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‘My autonomy is guaranteed by statute’

Max Hill, QC, the director of public prosecutions, tells Jonathan Ames that he will not compromise

Max Hill, QC, has been the nation’s top prosecutor for less than two years, but already he feels obliged to reiterate the director of public prosecutions’ (DPP’s) independence. In a lecture tomorrow to the Bingham Centre for the Rule of Law, Hill will put the autonomy of his role and that of the Crown Prosecution Service (CPS) at its heart.

Hill, who took over from the beleaguered Alison Saunders at the end of 2018, insists that restating the independence of prosecutors is “pure coincidence”. He says it has nothing to do with rows over the government’s approach to the rule of law and, more specifically, the controversy swirling around his boss, Suella Braverman, QC, the attorney-general.

In an exclusive interview with *The Times*, Hill says that tomorrow’s lecture was drafted for delivery in February and was postponed because of the coronavirus pandemic. The DPP is adamant that he maintains “a clear and constructive relationship” with the attorney-general because the CPS’s “independence is guaranteed by statute and my relationship with the law officers is governed by a framework agreement, which was entered into afresh a year ago”.

Beyond that Hill will not delve into the murky waters washing around [Braverman’s supportive tweet of Dominic Cummings](#) earlier this year, while police were still investigating a possible breach of Covid regulations by the prime minister’s aide. Nor will the DPP address the Westminster storm over the role of the law officers and the lord chancellor, Robert Buckland, QC, in the government’s decision to [breach international law over the Brexit withdrawal treaty](#).

Hill, a former criminal law silk who says that he defended as often as he prosecuted while at the Bar, has plenty to say about funding in the criminal justice system.

The DPP does not shy away from criticisms from lawyers that there is a crisis that pre-dates the Covid-19 lockdown. “I inherited the CPS two years ago that was well known to be operating with a far lower headcount of staff and operating budget than previously,” he says. Hill also points out that lawyer numbers were down by about 30 per cent on the 2010 level and that the service’s operating budget was nearly 45 per cent lower.

Hill praises ministers for last year injecting £85 million into the CPS budget to allow it to recruit nearly 500 lawyers and caseworkers, as well as to allocate funds to digital disclosure processes. Failings in the latter over recent years have risked several high profile miscarriages of justice.

However, Hill fears that the courts could be swamped with relatively low-grade cases involving alleged breaches of the Covid rules. He highlights figures showing that there are 9,000 cases of people awaiting prosecution for refusing to pay fixed-fee penalty notices issued by the police for rule breaches. He is concerned that the government’s recent “rule of six” law — effectively criminalising friends mingling in groups of more than six — will only add to the CPS’s already bursting workload.

The service’s backlog of cases has rocketed over the past six months by nearly 80 per cent to 179,000.

“The police impose the [Covid rules] fines,” Hill says, “that has no involvement by the CPS. And it is only if and when those fines are not paid that it becomes necessary to prosecute.

“But at that stage it does have a consequence on the CPS. It is a fact that we are in the midst of a spending review right now. It would be wrong for me to bandy figures that are ultimately for the Treasury to consider, but I am content to say that a continued focus on resourcing is needed.”

Hill makes no apology for targeting much of the CPS’s recent recruitment drive at the criminal law defence fraternity. Years of legal aid cuts have left many in that group looking for a way out and the CPS shilling is tempting.

“We need a body of qualified and experienced individuals,” Hill says, “and it follows that they are going to come from the ranks of barristers and solicitors. That’s not because we are aggressively poaching from the professions — to have a functioning criminal justice system it is just as important that you have an effective body of defence lawyers as prosecution lawyers.

“I recognise the pressures on the external professions and empathise with that, but I’m running an organisation that has been severely restricted over this decade and needs to build back up again.”

Prosecuting sex offences and the disclosure of evidence to defence lawyers have been arguably the two most controversial issues for the CPS over the past two years.

Women’s groups have complained that the prosecutors raised the evidential bar for rape, which in part explains why, despite more complaints being made, fewer cases are going to court.

CPS officials have denied applying different criteria to rape cases and Hill points to the service’s recent five-year rape and sexual offences strategy as an illustration of collaborative moves to increase prosecutions.

Hill is particularly pleased with recent “best practice” schemes in the regions. He points to the East Midlands, where there is a “consent coalition”, which he says “has constructed a pathway through the criminal justice system for any complainant of sexual violence, and the CPS is an integral part of that”.

In another project, in the southeast and London South CPS areas, officials have launched a “rape [case] implementation plan”. Hill explains that the scheme involves “gatekeeper officers — often a detective inspector from a sexual offences unit — who will physically sit alongside our prosecutors. Police officers and lawyers triage investigation files to make sure that we build cases stronger and better from the outset.”

Hill says that this involves the police and CPS working together so that disclosure requirements are met. “If we work together we will improve the number of cases going to court,” he says.