, but thank you.

Mr Dickson: I will be very brief. You talked about the limit at which those police numbers can come in. I assume that that is a physical limit dictated by the training ability of the organisation.

Ms Brown: Absolutely, yes. It is to do with capacity.

Mr Dickson: It is an issue of capacity for the organisation. Therefore, if the budget is met, this will be good rather than bad.

Ms Ennis: I will follow on from Alex's question. Last week, the permanent secretary gave the Committee a presentation on the Department's forward work programme and issues facing the Department. One of the big things in that presentation was the recruitment of Prison Service staff. Taking on board what Alex said, can you tell me how much of that overspend is to do with the Prison Service's attempt to recruit more staff? We know that it is severely understaffed.

Ms Brown: Before the Minister left, in August 2022, the prison officer numbers were starting to increase. The Minister had given approval for an additional 56 officers. As a result of opening up two square houses, officers have had to incur some overtime. The estimated need to manage those square houses is around 38 additional officers, but, at the moment, that is managed through just overtime. We have therefore placed a bid for another 38 officers on top of that. As you probably heard the permanent secretary say a couple of weeks ago, however, the prison population continues to increase, and, if we had to open a third square house, we would probably need another 38 prison officers on top of that. They are not included in that £444 million.

Mr Logan: A total of just over £20 million is included for prison pressures going into next year. I will give context. The Department expects our salary bill for 2023-24 to be in the region of £850 million. Every 1% pay increase will cost an extra £8.5 million. A broad indicator of pay awards is that it would be approximately £8.5 million for every 1% of pay award increase.

Mr Bradley: My question follows on from Alex's. Did you say that, in March, you expect the number of PSNI officers to be 3,580?

Ms Brown: It was 6,358

Mr Bradley: I picked it up wrongly, sorry.

This question relates to an operational matter, so you might not be able to answer. Within that, is there any opportunity to delay retirements to keep numbers up, or is there an ability to re-employ? If so, has that been factored into the budget? Maybe you cannot answer that, sorry. It is an operational matter.

Ms Brown: Unfortunately, I cannot answer that, sorry. It would be for the PSNI to address that.

The Deputy Chairperson (Miss Hargey): You can ask that when the PSNI is here.

Ms Ferguson: On the capital budget, Richard, is the £70 million that you mentioned for inescapable projects based on last year or on forecasting for the year ahead? You also mentioned £70 million for high-priority projects, which has been reduced. That was quite a surprise: how was it reduced by £20 million? What factors were at play? Finally, those are high-priority projects. Do you have medium-priority and lower-level capital projects in the system?

Mr Logan: DOF asked us to submit bids for three categories: the inescapable, where there is a legal or contractual requirement; high-priority projects, for which contracts have not been signed or which have not been legally committed to but are in the system and may be ready to go, or for which business cases are being worked on; and desirable items, which are smaller. Desirable items for next year are in the region of £3 million or £4 million. They do not represent a hugely significant amount, but, if they were being prioritised, they would be well down the list because inescapable items would come first.

The reduction from £70 million to just over £50 million is due to a reduction in the value of the police college. The police college had a total bid included, but it is not ready for the money to be spent during 2024-25, so it has been reduced. It has been profiled for a future year's spend, assuming that the police college goes ahead. That is the main reason for the decrease from £70 million to £51 million in 2024-25.

The bids for next year are new bids from business areas. They have not been taken from last year's figures. We did a lot of work in advance of the DOF exercise. We went out to business areas to get their plans for projects and what they were going to spend. The inescapable bids are for new areas or continuing spend that was in the system in previous years.

Mr Dickson: I appreciate that human resource — staff — is the largest call on the budget. Nevertheless, in budgeting for the Department, to what extent do you identify invest-to-save projects? Do projects get a flag beside them to suggest that there is a strong argument for investing to save?

Ms Brown: Yes, as part of the second exercise that was commissioned. The first exercise was just about where our pressures are. The second exercise asked the Department for its bids. Our £444 million is for bids, but we have also bid £2 million for what we call our transformation projects. There are a few on that list. We have a mental health intervention to reduce reoffending by young people in the criminal justice system. We are starting to scope another — you will have heard the permanent secretary talk about the oversight group that he has put in place on the prison population. We have put in a marker bid on prison population transformation, which involves working with our partners, the Probation Board and the Department of Health. There is a bail support scheme and a pilot for the female remand cohort. There is a project on Prison Service data analytics, which is about collecting data to give us better management information to inform forward decisions. There are some projects for the PSNI, which is starting to think about its transformation journey and what it might start to do on that. There is also a bit on the criminal injuries compensation scheme.

We have put marker bids in for transformation, and, absolutely, they will be about investing to save. They will save the system and other Departments money. Business cases on all of those are being developed at this point.

Mr Dickson: Where that money can be clearly identified not only as savings for the Department of Justice but as serious savings for other Departments, how much of a role do they play? Take the mental health project, which you mentioned first: it goes to the Department of Education, the Department of Health and virtually every Department in Northern Ireland. What is their contribution?

Ms Brown: I think that Stephen Martin will be here to talk to you with Beverley Wall, the director general. He engages with his partners in the Department of Health and other Departments to make sure that a holistic approach is taken on those projects. As we know, Departments have different priorities and challenges, so it becomes challenging, but we all know that if we work together, we will save money in the long run. We are absolutely alive to that.

Mr Dickson: OK. So there is a piece of work to determine that people should not be sitting in their silos and should be looking across to see where the best savings can be made.

Ms Ferguson: I have a quick question on legal aid and the pressures there. Back in November, £11 million was received in-house. I know that it is demand-led, but what is the forecast? What are the pressures in the incoming year?

Ms Brown: Legal aid, as Mr Beattie probably remembers from being on the Committee before, has been a challenge for us over the past number of years in that it has never been properly funded. It had a baseline of about £75 million, and that was never anywhere near what was deemed to be needed for business as usual, which was usually about £84 million or £85 million. That was a number of years ago. In 2022-23, we successfully bid for and secured an additional £20 million into that baseline, which brought the baseline up to about £95 million. However, the demand is still exceeding the budget, and the forecast demand this year is £116 million. We already started the year with a deficit. We secured the additional £11 million, and when we got the £75 million from the Executive on 15 February, we got an additional £3 million. That means that legal aid should finish the year with a backlog of about 12 weeks, which equates to about £26 million. Moving into 2024-25, as part of the £444 million, we have bid for £27 million. It needs £22 million just to keep pace with the demand of £116 million per year, so even that £27 million will not reduce the 12 weeks significantly, but it will start to bring it down. We hope that, over a period of two years, if we get the right budget settlement, we can start to pull that back.

Legal aid has not been properly funded for a number of years and continues to suffer as a result of that. Indeed, in previous years, legal aid always relied on in-year monitoring to secure the additional funding. We want to try to get the proper baseline for legal aid moving forward. Paul Andrews will be at the next session, and he will be able to give you a whole load more information on that.

The Deputy Chairperson (Miss Hargey): In the same vein, on forward projections, you talked about the exceptional items around legal claims and stuff. Are there projections at this point in what they will look like around the data breach going forward, the holiday pay and the McCloud judgement? Is there any analysis at this point, or a timeline as to when we are likely to see that in the next couple of years?

Ms Brown: We expect business cases to come through from the PSNI on the data breach and on holiday pay, which will give us a little bit more granularity on those issues. We have got the projections included in the bid of £444 million. The timing of that is very uncertain, and it remains to be seen whether the data breach figure that we quoted — £116 million — will all be paid out in 2024-25. It depends on what way that pans out, but we expect some more information from the PSNI over the next couple of weeks.

The Deputy Chairperson (Miss Hargey): On the pressures, particularly on the demand-led services across the board and the increase in costs there, is there an analysis to match the capital or infrastructure needs that would run alongside the resource spends or pressures?

Ms Brown: At the moment, in every capital project that we have, we take into consideration the resource consequential. If we do not get the £444 million, which includes quite a chunk for pay, that means us holding more vacancies. That will require us to go back to the drawing board and ask, "Where can we hold vacancies, and what are the consequences?", and that could have consequences for capital projects as well. We have not gone into that detail yet, but we know that that is a significant risk for us. Our ability to manage vacancies is just about attrition. There is no vehicle to remove posts in any other way. Indeed, £217 million of that £444 million is for business as usual and operational issues, and, if that bid is not met, there is a significant risk that this Department will be sitting with a very big overspend, because the scope to do anything is completely limited.

The other point is that the Department of Justice budget has, compared to other Departments, had one of the worst settlements over the past 10 years. Over the past 10 years, funding has increased by 43%, but funding for Justice has increased by only 3%. For Health, it has increased by 70%, and, for Education, it has increased by 45%. The Department of Justice has continued to take on new initiatives, and it has continued to deliver. All efficiencies have been maxed out: we do not have anywhere else to go. We are in a critical situation, and I do not want to make light of that. We have all the facts and figures that demonstrate what the Department has done over the years to try to live within its settlement, but 2024-25 is the most challenging year that we have ever had.

The Deputy Chairperson (Miss Hargey): If you look at prisons and the increase in demand in that area, it is my understanding that the infrastructure, including the buildings to hold people, is not up to scratch. There has been lot of work on bringing disused buildings back into use, as you said, with the associated staff costs. Will there be an assessment of that and of the need for a separate women's facility so that there is no mixing or integration? We are hearing concerns about those issues being expressed.

Ms Brown: We have a number of key capital projects, one of which is a new women's facility.

The Deputy Chairperson (Miss Hargey): Next we have Justin, who is online.

Justin, you are on mute. You need to unmute.

Mr McNulty: Thank you, Deputy Chair. Thank you, Deborah, Richard and Andrea. What are the implications for the Department of Justice's budget of yesterday's ruling in the High Court that the Northern Ireland legacy Act is not compatible with the European Convention on Human Rights?

Ms Brown: I am not able to comment on that at this stage. I do not have any information about that to be able to give you any details on what the implications would be for the Department of Justice, but I can try to come back to you on that.

Mr McNulty: Do you have any initial thoughts or assessments?

Ms Brown: Not at this stage.

Mr McNulty: What is your sense of that ruling?

Ms Brown: As I said, I have not had a chance to give it proper consideration, so I do not want to comment on it at this point.

Mr McNulty: Thank you very much. That is all that I wanted to ask.

The Deputy Chairperson (Miss Hargey): You can follow up on that when you are in a position to do so. That would be good.

That is all. I thank the three of you for coming along. I am sure that we will be seeing a lot more of you in the time ahead. Thank you for the information.



Committee for Justice

OFFICIAL REPORT (Hansard)

Briefing by Mrs Naomi Long MLA,
Minister of Justice

25 April 2024

NORTHERN IRELAND ASSEMBLY

Committee for Justice

Briefing by Mrs Naomi Long MLA, Minister of Justice

25 April 2024

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 hand 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.