

Magistrates Courts and Local Justice Conference

14 March 2005

Speech – Chris Leslie, MP

Part 1

Right, well good afternoon ladies and gentlemen my name's Chris Leslie I'm the Minister with day to day responsibility for courts administration. And as we've seen from the video, many of you here are perceived to be upper class millionaires doing this job which nobody else could do, which is quite far removed from reality of course and there are so many things that I think if we were starting from scratch we could potentially do to broaden out the capability of recruiting a reflective magistracy that reaches into all corners of society that properly can reflect the public at large. But we are where we are – many of you will know that for some times we've been focussing on how we can both recruit more magistrates – in particular to do something to relieve the burden that is afflicting certain parts of the country where the sittings situation that you need to give in is perhaps reaching I think some places 60, 70 even 80 days. There is a recruitment difficulty in some parts of the country – not in others. But there's also a retention issue as well which is I think leading into other considerations to do with how we can value the magistracy and how we can communicate that it is actually and should be a rewarding experience.

First of all we – on Friday (11 March 2005) launched the implementation paper for the Magistrates National Recruitment Strategy. And I think you will know the reasons for that strategy – yes we need to look at the burdens that exist out there and try and relieve those. But also we have an ongoing duty to try and make benches as reflective as possible of society at large and we know and you hear from the video clip that we saw earlier that means looking at reaching into employed categories of people – not just those who are retired, looking at reaching into younger magistrates not just those who are

older. And I think what we need to do and our aim must be to support and supplement the work that the Advisory Committees do at a local level. We don't want to throw out the baby with the bathwater, Advisory Committees do a fantastic job at present but it's quite a hard job at the same time and so I think what we need to do is find ways of supporting Advisory Committees in that recruitment process a little more effectively.

Note the progress we've made to date has – although I think been significant it's not necessarily been as fast as it could be. We've had a lot of in-depth research been commissioned that we know now a lot more about the lack of awareness there is amongst the general public – even amongst those who appear in the courts themselves – they don't necessarily understand who is on the bench, the sort of people who are making decisions obviously affecting their lives. Or why people go through to become a magistrate – what is involved in it, how many days are involved in the commitment and so forth so that we know from the research there's a big education and awareness job that needs to be done. We've tried our best to improve the data collection from each locality so we know and we can target more effectively support and help to particular areas where there's a difficulty. And we've had a number of different advertising approaches so far on recruitment. For instance we had quite a different bus advertising campaign where there were posters on the back of the buses and on the side of the buses which was good as far as it went, people were aware that there was a need to recruit to the magistracy although it didn't necessarily illicit as many calls as we would like.

So as I say the next steps I think have been in the implementation of the paper that we've now published. First of all we want to have better guidance on areas for increased recruitment. We don't want to have centrally imposed targets but we want to really share the best practice that goes on in different Advisory Committees more effectively.

We also I think need to refine and improve the application process and that means from the 1st April making it a little bit more flexible for Advisory Committees to submit names at any time of the year not just at fixed intervals

throughout the year. We want to encourage a quicker more frequent recruitment round – certainly from our part in the Department for Constitutional Affairs we're wanting to reduce the processing time for applications from the existing ten week period to six weeks so we can hopefully do something to reduce that very long period that can often be off-putting to people who apply and then don't hear anything for month after month. And so we need to do something about having a better more streamlined, shorter process and also to lift I think some of the burden on Advisory Committees in terms of those reporting forms that need to be sent back – make those less onerous as well.

We've got a big job I think to do to engage with employers because I think there's a natural reluctance, particularly when it's felt that they are relinquishing their cherished employee to something that really doesn't benefit them. We've tried to set up and the Lord Chancellor's going to be involved in a working group with some of the leading employers organisations to try and really promote the benefits of having magistrates on the staff of companies. And how having that knowledge, having that lateral thinking within a corporate institution is actually an advantage for the business not something that should drag it down or be a burden.

We've got a DVD that we're going to promote to employers to show the benefits of employing magistrates as well. On the question of retention and retaining magistrates in the generality things don't apparently look that bad statistically. I think the last statistics we had we're at present, I think, only 3% of magistrates leave each year ahead of their retirement age. Now that's still quite a number of people. But on the surface it doesn't look as though it's a rapidly shrinking group of people. But of course we know that there are pressures every day that hit magistrates who have tensions – not just in their working lives but in family commitments and elsewhere. And I think as far as we can we need to recognise those and be aware of what we might do.

You've come today to this conference as part of I think some of the first steps to really get to the root causes of how we can retain magistrates more

successfully. I think we need to keep this going and the questionnaire that we've done I think needs to be supplemented by another one if magistrates are leaving, if they feel that they have to resign or leave we should have a better exit questionnaire to really find out what were the reasons for that, collate those, make sure that if there's a trend appearing we can try and do something about it.

I also think that it's time we recognised long service more effectively amongst the magistracy because we know and many of you here will have done possibly even decades of service as a magistrate and I think say for after twenty years of service we should at the very least have long service certificates just to formally recognise the fact that we do value the commitment and the time that people put in.

On the question of what we might be able to do for the Advisory Committees – yes there's a package of measures we can put together – press advertising, new posters – application packs, employers packs so that each locality isn't having to reinvent the wheel on their own. We're going live I think in April with the website – magistrates.gov.uk which will have a section in it about frequently asked questions – what people want to know about being a magistrates. We've got a call centre that has been established with the free phone number 0800 003007 and that I think again is designed to take some of the burden off the advisory committees so we can really bear some of the brunt of the calls and the enquiries that come in from the public at large.

And also finally on the list of things to come in the new materials for Advisory Committees we're going to set up a series of regional seminars so we can have a bit of an improved dialogue with those involved in Advisory Committees to find out what you need from us. Maybe perhaps we have the capability to have central buying power, use our economy of scale a little bit more for the benefit of Advisory Committees. But if you feel that we should be a bit more hands-off and leave you alone then that's a good opportunity for you to tell us as well.

So I hope in the round you can see that we're trying to be more serious about the recruitment and retention of the magistracy in general. It's not easy because of course we don't have great, vast pots of money that we could throw at this obviously there are some results that we've had back from the questionnaire that we sent out before this conference that suggest issues to do with remuneration and so forth really need to be tackled. But for the short and medium term I think what we need to do is see what we can do by improving the communication we have with the general public and also with magistrates themselves. It is and should be a rewarding occupation in many ways to be a magistrate and certainly from a ministerial point of view we of course value the contribution that people make. So we're stepping up our efforts, we want clearer communication and we're trying to retain what works in the recruitment strategy but also add value a little bit more cleverly where we can. So that's my little segment on the recruitment strategy – thanks.

Part 2

Right we now come to a subject that is one of my favourite subjects and has been something that's taken a lot of my time up in the two years that I've been Minister at the Department for Constitutional Affairs and that's the question about enforcement, having greater respect for the decisions that you as magistrates take. And really that bit of public policy that has never really been the sexiest end of it which is sentence compliance. It's to do with what happens after the courts have made decisions. And I think it would be useful just to start off with a bit of background history about how we've got to the state we are in today – which isn't a fantastic position. There have been some improvements, things in other areas haven't gone as well as we'd hoped. And really what we're talking about here is enforcement of criminal fine penalties. And whether we can do much about defaulting on fines. What we can do about community service penalty breaches and people who are effectively dodging their obligations there.

And then also what we can do about people who fail to attend court when they're supposed to be there. People who are effectively skipping their bail

conditions. And all those three areas in particular I think are the meat and drink of where we need to focus on enforcement and on sentence compliance. Now we know that there's been a history of poor performance particularly I have to say in the areas of fine payment rates and also in community service breaches. I think two years ago we had a fine payment rate at a lamentable 55% - that means barely over half of those fines that you actually imposed as magistrates were being paid which is a pretty depressing statistic if you think about all the effort that goes into the system. Now I realise we're talking sometimes about a group of people going through the courts who maybe do have difficulties that include financial difficulties but even still there really should be no excuse for that sort of level of poor payment.

So we tried to take quick steps at an early stage about dealing with that and we had an action plan that we launched in June 2003 and also a programme of change that we tried to use looking at the Courts Act that went through parliament around the same time to see if we could give greater powers and support to the bench and also to those enforcement officers who work for the court and are often the unsung heroes. But we also realise that basically if we are ever going to improve public confidence in the criminal justice service and we know how much cynicism there is about it, we really have to focus on this area because a lot of times people will have an anecdotal example, they'll know a neighbour who perhaps has been convicted of a particular offence and is skipping the system or dodging what their obligations should be. And so it's pretty clear I think to all why change is necessary and we've got to, yes, use custody where appropriate but there are lots of other crimes where a non-custodial sentence is really the most appropriate option. But if we're going to raise public confidence in those non-custodial suite of options we've got to make sure that they're effective and that they're abided by and I think when you look at some of the reviews that have been undertaken, the Carter review in particular, looking at how we get a better balance in our correction system. We need I think to make fines for instance in particular a credible sentence for the court. So we've got a situation now where we know there's quite a lot of change happening in the court's administration and in structures. We know that the forty-two Magistrates' Courts Committees this April are coming

together in a single HMCS environment so that we have the capability I think at a national level to better help and assist those particular pockets of the country where there is really a difficult performance problem particularly in the collection of fines and so forth.

Things have got a little better since two years ago, we've got a national payment rate now at around 80% - that still means there's 20% not paying their fines and that also means there's a quite a backlog of some very old fines that have perhaps not had the right data attached to them, not the right names and addresses, national insurance numbers that sort of thing. And we've got really great difficulties tracking them down. And we've collected yet a little more in terms of the actual quantum sums of money and our overall target I think for this year is 78% so we're on track for that.

We know that if we can manage to get that target we've done a deal with the treasury that can release us a little bit of resource from that to reinvest back into enforcement and I'll just talk a little bit more about that in a moment. But also I think the time has come really for us to focus on those community penalty breaches and some of the nonsense situations we get into with people who go absent not once but twice. The length of time it takes to serve the warrant on those individuals who are skipping their community service – then what happens when you have that court process even just to establish that a breach has occurred. There's a very laborious process involved in that and we also have to recognise that there are other issues to do with confiscation orders which sometimes aren't as easy even as fines they're to do with assets and physical capital not just monetary payment of fines. So there's a lot of attention that I think we need to give – so our target is there – we're also going to have a new approach so that we can at a national level start to focus policy a bit more on the timeliness of community penalty breach proceedings so that we can hopefully make any legal changes, any administrative changes to speed some of those up as well. We've got confiscation targets also for the first time and we're looking to notify a defendant on failing to appear issues more speedily, the Attorney General has been in the lead in many ways on some of those particular matters.

And of course you'll know that we now have the local criminal justice boards up and down the country, pulling all the different bodies together including the probation service, police and others who were involved in some of the sentence compliance end of policy.

So we've got the court act enforcement pilot – some of those new powers to do with if people fail to pay on time the powers that- the suite of capabilities that you have available to just slightly turn the screw a little bit more to make sure that people do comply even to do with things like wheel clamping of vehicles, putting people on a credit blacklist for finance so that they find it more difficult to get credit if they don't pay their fines on time. Some of those small measures actually can have quite a big marked effect.

We also don't want to neglect those situations where people genuinely can't afford to pay their fines and that's why we're trying to develop a process of unpaid work so that people will be able to work off and discharge their fine through unpaid work as an option if the court sees fit that they genuinely can't afford to pay the fine that's been imposed. So there shouldn't be an excuse really for no-payment or for discharging that fine.

We did take quite a controversial decision early on to end the writing off of fines. I felt in particular that this notion that – well if twelve months has gone by really we're never going to find them, the computer system's getting very full. We'd better just strike off the outstanding fines that were on the system. And I just felt that was really untenable not least in a political context because I think justice demands that we do try every effort to pursue and chase down fines that are imposed even if it takes a very long period. So we've stopped the writing off of fines although if obviously people are deceased or if they are insane or all sorts – there's a couple of administrative cancellations that I let through the net - and we won't necessarily take it from their estate. But apart from that we've ended the writing off of fines.

We also, I think, need to help target poorer performing areas a little bit more effectively and we've managed to get good access to some of the credit references agencies to get better about where these people are and what they're doing. And as I say we've managed to get a little bit more money from the treasury by the deal we've got for reinvesting in some enforcement activity.

Now we've had particular national publicity for what we've termed Operation Payback in the last couple of years. It sounds perhaps more glamorous than actually it is but really what we've tried to do is bring the police together with the enforcement officers, get a bit more awareness around that those enforcement officers were going to be going round with the warrants on particular weeks and really blitzing an area where there was a backlog and we've managed to regain, recoup quite a lot of fine – outstanding payments on that. We had quite a lot of national publicity for some of those. And believe it or not even a few things in a local newspaper saying a result from a fine defaulter case perhaps if it's involved custody can really send a ripple effect around a community of offenders who are not paying to cough up and make sure that they comply with their sentence. And I think we need to think about really how sophisticated some of these individuals can be, they are watching policy, they are watching to see how tough we can get with that. There is more I think to come in terms of the national blitz of some of the outstanding fines that are out there and I think the Operation Payback scheme has done quite well.

The questionnaire that we sent out to you has I think elicited some really useful ideas and some we've been working on and some that I think are still to come – for instance just making it easier for people to pay, removing those excuses – I can't pay by credit card or whatever, making it easier to detach from earnings or deduct payments from benefits. We've looked, for instance at I think doubling the amount that can be deducted from benefits from I think two pounds seventy or something like that to five pounds and we're hoping that can come in fairly soon when we finally get the Department for Work and Pension's computer system so that it can arrange that – but we are doing that

and that was as a response with conversations we've had with the magistracy who just felt that sometimes the amount of deduction was so small it was a pointless exercise. So we're trying our best to make improvements there.

The unpaid work as I said and looking at the ability for debt counselling for those who genuinely can't pay and also the ability for people to be contacted by telephone. We get their mobile phone details as well and surprisingly they do actually answer their mobile phones when they're called and if they feel as if though we've got their mobile number it's proven that we actually get them to pay up more readily – for some reason that seems to work quite well.

We do feel of course that there's a lot more that can be done in terms of the court's authority itself and how the court can assert it's own authority. And I don't have any reason why we shouldn't if in certain circumstances you have people sticking two fingers up to the court, they're wilfully, neglectfully saying that they disrespect the court, showing their contempt, that ultimately custody is an option for the court. But of course there are a number of steps before that that can also be taken and I think you as magistrates clearly have to appreciate that range of options you have in front of you and use those as cleverly as possible.

We do need to I think look at whether we can share best practice between each other a bit more successfully and make sure that the information is spread across the country more.

So what's to come – well we're looking to make an announcement shortly about the sense in which we can bring together the enforcement community more effectively as a service that is identifiable, that is has more presence really in the community so that people are aware about the job of work that is being done in terms of ensuring sentence compliance.

We've got a whole series of new powers for those enforcement officers as well including getting over that problem that one enforcement officer told me when he was trying to serve the warranty, knocked on the door, he saw the

chap inside through the net curtains gesticulating in a not particularly friendly way and that enforcement officer could do nothing about it because he didn't have the powers and was not able to intervene. And so we're looking at the training, at the ability to search and enter properties, there will be quite a radical reform of enforcement in that sense and again many of those things might be quite controversial but I think it's necessary because it's about the authority of the court. We also managed to negotiate some good access to the police national computer so that we can update that more quickly and also to get better information from the driver licence bureau and also from the DWP – Department for Work and Pensions.

So that really is an overview of what we're doing on enforcement, I think this is a really interesting area of policy development and one that hasn't really had a very much attention to date but it's vitally important if the court is going to be respected if you as magistrates are going to do your job, make those sentence decisions that actually feel as though they're going to be undertaken. We've got to give the powers to the courts to make sure that compliance will be there and that's why I feel it's so important. Thanks