

Justice Committee

Oral evidence: [The work of the Ministry of Justice](#),
HC 1085

Tuesday 31 January 2023

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Members present: Sir Robert Neill (Chair); Maria Eagle; Dr Kieran Mullan; Edward Timpson; Karl Turner; James Daly.

Questions 1 - 152

Witnesses

I: Antonia Romeo, Permanent Secretary, Ministry of Justice; James McEwen, Chief Operating Officer, Ministry of Justice; Amy Rees, Director General Chief Executive, HMPPS; and Nick Goodwin, Chief Executive, HMCTS.

Examination of witnesses

Witnesses: Antonia Romeo, James McEwen, Amy Rees and Nick Goodwin.

Chair: Welcome to this meeting of the Justice Committee in which we are looking at the work of the Ministry of Justice. We are grateful to the officials for coming.

Before we ask any questions we must make our declarations of interest. I am a non-practising barrister and formerly a consultant to a law firm.

Maria Eagle: I am a non-practising solicitor.

Karl Turner: I am a non-practising barrister.

Edward Timpson: I am a former Solicitor General with a practising certificate, but I am not currently doing any court work, and I am the former chair of CAFCASS.

James Daly: I am a practising solicitor and partner in a firm of solicitors.

Q1 **Chair:** I ask the panel to introduce themselves.

Antonia Romeo: I am permanent secretary at the Ministry of Justice and principal accounting officer. Thank you very much for having us today.

James McEwen: I am chief operating officer at the Ministry of Justice.

Nick Goodwin: I am chief executive of His Majesty's Courts and Tribunals Service and its accounting officer.

Amy Rees: I am the CEO of His Majesty's Prison and Probation Service.

Q2 **Chair:** Thank you all very much for coming to see us.

Ms Romeo, what is the state of morale at the moment among staff in your Department?

Antonia Romeo: First, I would like to thank all MOJ staff in all our agencies and HQ for their extraordinary efforts to protect the public, reduce reoffending and support access to justice.

There are 90,000 staff in the MOJ group. They work with total commitment and professionalism to deliver for the Government, to support Ministers and to deliver for the citizens we serve. That is what motivates them. We are a highly purpose-led Department.

Our most recent people survey results will be published shortly, but I can say that our engagement results are at the top level and all the main themes held steady.

I have read all 30,000 of the pre-text comments myself. There are obviously some issues that are being flagged, including workload and pressures, but overall I am confident that, while there are lots of



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challenges, the whole team will continue to deliver with professionalism for Ministers, for the Government and for citizens.

Q3 Chair: Is there any variation between the central part of the Department and the various agencies, which the number you gave includes, of course?

Antonia Romeo: We always have some variation; that is natural. Big operational agencies tend to have different levels of engagement and scores in different areas from HQ. That is always to be seen, and again we will have seen that this year in our individual results at agency level as well as at top level.

Q4 Chair: We will delve into that a little more.

I am sure that you will have seen press reports almost as much as we have that almost a third of the people in your Department's private office directorate have been the victims of bad behaviour over the past 12 months.

I appreciate that there are some things that you may not be able to say at the moment, but have you had to take additional steps in supporting staff in such matters?

Antonia Romeo: I am sure you will understand that while there is an independent process ongoing that is KC-led, it would not be appropriate for me to make any comment on that.

As the Committee would expect, I am 100% focused on ensuring the effective functioning of the Department, on leading a team working closely with Ministers to deliver for citizens and to support justice.

Q5 Chair: Has there been an increase in the number of people leaving the private office directorate, simply as a matter of fact in the last year or few months?

Antonia Romeo: There is always a flow. There is always a rate. As you will know—there is more than one former Minister on your panel—there is always a flow in and out. People tend to come into the private office for 18 months to two years and move on. That is normal.

We try to manage the flow in and out. We also try to recruit in advance. We do a lot of recruitment. We have a list of people—a merit list, as it were—whom we move in as needed. We often do significant numbers of recruitments so that we can draw on them as and when vacancies arise.

Q6 Chair: You will appreciate that the suggestion in the press is that the turnover has been greater than normal over the past few months.

Antonia Romeo: As you would expect, I don't think I can comment on that while the independent process is ongoing.

Q7 Chair: I am not asking for the causes. I wonder whether you have the numbers.



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Antonia Romeo: The attrition numbers? The whole group is 90 people, so it would be too small. In the tradition of statistics, one wouldn't normally comment on numbers on how many people are leaving, because they are so small.

Q8 **Maria Eagle:** I was looking at the numbers on your people survey. It seems that the MOJ's satisfaction across all these areas is below the average across the civil service.

Antonia Romeo: You must be looking at last year's results. The new results have not been published.

Q9 **Maria Eagle:** They are for 2021-22, the latest we have seen.

Antonia Romeo: Were they the results from the survey in October 2022?

Q10 **Maria Eagle:** I am not sure when the survey results were. April 2022, actually.

Antonia Romeo: The point stays the same. We haven't published the results because the Cabinet Office will decide when to publish all the results.

Q11 **Maria Eagle:** You have seen them, and they are improving?

Antonia Romeo: I have seen my results this year and I have seen them previously.

It is normal for large operational Departments, in certain areas, not to be higher than average. You will see the results for all the operational Departments and that will be the case for all of them.

We are doing well. Within all the operational Departments, we are the second biggest Department in Whitehall, and relative to what we consider to be our peer group we are doing reasonably well.

We are not at all complacent. There are significant areas where we want to do more. Last year, I had a particular number of priorities, including around career progression—something people care a lot about—talent management and ability to progress. These are the areas we focus on.

When the people survey results come out, everybody in the Department at director level and above identifies the three things in their area that they are most focused on and that they want to improve. We spend quite a lot of time focusing on them because we are in a people business and we want to motivate people to work.

Q12 **Maria Eagle:** I obviously have not seen the results that have not been published, but you may be able to tell us that they have improved on the numbers that we can see from the National Audit Office's departmental overview.



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Antonia Romeo: As I say, because they have not been published yet, and that is a matter for the Cabinet Office—

Q13 **Maria Eagle:** So you cannot say whether they have improved or not.

Antonia Romeo: What I can say is that they haven't got worse.

Q14 **Maria Eagle:** Okay. That is good.

The previous results that I have in front of me are the most recent ones you can talk about. They show a worsening in all but three areas. I accept the point about you being a people business: you have masses of staff and therefore would expect to be below the average of a much smaller Department focused on a particular thing. I am not criticising that; I understand the point. But the numbers do show a deterioration in all but three areas, and they are below the average.

What challenge does that give you? Do you think that is fine, or do you want to do something to change all this?

Antonia Romeo: First, I don't think any deterioration is fine; and, secondly, on all results we always want to drive them up—no matter how high they were, we will keep doing that.

As I say, on our most recent results we have stayed the same or gone up in all the main themes apart from pay. Despite that, we still want to do more.

I think you probably have the MOJ group results. An organisation of 90,000 people and 34 different bodies masks a significant range across the group. You will see that we do well on things like organisational objectives and purpose. I cannot recall from the year you are looking at, and not having the data in front of me—

Q15 **Maria Eagle:** The civil service average was 85%; your result in 2020 was 81%, and it went down to 78% in 2021. There's a slight deterioration there.

Antonia Romeo: The change across the Department will be different from Sir Bob's point at the start in the areas that are more similar to the small policy-focused Departments, like policy group versus the large agencies.

Year on year, you might see an increase or a decrease. This year, we have gone up or stayed the same on all those main themes, including the one you mentioned.

Q16 **Maria Eagle:** Thank you. I don't wish to pursue that any further.

You have made a big effort to reorganise probation and bring it into the Department. Your annual report says: "On 26 June 2021, we successfully delivered our probation reform programme by unifying our probation service, joining staff from the previous National Probation Service and 21 Community Rehabilitation Companies...we can offer better supervision



support for low, medium and high-risk offenders and provide the appropriate rehabilitative and resettlement support.”

The annual report seems to be very positive about the entire process. How do you think it is actually going in delivering what probation is meant to do?

Antonia Romeo: I might ask Amy to comment on this. Amy was the DG who oversaw probation unification and is now the CEO of HMPPS.

Amy Rees: It is worth saying that there have been three major challenges. One would be unification, which you just called out, and how we did that. I think that what that report states, and is accurate, is that we managed the transaction of putting those back together very well. It was reviewed independently by the chief inspector of probation, who said we had managed well the programme to bring all the staff—the CRC companies, etc.—together.

In addition, there have been two other significant challenges to the service: covid, which is the same for lots of other public services; and staff recruitment and retention, which again has been an issue right across the public sector and all sectors.

Q17 **Maria Eagle:** I am glad that you mention staffing because the Committee and the inspectorate have repeatedly highlighted staff shortages and the consequent excessive workloads as a significant risk to the effective functioning of the probation service. The problems seem to be persisting, don't they? I know that you have been recruiting, but when do you think that the probation service will get through the staff shortage issues and be able to operate as intended?

Amy Rees: As I said, I think we did well on the programme to unify probation. That meant that we got an additional £155 million, and we started bulk recruitment for trainee probation officers three years ago. In 2020-21 we recruited over 1,000, and in 2021-22 we recruited 1,500. We are on track this year, by the end of March, to recruit another over 1,500.

They are record levels of recruitment for trainee probation officers, but, as you will appreciate, it takes a long time to train a probation officer. This calendar year—2023—is the first time we will see significant numbers of graduation from that investment in recruitment. We have 1,300 of those trainee PQiPs graduating in 2023, and this is the first time they have graduated. That is the lag between the time it takes us to recruit and then train people.

It is worth pointing out that, while we are delighted across the probation service with the investment in staffing, it is a significant challenge for the organisation to have that number of learners because they do not carry a full case load and, as you would expect, need to have significant investment from more experienced probation officers to get them up to speed.



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They start to qualify from this calendar year. We recognise that, like a newly qualified teacher, in the first year they are qualified they will still be relatively inexperienced and will need the support of their colleagues, so it will take some time.

That just deals with probation officer recruitment. We have also been recruiting in bulk for case administrators and for PSOs—those who carry a case load, but not at the same level as a fully qualified probation officer.

We have had three rounds of very focused attention to try to get those in particularly hard to recruit sites. We found it much easier to recruit in areas of the north and Wales; we found it more challenging in the south-east.

We have done two successful rounds. We are on our third that launches in mid-January, and we have been able to get some real success from recruiting those people.

To give you an illustrative example of the sort of levels you are talking about, I was in Greater Manchester not this Monday but the Monday before, where, on paper, they are at 98% of their staffing levels. When you take out those who are training, it goes down to 84%, which is quite a significant difference in running operations every day.

To answer your question, it is important to make the distinction between those who are employed by the service and those who are fully qualified and ready to take a case load, which takes upwards of two years for a fully qualified probation officer.

Q18 Maria Eagle: So where are you expected to be? Are you happy with the way things are going?

Amy Rees: No. Retention has been more of a challenge than we expected. Like many public sector organisations, during covid, retention went down to virtually zero—no one moved jobs—but it accelerated pretty fast as we came out of covid restrictions.

We are now beginning to see that settle. We are still lower in probation than many other public or private sector organisations, but it is still a higher rate than before the pandemic. One of our key focuses has to be on retaining staff as well as recruitment.

Antonia Romeo: As Amy says, this has been seen across the public sector. It is an incredibly tight labour market. We are seeing it across all our business. It is as much about retention as it is about recruitment, for the reasons Amy set out. We have this plan. We are committed to recruiting a further 1,500 officers this year, and we overshot in the two previous years. At one level, we are better than where we expected to be on recruitment, but the problem has been retention. Amy has put a whole plan in place on things like peer-to-peer mentoring, new colleague mentoring, and so on, and encouraging people to return to the workforce if, for example, they took early retirement.



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Q19 Maria Eagle: This is having a big impact on the quality of the service being offered. Do you accept that? His Majesty's inspectorate report on London probation services in November raised concerns over poor ratings in the delivery unit. Lewisham and Bromley was inadequate; Newham and Barking, Dagenham and Havering both require improvement, joining Hammersmith, Fulham, Kensington, Chelsea and Westminster, Lambeth, Ealing and Hillingdon, all rated inadequate. That is a third of the city's probation services in a pretty poor state.

The chief inspector says that they require immediate improvement. He refers to some quite concerning impacts that these inadequacies have on the day-to-day work: "A vicious circle has been created, whereby high vacancy numbers—500 vacant positions in London remained unfilled at the time of our inspections—and high sickness absences mean higher case loads for those staff that remain...The assessment and management of the risks of serious harm to the public are far from satisfactory," with all the consequences that flow from a too-high workload on people who are too inexperienced to deal with what is coming at them.

Then we see Damien Bendall. Then we see Jordan McSweeney and the consequences of inadequate supervision.

Are you correct to be happy with the way in which things are at present in our probation services?

Antonia Romeo: First, I want to say that all our thoughts are with the families and friends of the victims. We are profoundly sorry for the failings by the service that led to these appalling crimes. We want to do everything we can to ensure that the serious failings that did lead to the crimes, as identified by the inspector, do not happen again.

Every serious further offence is taken extremely seriously. A review is always carried out. The chief inspector's report was very clear: the level of risk posed in the two cases you have cited was not assessed properly by the probation service. As you know and have noted, workload pressures were one of the factors.

The inspector made 17 recommendations in the Bendall case and 10 in McSweeney. We have accepted all of them and have in place a thorough action plan to address them all, which Amy can set out.

To your overall point, we are not happy that that is a satisfactory position. We are doing everything we can to address it and we are completely committed to doing so, recognising the failures.

Q20 Maria Eagle: To what extent are the failures replicated in other parts of the service? There could be more cases waiting to happen or to come to our attention when some terrible crime is committed by people being inadequately supervised, or inadequately rated for their level of risk.

Antonia Romeo: All serious further offences are appallingly tragic. They are, mercifully, quite rare. Amy can say more about exactly what we are doing.



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To your point, some of the issues were identified by the chief inspector as being systemic or potentially coming up in more than one area, risk assessment being one; others were specific errors made that we don't think are systemic. Obviously, we want to address both those types and ensure we completely learn the lessons from everything that has happened in order that we can make sure that these appalling crimes don't happen again.

Amy Rees: Can I pick up the specific errors in the Bendall and McSweeney cases and talk you through what we are doing specifically?

As the permanent secretary said, in both cases it is assessed that we did not assess the risk properly and therefore they were assessed as medium when they should have been higher risk. In both cases, that led to them being allocated to an inexperienced probation officer, whereas perhaps if they had been identified as high risk they would've been allocated to someone more experienced.

In the case of Bendall, there was also the error in recommending he should have an electronically monitored curfew and therefore be at home, which was inappropriate.

In the case of McSweeney, there were issues about him being recalled only after a third missed appointment.

As the permanent secretary said, those can be divided into errors that were systemic and that perhaps we need to look at for the whole system and errors that were individual to the case management.

As the permanent secretary also said, there were 17 recommendations made in the case of Bendall and 10 in the case of McSweeney, all of which have been accepted.

I might just do the headlines of the big actions we are going to take, if that is okay. The first, and biggest, is that from April 2022 no probation officer can recommend an electronically monitored curfew without having done both the safeguard and domestic abuse checks. We have backed that up with an investment of £5.5 million for additional staff to be able to make those checks with other agencies, police and safeguarding.

We have reviewed the system of case allocation, with a senior probation officer needing to justify the reasons why a case had been allocated.

We are urgently reviewing our risk assessment process and the countersigning to ensure that we quality-assure anything that happens in those cases.

In all cases, regardless of the crime, we are ensuring that a full set of safeguarding checks is done if the offender has children, or is seeking contact with children. With any contact with children, there will always be checks for safeguarding.



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Q21 Maria Eagle: The inspector highlighted poor information-sharing and a lack of curiosity. I don't know how you train curiosity into your people, but that is what you are going to have to do if you are going to meet the requirements of the report. What steps are you taking to address those concerns?

Amy Rees: A couple of things. We see curiosity as an aspect of being a professional probation officer. As I said, we are making a considerable investment in training professional probation officers. They are going on up to two years of training.

We are giving everyone time for reflective practice. We have introduced something called SEEDs, a system where the senior probation officer can go through cases on at least an annual basis, sometimes more often, even with experienced practitioners, to take the learning.

In addition, as the permanent secretary said, with every single SFO we do a review of what has happened and take the learning and ensure it is spread across probation so that they can learn from any errors or judgment that has happened.

Q22 Maria Eagle: Are you confident that you will be able to retain all the people you are spending this time and effort training to be really good probation officers, because there has been an issue with retention, hasn't there?

Amy Rees: Absolutely. Retention is a challenge. As the permanent secretary said, we launched a retention toolkit in 2021. We are doing mandatory interviews.

Q23 Maria Eagle: What is a retention toolkit?

Amy Rees: It is trying to give all sorts of guidance to HR and local managers on the ground about how they can try to improve retention.

Our retention rates in probation are lower than the average for the public sector, as in they are slightly better. The last set of stats was for September. I am confident that when we publish our new set of stats in February you will have seen it drop again—that is happening operationally on the ground.

I don't seek to argue that there is not more to do. There absolutely is more to do and we must keep ensuring that the fantastic work that is done by so many probation officers every day is recognised and people feel that it is any organisation where they want to come to work.

Q24 Chair: The chief inspector was so concerned about the situation in London—I have a constituency interest—that in October he said that there was a need for the probation service to take urgent action. What urgent action did you take after October?

Amy Rees: We did a number of things. First, we moved in 13 detached duty officers immediately from other parts of the country. We also put in



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a new probation delivery unit head and a new head of operations. We also put in a dedicated recruitment support team to try to increase the number of applications in London and the number of recruits.

OSAG, our internal support and audit, has been trying to go through individual cases to work out the learning. There was an ongoing issue where we were managing some of the cases in a pool as opposed to them being individually allocated to a probation officer. All those cases were cleared within six weeks of the urgent notification.

Q25 Chair: How many probation clients are being seen remotely rather than face to face?

Amy Rees: I would like to point out the difference between what we had to do with the covid restrictions, which was true in some of the individual cases we are talking about, and what is now our practice in the probation service.

First, it is mandatory, no matter the case, that they are seen in person, in the office, face to face, a minimum of once a month. It could be as much as twice a week for some of our high-risk cases, but that would depend on the nature of the case.

Every offender leaving prison has to be seen within an office within 24 hours, face to face.

Q26 Chair: When do you expect to be able to assess the impact of the steps that the London probation service took?

Amy Rees: A couple of things. We have an internal team doing a deep dive on London to see whether there is more that we need to do. We have the OSAG that I referred to, which regularly updates our case audits and has a look at case samples.

We are constantly monitoring whether the things we are doing are having the impact that we want. We try to do set-piece interventions every six months or so to audit case files. As you might appreciate, in probation, if you were to make a change today it is unlikely to show up in a case file until six or nine months later because it is a retrospective view. When HMIP looks at prisons it is looking at what it sees on that day. When it looks at probation it looks at case files from six to nine months earlier. It does take a little while to show up in a review of a case file.

Q27 Chair: It is unacceptable to have needless levels of risk to the public for any period, let alone six to nine months, so what has been done to deal with that?

Amy Rees: That is all happening immediately. I am saying that in an audit any changes you make today won't show up for six or nine months. All those actions I have just referred to will happen.

Q28 James Daly: It is extraordinary to read what happened in the Bendall and McSweeney cases. I don't think we need reports, but perhaps we



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need some detail. The level of incompetence is—I can't think of a better word—astonishing.

The probation service deals with many different offenders, not only the serious ones. There is often a conflict between protecting the public, which is our first concern in Parliament and your first concern, and, shall we say, an over-zealous caution that can sometimes apply to cases. Will the impact of what we see here in specific circumstances with very serious cases impact the actions of probation officers when dealing with other prisoners such as IPP prisoners?

Amy Rees: It is a really good question. As we have already explored, the assessment of risk comes in two parts. There is a technical part, which we are seeking to review to ensure it is applied properly, and there is something about humans making assessments of other humans on volatile, interactive factors on risk.

It would be wrong to say that cases such as this do not have an impact on individual practitioners. We will seek to ensure that we provide them with the best advice and guidance so that they can be confident when applying them that they are not over or under-applying them. The emotion of these cases does have an impact on individuals and it is our job to ensure that we put a structure around that so that it then can be applied properly by individual practitioners up and down the country.

Antonia Romeo: Disciplinary action has been taken, including dismissal in a particular case, with reference to your point about the specific failings. We completely recognise that.

Q29 **James Daly:** I do not want to labour this point, but I think that the challenge within probation is the conflict, as I have said, between public protection and, in many cases, the number of conditions that are imposed on people—rightly, in many cases—and whether, when that oversteps into the onerous, it creates further problems in the system.

That is a difficult question and we should not underestimate the challenges that the probation service faces daily because of the individual characteristics of the offender in front of them. I feel that sometimes caution takes over, and a lot of people are put in a position where they cannot comply with conditions because they are over-onerous—out of an abundance of caution because of a mindset that there is, perhaps, within the Department. I do not say that as a criticism. I just hope that we can feel the balance between the two, from the extreme that we have seen here, to making sure that the overwhelming desire we all have to protect the public does not mean we lock up people who do not need to be locked up. Would that be a fair comment?

Amy Rees: Can I just give you a couple of stats that might help with that? First, as the permanent secretary mentioned, SFOs, while every case is a tragedy to the individual, have remained mercifully relatively low—0.5% of the total case load. That has been dropping very slightly since 2016-17.



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In relation to your question about how we manage the two things, I wanted to mention recalls. That is one area where you might see that, as you put it, people may overreact.

We had HMIP look into recall in 2020 and they concluded that our use of recall is proportionate. Those are the things that we have to keep monitoring. I absolutely accept that those two things are difficult to keep in balance.

James Daly: Thank you.

Q30 Dr Mullan: I think that sometimes one of the challenges is that the press will report what someone's sentence is, and people know that things like community work go on as part of people's probation, but they do not actually see it, unless, which is extremely unlikely, they happen to come across some community work going on in their area.

From a GDPR perspective—a data protection perspective—would the probation service be able to publicise, post-conviction, work that people do in the community and say, "This offender did this amount of work," and put it out in the same way as it is when they are convicted? Does the Department do that, and, if it does not, would it potentially seek to?

Amy Rees: One of the most visible ways we do that is through unpaid work. Unpaid work may be part of a wider set of orders that have been given, or it may be stand-alone, but we seek to publicise in a number of ways the good work that unpaid work has done in local communities. We seek now to give a way—we have a statutory duty—that our regional managers of probation will engage with PCCs and local authorities to ask them what work they will do, and then we try to publicise the good work that has been done in the community.

Q31 Dr Mullan: What I am asking is: does that come down to an individual level?

Amy Rees: No. We do not do anything that identifies at an individual level, but we do have measures of success in reducing reoffending: numbers of completions; numbers of hours delivered.

Q32 Dr Mullan: That is my point, really—that people get to see a particular offender, but they do not necessarily see that that offender has paid back what they did. Are you not legally able to say what an individual has done, or is that a policy position that you have taken?

Amy Rees: It would be quite difficult to say what one individual offender has done and completed. We can definitely do completion stats—

Q33 Dr Mullan: Why do you think it would be difficult?

Antonia Romeo: You can see the sentence, of course.

Dr Mullan: That is my point, really. People see a sentence, but what does that mean to someone, as opposed to saying, "Person x did x, y and z to pay back this community"?



Chair: You are saying “doing community work” does not mean a lot. What type of community work?

Q34 **Dr Mullan:** If someone has vandalised an area in Crewe and is sentenced to x amount of unpaid work, it does not really mean anything to tell people—you would not get the chance to tell them—in an annual report or statistical bulletin that there has been an amount of unpaid work done, compared with being told, a few months later, that “This person, who was convicted of x, has done x in your community.”

Amy Rees: Yes, what we could maybe do better is to say, “This person, x, has done this number of hours in the community,” meaning that they have taken part in these projects. If someone has been given, say, 150 hours, they might end up working on a number of different projects, and payback, and things. We could maybe take it away and see whether we could link those two things a bit more.

Chair: It is really about public confidence in non-custodial sentences, to some degree.

Dr Mullan: Could you find out whether the legal advice was that it is a breach of their privacy? My view would be that if knowing their sentence is not a breach of their privacy—it is a matter of public record—coming back to people to say that they had done it should not be. I am interested in whether you think that legally you could do that, and, if so, whether you actually could.

Chair: Perhaps you will come back to us on that.

Q35 **Karl Turner:** My question is around money and departmental funding. The autumn statement left the budget unchanged, and, given the inflationary pressures, the MOJ is clearly facing significant increases in costs, with no new resources. What will those increases in costs to the MOJ be over the spending review period? Do you have a number? I suspect probably not.

Antonia Romeo: Not one that I can, at this point, share. Obviously there is a challenging fiscal environment. An efficiency and savings review is under way, overseen by the Treasury, to manage the pressures from inflation. We are working through, with Ministers, the consequences for our budget, because we will have to absorb those inflationary pressures.

We have an £11 billion budget. It is obviously difficult to absorb inflation when you are delivering services, but we will be doing it in accordance with Ministers’ priorities. I think that the Deputy Prime Minister was in front of the Committee fairly recently. As he will have said, we will be looking at what the priorities are—the most urgent things and the highest-impact things. We will seek to make efficiencies outside those areas first.

Q36 **Karl Turner:** Have you managed to come up with an idea of where those efficiency savings are going to be made yet?



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Antonia Romeo: That is the process we are going through at the moment. We, as officials, will come up with a range of options, and go through them with Ministers, and Ministers will determine which priorities they most want to protect; but we are going to have to absorb inflation within the budget, and find a way to do that. We are in that allocations process at the moment.

Q37 **Karl Turner:** Is that an easy task, do you think?

Antonia Romeo: No. It is incredibly challenging, across the whole of government, but it is necessary. We recognise the fiscal constraints. We have to live within the means that we have been given, and we will do it.

Karl Turner: I think I am satisfied with that, Chair.

Chair: Thank you very much.

Q38 **James Daly:** One of the things, you will notice, that politicians talk about is numbers. Permanent secretary, you talked about £11 billion. You could have said £50 billion, £3 billion or £4 billion, in the sense that it is just a number. We should be interested in the relationship between the number and the service that is provided, because the public want to know what they are getting, as the bang for their buck.

I want to ask some quite basic questions. It is my naivety if I get some of these questions wrong, so please forgive me. The staffing budget—the amount of money you pay out in wages: I take it that money comes out of the £11 billion. Is that correct?

Antonia Romeo: Yes.

Q39 **James Daly:** So in rough terms, how much is that of the £11 billion?

Antonia Romeo: It is the majority of our money.

James McEwen: It is around 42% of our gross expenditure. You know the Department is funded both through fees and fines that come through the courts and from votes of expenditure, voted through Parliament. Staffing costs are about 42% of that.

Q40 **James Daly:** Okay, so when we are talking about £11 billion, in some sense it is misleading—some people listening may think that that is £11 billion to spend on services, buildings and all sorts of other things. We actually have only 58% of £11 billion to spend on that.

Can I ask about the decision-making process? In terms of the different Departments represented here, how do you get to the figures—I understand it is a limited pool—that are paid out for, say, prison upgrades or whatever it is that you are looking to invest money in? What is the decision-making process?

Antonia Romeo: Let me set it out, and stop me if I am giving too much detail or telling you things you already know.



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During the SR21 process we had an agreed baseline, and in addition we were given a settlement. That settlement was about a 3.3% increase per annum over the course of the spending round. Some things are specifically either ringfenced or essentially indicated towards certain things. So, for example, we have £550 million for reducing reoffending money, or we have an increase in our victims spend, to £185 million by year 3 of the SR, to support the additional independent sexual violence advisers. So there are certain specific things.

- Q41 James Daly:** Can I ask a question based on that? Again, I apologise for my naivety. I am looking at something here—you have given an example: this is something from the brief, that there is “£900m additional spend on prisons, including additional prison officers” etc. Is that £900 million figure decided by the Department? You get a sum of money from the Treasury. Do you decide on whether it is £900 million, £300 million or £400 million, or is there some other impact from the Treasury or anybody else that tells you, “We want this money spent on that”?

Antonia Romeo: This whole thing is negotiated through the SR process. I do not think it is giving too much away to say that we might go in and say, “We want x,” and the Treasury might say, “We think we are going to give you two thirds of x,” and we will have a negotiation over what we actually need, between those two numbers, to deliver what we have to deliver. That ends up being our settlement.

Some things are specifically ringfenced; some things are short of being ringfenced, but might be announced money—so we would obviously have to put it towards those things. Then there will be some money where it is for me, as principal accounting officer, to advise the Secretary of State on how to allocate that resource, with my accounting officers.

- Q42 James Daly:** How would you advise us, permanent secretary, to hold any of you accountable for those sums of money? What is it that we judge? If you are going to invest £900 million on prison places, or whatever it says, what can we, as Members of Parliament, look at to say whether the targets have been hit, or what we are getting for the investment?

Antonia Romeo: Well, in a way, the accounts. As you will know, the accounting officer is directly responsible to Parliament, measured by—tested by—the Public Accounts Committee, for living within the parliamentary control totals and delivering what is set out in our outcome delivery plans. The outcome of that is in our accounts, so in the performance section of our accounts you will see what we have delivered for the money we have been given. In the financial section you will see how much we spent, and what we spent it on. That, of course, is outturn. We normally provide outturn alongside budget, and you can see where the variance is.

- Q43 James Daly:** Thank you very much. Can I ask two further brief questions? This gets back to what I have just been saying—



Antonia Romeo: Your laughter is making me nervous.

Q44 **James Daly:** Anybody can answer this. Obviously, we as a Committee want not only to scrutinise, but to highlight the good things that the Department is doing, so can you tell us what your Department's key achievements are over the last 12 months? What things do you want to tell us you are doing extremely well, for which the public are getting good value for money?

Antonia Romeo: Okay, great. The last time I was here, about a year ago, I was asked about the delivery dashboards, and at the time I was trying to build the capability in the Department to be even more data-led. I think we have made huge progress with that. In particular, earlier this year we published the local delivery dashboard. That is end-to-end data for the criminal justice system. It is a joint effort between us, the Home Office, AGO, the CPS and the police. Essentially, it gives data on timeliness, victim engagement and quality, right from the police recorded crime to the end—the case conclusion.

That is really significant. It is broken down by, as it were, the bits that belong to the police, the bits that belong to the CPS, and the bits that belong to the MOJ. We recognise that it is a system.

The reason this is important is that we have just now published the local versions. We publish them on a quarterly basis. What this means is that individual LCJB areas—that is like a PCC area—can look at what is happening in their area to deliver justice for victims. In Wales, for example, they are using this data to produce a performance management framework that they use when they have their criminal justice boards. That is one thing.

May I give you a bit of a longer list? The second thing—I mentioned this money earlier—is reducing offending. Over the past decade, reoffending has fallen; it has now fallen to 24.4%—a hugely significant decrease in reoffending of seven percentage points. A lot of work has been done, including by Amy and her team, focused on reducing reoffending and what works to get people not to reoffend any more. This is getting them into a job and accommodation, managing the Through the Gate process, and getting them off substance misuse.

That has been really significant, and we have seen a two-thirds increase this year in the number of prison leavers who are in accommodation six months after they have left.

Q45 **James Daly:** That is great. I have to stop you. I'm sure that there's much more that you want to talk about it, but you are opening up a Pandora's box in terms of how we could challenge in that respect.

One of your priorities for the rest of 2023 is the court backlog. Can you briefly tell us about the investment that you have highlighted that you are going to make to support a reduction in the court backlog, which is obviously a Government priority?



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Antonia Romeo: Yes, and Nick will want to say something, but obviously the court backlog is one of my big operational priorities for this year—and for Ministers.

We have made some significant progress, post covid, on getting the backlog down. Unfortunately, the disruptive action by the CBA meant that we did see an increase to October in the outstanding case load, but now that has started to come down again, and is stabilising.

Essentially, to reduce the outstanding case load, it is physical; it is sitting days: do you have the physical space, the staffing, the judicial capacity? We are recruiting an additional 1,000 judges at all levels this year, which we think will help with that, because it is a significant constraint. Obviously, we have investment in court maintenance, so we can keep courts online. We have 30 additional Nightingale courts at the moment, and 24 that we will be keeping into the next financial year.

We are doing everything we can, working with the judiciary, professions and partners, to keep bearing down on that backlog, because we have a target, as you know, to get it down to 53,000 by the end of March '25.

Q46 **James Daly:** Annual reports used to be published before the parliamentary summer recess. Why have the recent reports been published in December?

Antonia Romeo: James is going to want to add on this, but the bottom line is that we rely on the audit of the local government pension schemes, and the timing of those has changed, which means that the HMPPS accounts, for example, which rely on them—and I think also CAFCASS—do not get laid early enough for us to lay our group accounts. I do not know if there is anything else.

James McEwen: Perfect answer. We are completely beholden to the timing for the pension schemes. We work really hard, but that is the structural problem.

Q47 **James Daly:** And when are you going to respond about IPP?

Antonia Romeo: We are currently carefully considering the—

Q48 **James Daly:** You have been considering it for many months now.

Antonia Romeo: Doubtless, you have asked Ministers, and Ministers are currently carefully considering it. We are of course looking at refreshing the action plan and strengthening it, so that we can continue to support IPP prisoners.

Q49 **Chair:** It is taking longer than some of the IPP sentences to get a response from the Department on this issue, if I may say so, bluntly. Perhaps you will take that back. I do not regard this as very satisfactory, really.

Antonia Romeo: Noted. I will take that back to the Department.



Q50 Dr Mullan: Following on from my colleague's questions about the annual report and your performance, and how you measure performance, you talked a lot about the process that provides justice to victims, and things that you do to enable someone to go to court, be sentenced, and have a successful probation, or unpaid work, or whatever it might be.

You remember that the last time you were before the Committee I asked how you assess whether a sentence provides justice, and how you look at justice, and I did not really feel I got a tangible answer. I think that that really shows in the annual report, because there is nothing in there at all about the way victims actually feel, or whether this process you are going through, in the end, delivers what they consider to be justice.

Whether it is victims of crime or the wider public, how are you measuring whether you think you are actually delivering justice, separate from the process that leads to someone getting a sentence of some kind?

Antonia Romeo: I will say some things, and Nick might also comment on what we are doing in courts on interaction with victims.

I do recall that conversation, because it was about whether civil servants thought sentences were long enough. I think I said at the time that this was a matter of policy for Ministers, and, while we advised on the basis of the evidence, it was not for us to bring in our subjective views about sentence length.

We do, though, focus very much on victim engagement. I mentioned the score cards. They measure victim attrition. When victims drop out of the system—

Q51 Dr Mullan: Sorry, if you do not mind my interrupting, those are the process questions. Whether someone drops out, or feels that they have been well engaged with during the court process, are all process questions. Someone can have a fantastic process and experience of the court system and CPS—all of that—but they might feel that the sentence delivered did not deliver justice for them. That is the thing I am asking about. So nothing about process, please—just, specifically, how do you determine whether, ultimately, victims feel that justice has been delivered, even if they had a really great experience of the process and that it has all been done really well?

Antonia Romeo: It seems clear to me that we have to be evidence-based. I do not consider that whether victims drop out of the process is a process issue. I consider it to be a direct indication of their satisfaction with the service that we are providing to them. That is why I take it very seriously.

Q52 Dr Mullan: I am talking about the point after sentence. Yes, you are quite right: if they have dropped out, certainly they have a problem with the process, but let us assume that there is a victim who thinks it worked well and has not dropped out, who thinks that the court looked after them really well, as did the police, and that the CPS made great



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decisions. How do they think about the actual outcome?

Antonia Romeo: We obviously engage with victims afterwards. Do you want to comment on this, Nick?

Nick Goodwin: We do engage with them to make sure that they get the right support all through the justice system. The question of whether they find the outcome—the judgment—acceptable is quite difficult, because that is ultimately a question determined by the court. It is not something that one specifically measures as—

Q53 **Dr Mullan:** I do not think it is particularly difficult to ask victims, “Did you feel that the outcome at the court delivered justice?” Why is it difficult to ask them that, track that, measure it, and publish it?

Antonia Romeo: We do victim surveys, and things like that, to capture that information.

Q54 **Dr Mullan:** But they do not ask, “How did you feel the outcome was?” They ask about the process, which I accept is important and valuable—I am glad the Department takes it seriously—but I am asking whether victims feel they got justice at the end of it all.

Antonia Romeo: So are you suggesting that we should include in future victim surveys a question about whether they are satisfied with the outcome?

Q55 **Dr Mullan:** If you do not have another method you could suggest to me that measures that. There is not anything in the report that talks in an equivalent way about that.

Antonia Romeo: There is no reason why we would not consider doing that. I am wondering whether—I thought we got at that through a number of other questions, but you might have alighted on something that we should consider and follow up on.

Q56 **Dr Mullan:** And I recognise that just because a survey does not give 100% satisfaction it does not mean that there is not a fair attempt to deliver justice; but without looking at it or tracking it, how do you know you are delivering what you are supposed to, which is, ultimately—everything else is a process leading up to this—an outcome? If you are not focused on the outcome, the process is not necessarily helping you. Again, perhaps write about that.

I want to ask about employment tribunal fees. You talk about the amounts that you have paid back, and the £14 million that remains outstanding. Are any efforts made to try to repatriate people’s money, or is it just an open door? How long do people have to come and ask? Is it a permanent thing? Can they come 10 years from now and ask for their fees to be refunded?

Antonia Romeo: There is quite a lot—do you want to pick up on this?



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James McEwen: We have a lot of engagement with impacted individuals. We wrote to tens of thousands of people who were impacted when the fee refund scheme was first set up. We have also engaged with intermediaries, trade union bodies and other representative groups to make sure that we get the message out. As you say, the scheme was very successful in its early years. We paid out nearly £19 million in fee refunds, plus interest. Last year we paid out only around £90,000 interest and fee refunds. It is only about five a month, currently.

There comes a point where people have acknowledged that they have an opportunity to claim, and made a decision not to. Investing a lot of money and effort chasing people for a marginal claim they do not want to make is probably not the best value.

We tend to put an expiry date on individual fee refund schemes, just so they can draw to an end. I will have to get back to you on precisely when the ET fee scheme ends.

Q57 **Dr Mullan:** So there probably is one—or there might not be.

James McEwen: Yes, there probably will be one. Before the end of today I will try to get back to you.

Nick Goodwin: It is just worth saying that the number of claims on that scheme is now very low, so we have substantially dealt with the issue. I think we are only getting about five claims a month now, so it really has tailed right down.

Q58 **Dr Mullan:** And do you do anything proactive any more, or is it your view that if they have not claimed to date they are not going to?

James McEwen: We still have it. It is up on gov.uk. It is one of a number of fee refund schemes. We are engaging intermediaries. We have been to MoneySavingExpert in past years. We can re-energise on some of that, but we encourage people where we can.

Q59 **Dr Mullan:** Okay. I wanted to ask about another element of the accounts: the £73.7 million attributed to an onerous lease of undeveloped land. Could you explain what the provision relates to? I think it is a plot of land that you planned to use but did not use.

James McEwen: This goes back to 2010. There was an intention—we took a long-standing lease; it was many years ago, a pretty long time—

Q60 **Dr Mullan:** I think it was 2008.

James McEwen: Yes, 2008. There was the intention to build a court, but we took a long-standing lease. There were restrictions on the land so you can only build a court on the land. We entered the lease arrangement and that has left us in a place where we have the land, but we have no intention to build the court, and therefore that is classified in the accounts as onerous.



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Q61 **Dr Mullan:** Is that typical—that you take a lease on land in a property area that can only be used for a court? That seems very specific.

James McEwen: It is very specific to some local circumstances. I cannot remember who the landowner is. When they were prepared to hand it to Justice they were prepared to hand it to us for that specific cause. I think there are local interest groups who would suggest that we might be able to use that land for different purposes. We are working really hard with the organisation that owns the land to allow it to be developed for different purposes and get us out of this arrangement.

Q62 **Dr Mullan:** So how much has it cost to date, do you know?

James McEwen: I do not have that figure. It would be hundreds of thousands of pounds of lease costs a year.

Q63 **Dr Mullan:** It seems not just a waste of money in the ordinary sense, but a waste of an opportunity, if you have some land that could be put to better use.

James McEwen: It is extraordinarily frustrating, and I believe it is in the constituency of a member of the Committee. We are close to the end and the Courts Service is doing a lot of work with the landowner to see if there is room to change the covenant, so it could be used for broader purposes. We do what we can. It dates back a long time and it is outside our control.

Q64 **Chair:** Try to negotiate your way out of it, if you can.

James McEwen: Exactly right. We are making progress. I just do not want to over-promise.

Q65 **Chair:** The other thing that really leaps out from some of the main estimates is the huge increase in the contingent liability for injuries to staff, prisoners and the public. It has gone up about 233% in two years. I would be interested to know what you have done to examine the drivers of that.

Antonia Romeo: It is not from injuries to staff. That is where it is grouped, but it has increased primarily because of a specific legal challenge. It does not relate to any change in our outlook on compensation for injuries, or any substantive changes. It is a specific thing relating to one legal challenge, so we do not expect it to continue.

Q66 **Chair:** So an individual case, in effect.

James McEwen: Yes, but not related to compensation or injuries. In this case the annual report is not particularly helpful. The bulk heading that it sits under—

Q67 **Chair:** So it is the legal costs in relation to the challenge.

James McEwen: Yes, it is a specific legal challenge, which, if we lost it—we do not think it is probable; hence it is a contingent liability—the



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damages to pay out would be significant and the valuation of that has changed between years.

Q68 **Chair:** So someone has brought a high-value claim against the Department, in effect.

James McEwen: Yes. The point we are trying to make clear is that it is not related to deteriorating conditions in a prison, or a specific case where someone has been injured either at work or in custody.

Chair: That is helpful, because otherwise it looks rather odd.

Q69 **Edward Timpson:** May I take you to the old adage on public appointments and trying to ensure that those extremely important positions are kept to time, and to the tenure that was anticipated? Last week we had the pre-appointment hearing for the new Prisons and Probation Ombudsman. The original campaign for that position was launched in December 2021, but we were not as a Committee informed of an appointable or preferred candidate until January 2023. Adrian Usher, that candidate, is not expected to take up the post until the end of April this year, almost a year after he was first interviewed. Can you explain for yourself what the delays were in that appointment?

Antonia Romeo: Yes, I can. The MOJ manages 2,200 regulated public appointments. There is quite a complex process. We involve Ministers at every point in that process. That obviously means that a change of Ministers, depending on when it falls in the process, can often lead to a delay, because, as I say, we involve them at every stage in the competition.

We are also in the process of a significant building up of capability, and upskilling of the team, to ensure that we have sufficient resource to manage all these public appointments.

On your particular question, although, obviously, I appreciate there have been a number of delays in the exercise, some have been within our control and some have not. Specifically, agreeing the senior independent panel member was not straightforward. There was also some panel member sickness that meant that we had to delay, that meant revisions to the sift and interview dates.

As I have already mentioned, there were some issues around timeliness, partly because of the ministerial changes in the autumn of last year, which resulted in some delays.

We also had some issues within the team that indicated a lack of resilience due to staff sickness, which we are now addressing.

I want to thank the previous PPO, Sue McAllister, who extended her role for six months, and Kimberley Bingham, who has been acting as PPO since July, for agreeing to cover in post until the campaign is concluded.



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We completely recognise that it would have been much better to have done it more quickly. We are doing what we can to fill in those issues. Nothing will ever be perfect in this situation because there are some factors we do not control.

- Q70 **Edward Timpson:** How are the issues you are addressing going to assist in other instances where there has been significant delay? For example, since 2019 Juliet Lyon has been chair of the Independent Advisory Panel on Deaths in Custody. Clearly, as a Department you have known since then that her tenure would end last August, but there is still no successor in post. What are the reasons for that? Are they the same reasons, or are there other reasons?

Antonia Romeo: They are similar. Panel member availability meant that interviews needed to be rescheduled from July to September and ministerial changes in the autumn did result in a delay to securing agreement on the preferred candidate.

This one is slightly more complicated because we have co-sponsors in DHSC and the Home Office. We are now in the process of consulting co-sponsors, and we anticipate the appointment being in mid-February. You may have seen the letter I wrote in response to Juliet Lyon's letter.

- Q71 **Edward Timpson:** I have a copy here; it is dated 30th January.

Antonia Romeo: I wrote yesterday.

- Q72 **Edward Timpson:** On the basis that you have hundreds, if not thousands, of appointments for which you are responsible either as sponsor or co-sponsor within Departments across Whitehall, apart from putting greater resilience into your team—I would be interested to know what you mean by that—how can you ensure we do not end up with a succession of further delays to key appointments, knowing, for example, that a new panel member for the Independent Advisory Panel on Deaths in Custody is still waiting to be approved by your Department eight months after the individual was deemed to be appointable?

Antonia Romeo: As for what I mean by building up the capability of the team, some of that is exactly how it sounds; that is what it says on the tin. We have to put in more resource and make sure we have resilience in the team such that if, for example, someone is off sick it does not significantly delay the process.

We are also supporting the introduction of the new Cabinet Office public appointments candidate portal, which we think will increase efficiency, because the more you can digitise, the swifter the process.

One of the issues has been with this many appointments not being on top of the pipeline and what is coming up. We have a new database in place that should help to address that.



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Finally, we have put in place specifically earlier due diligence in the process, which should reduce the need for candidate reruns, because one of the problems with doing due diligence at the end is that essentially, if the proposed appointment does not get signed off, that can cause quite significant delay. Therefore, we are seeking to do that earlier so we can get earlier agreement to the pool.

Those are examples of the things we are doing on the process.

Q73 Edward Timpson: Finally on appointments, the three-year term of the Victims' Commissioner expired in June 2022. There was a PQ on 16 January and you said you expected to make the appointment in the spring of 2023. Can you be more specific? Is that still the case?

Antonia Romeo: It is still the case. I cannot be more specific. We are in the middle of the process. These things always slightly depend on specific dates for interviews and an appointment like that would go through multiple, very senior ministerial approvals. I think it could be in the spring—April, May. You know well how these things work.

Q74 Edward Timpson: I want to move to another issue that I think we touched on in a roundabout way before the session started. Nick might be best placed to answer this, but anyone else should feel free to do so.

I am sure you are asked about the common platform and its roll-out quite regularly by all parts of the courts and tribunals system. As we sit here today, what are the main problems that you are still grappling with? What is the timeline for when you are hoping or expecting those problems to be fixed?

Nick Goodwin: As of today, the common platform is rolled out in what we call its minimal viable product form. The first form will be used in 76% of courts, so it is already very far advanced, and that is where it sits.

We have plans to roll it out further. We plan to roll out in London, which is a large block of what is left, in about May this year. After we have rolled it out, up until the end of the calendar year, there will be a number of enhancements that effectively will make the common platform more sophisticated and interactive with other systems. That is the plan between now and December 2023.

At the moment there are some difficulties with the common platform that we are looking to respond to. Our legal advisers in the magistrates courts in particular are raising some issues about the common platform, and what we are trying to do is sort them out at pace so that as it rolls out further there is more comfort with the common platform being landed and people being more comfortable in being able to use it.

Q75 Edward Timpson: You gave a date when you hoped to roll this out. Did you say December 2023?

Nick Goodwin: We are looking to roll out the common platform by the end of this year.



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Q76 Edward Timpson: One of the specific problems raised by the Lord Chief Justice is what is called “resulting” on the system, where there is a result in a case and it is cascaded through the system effectively and accurately. We were told earlier this month that that issue still had not been resolved. Do you know what the status is, and, if not, will you be able to report back to this Committee to give an update?

Nick Goodwin: Broadly speaking, what the common platform does is replicate a system that was in existence prior to it. Over the past five years, prior to the common platform coming in, in magistrates courts we have been asking legal advisers to result effectively in real time. The common platform requires that and has a number of functionalities that make the resulting of cases in magistrates courts automated in many cases.

There is some controversy over that among our legal advisers, who are saying that in some cases resulting in court is difficult with the common platform. We have had a look at that. In the large majority of cases, the time it takes to result is pretty much the same.

There is a hard end of resulting in the magistrates court, which we are looking at. If you can imagine a very complicated multi-handed trial, it is difficult to result and we are working hard to make that a smooth process for those legal advisers using it in the future.

Q77 Edward Timpson: Having had those discussions, are you confident that that will be resolved by the end of this year as well?

Nick Goodwin: My No. 1 priority at the moment is to get rid of the wrinkles people have been complaining about more quickly. My entire team is working really hard on this. We have about eight workstreams dedicated to these issues.

We have completely changed our approach to how we engage with legal advisers. We were very focused on getting the common platform out there and getting it completed because the longer we take to do it the more we are running two systems, which is difficult to use. We have been very focused on that.

We are still focused on that, but what we are seeking to do is to spend a lot more time listening and understanding the concerns of legal advisers and other users and fixing them. I have a number of workstreams where we are throwing everything at that at the moment. I am pretty confident that will make the process much smoother.

Q78 Edward Timpson: My understanding is that there is a £300 million budget for the common platform roll-out. Is that correct? If so, are you working within that budget for the roll-out to be completed by the end of this year?



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Nick Goodwin: The budget is just under £300 million. I will find the exact figure, but it is of that order. It is a large budget and we are still working within that budget.

Antonia Romeo: In addition to what Nick said about timing, at the beginning of these big projects there is always a sense of getting it out quickly enough. We have been doing a lot of learning. The last time I was in front of the Committee we were talking about all the things we were doing to get better at project and programme delivery and assurance. One of the things is listening to the users. What Nick and his team have built into the system is much better feedback and listening to that feedback.

It is not completely beyond the bounds of possibility that on listening to that feedback one has to make changes and perhaps look at the trade-off in doing it more slowly if that makes the users happy. That is not the plan. All I am saying is that at the moment we are still taking on board the feedback.

Nick Goodwin: I think that is right. The money we are spending on build and so forth is pretty much what we thought it would be.

What we are trying to do is make that implementation, when it lands in the court, as smooth as possible. We are looking really hard at that. We have learned, as we have done before when delivering eight or nine large reforms through the core reform programme, that when we put stuff out there, particularly in covid, with people working their socks off and not being quite ready and our not having done as much preparation as we always plan to do, there is a bit of a shock to the system.

We are looking to see whether we can soften that and make sure we keep our operations going while we are landing what are difficult new ways of working for people. I think that is the sort of margin Antonia is talking about where we are continuing to see how we land it in the frontline.

Q79 **Edward Timpson:** To pick up Mr Daly's point about our wanting to find some positives and benefits from some of the work being done by the Ministry of Justice in this area, and knowing that the common platform is about improving efficiency, consistency, accountability and transparency within the court system, what additional data will this enable the criminal courts to make publicly available that will help with all those endeavours?

Nick Goodwin: You are right. It will provide a lot more management information in particular and data that will help us drive efficiencies into the system. There is also the data Antonia talked about earlier about people's progress through the system end to end. We will have much better granular information about the stuff that went into that and, behind that, how that process worked that will allow us to work with partners.



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I think you heard from the senior judiciary recently about better case management in criminal cases. The common platform will give us insights to understand how cases can be managed in the most efficient and effective way. That is the sort of dividend we are looking for from the common platform.

As for when it will be published, I am happy to check. The general approach to much of this data and reform is to get the information out there so people can make better use of it.

Q80 Dr Mullan: I want to ask some questions about electronic monitoring. You will be aware that the PAC report in October last year contained several criticisms of procurement and the modernisation of the programme, but I want to begin by asking about the other criticism in relation to measurements of performance and success. At the moment, how do you decide whether electronic monitoring is delivering a positive contribution to the justice system?

Antonia Romeo: I might ask Amy to come in on that. We remember it well because we were before the PAC on it.

Amy Rees: I believe electronic monitoring provides a unique contribution to the criminal justice system. As you know, there are significant numbers of people on tags to support people on bail and those at the end of their prison sentences, but there are some more interesting and innovative things we have been doing lately. I refer to the acquisitive crime pilot for those being released from sentences for burglary. There is GPS tagging so we can tag where they are, but there is also alcohol abstinence monitoring, which is genuinely unique. We are the first jurisdiction in the world to be doing that at bulk level. We think that could have a positive impact in years to come.

Q81 Dr Mullan: One of the criticisms of the report was that those are broad aims and there was not really an attempt to measure that positive contribution. That was what I was asking about. Is it reoffending rates? Is it reduced recalls? I know there has been some good measurement of early abstinence, but, putting alcohol monitoring to one side, generally how are you measuring whether it is making an effective contribution?

Amy Rees: I think you know that we were awarded specific money to do some real evaluation of outcomes. You have just mentioned a few. Are we doing what we want to do? One measure is: are people completing the order, whatever that order happens to be, and is that increasing? Our success rates on electronic monitoring are pretty good.

We then tried to have some evaluation outcomes, which will take a little while, to try to identify whether it is contributing to reducing reoffending risk. You will know that is quite difficult because you have to isolate the effect of the tag against other groups. For example, on acquisitive crime we know there are 19 forces, rather than all 42, deliberately trying to see



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whether we can have a noticeable outcome differences between the forces where that is happening on the forces where it is not.

Q82 **Dr Mullan:** How long has the acquisitive crime project been running?

Amy Rees: It has been running for over a year. We expanded it last summer and we will probably know the results in the middle of the year or so.

Q83 **Dr Mullan:** In another year?

Amy Rees: It is quite a long time because there is a lag on reoffending data. If someone is reoffending, they have to go back through the system, so there is quite a lack on reoffending data.

Q84 **Dr Mullan:** Do you think there is a shorter-term measure and perhaps you might have recalls?

Amy Rees: Short-term measures will certainly look at whether people complete the order successfully. That might be recall; it may be they are going back to court for a variety of reasons. It depends on the original measure. It is not completed.

Q85 **Dr Mullan:** It is just not completed?

Antonia Romeo: On a point you made earlier and one Mr Daly made, reducing reoffending and crime and ultimately protecting the public is the key thing. We can measure interim things, as we do, including outputs like completing the order. The data on reducing reoffending will be the thing that really matters. We want to keep evaluating it until we get that data.

Q86 **Dr Mullan:** Do you think that the PAC's criticism was unfair, because at the moment you do not really have a strong handle on success?

Antonia Romeo: No; we accepted a lot of it. There were a number of issues about how earlier in the programme in 2022 gateways had been passed through where we did not have sufficient assurance. We acknowledged all of that. We have massively strengthened programme assurance within the Department, including a new portfolio management board, a new delivery board and more assurance by the IPA. We have strengthened all of that governance. We are doing the evaluation Amy has talked about, and we have sought to learn the lessons on that.

The final thing I would say about electronic monitoring is that it is a really good example of innovation in the Department. GPS tagging and alcohol absence are really innovative things. Going back to Mr Daly's earlier point, if we can get right the idea of non-custodial disposal but seriously protecting the public by innovative measures like this, that will change things in how we can deliver our services.

Q87 **Dr Mullan:** I want to ask about modernisation. Are you on track to having an up-to-date, modernised systems by 2024?



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Amy Rees: Yes, we are. You may remember there were six PAC recommendations. One of them we have only just completed; we have five to do. We are due to write back to this Committee in August to say how we have got on with those recommendations, but also to tell you how we have got on with recontracting for the next generation of service.

Q88 **Dr Mullan:** One of the things it specifically criticised was outsourcing the systems integrator role. It noted that you are doing that again. Are you confident in that decision given the criticisms?

Amy Rees: Yes, but we have changed several things, including the fact that we are more or less buying off the shelf now. You might remember that last time we were trying to innovate at the same time as integrating. We are now buying products that are off the shelf.

Q89 **Dr Mullan:** My final question touches on the point you just made. What work are you doing to secure engagement and confidence in the systems among magistrates and judges?

Amy Rees: We have a system of what we call outreach, going out to courts. As you know, whether or not to offer electronic monitoring is ultimately a matter for independent sentencers, but we want to make sure they know what the technology can do and how they manage it afterwards.

We have 44 courts where we particularly noted that the uptake was a bit lower than at other courts, so we particularly went out to them. We developed a 15-minute video; we have been out making presentations, and we think they have been very successful. We will continue to work with the SPJ to go anywhere and make sure people are aware of the products and what they do and how to work with people.

Q90 **Maria Eagle:** You have been talking about getting better at dealing with project management and delivering things. I want to talk a little bit about the rapid deployment cells project. Obviously, I am going to highlight the ones that have not gone perhaps tremendously well. It is on the Government's major project portfolio and it is rated as red. I do not know whether it is still rated red, but it probably is, given that once you are rated red it means that successful delivery of a programme to time, cost and quality appears to be unachievable. Therefore, you would be doing pretty well to get away from red once it has got to that stage.

The MOJ originally planned for 1,000 rapid deployment cells to be available by last December. How many are now available? How many were delivered?

Antonia Romeo: Thus far, we have delivered 48 into HMP Norwich; it is taking its first prisoners next month. We will get the majority of the 1,000 built and in place in this calendar year and the remainder early next year.



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What happened with the RDCs—by the way, this is a good example of innovation, because it is completely new—was that, while we were in development and after we had had the outline business case signed off, the cost of design and build made us question their affordability and value for money. We went back and did a deep dive into that work. That then led to a determination that they were the best way on a medium-term basis. They last for only about 15 years, but on a medium-term basis that is what we need as the best way of providing new accommodation. Therefore, we went back and got the full business case for all 1,000 signed off, and that is what we are now implementing.

- Q91 **Maria Eagle:** I notice also that in November the Government triggered Operation Safeguard to allow 400 prisoners to be held in police station cells, if necessary. Obviously, as somebody who was in the Department the last time it was triggered, I can say that it is never good for that to be triggered. Police cells are not ideal, to say the least, for holding offenders. Is the failure to deliver on the rapid deployment cells project the reason why—maybe I am overthinking this—Operation Safeguard has been triggered?

Antonia Romeo: No. I will say some things and then Amy will want to add.

You will have seen the prison population projections and the combination of the new police officers, all the questions on demand, getting down the backlog and the CBA action if you have a number of prisoners on remand, etc. The demand on the system is significantly increasing. We must provide the ability to house in custody all prisoners sentenced to custody. Therefore, we are looking to do everything we need to do to do that. We have a combination of house blocks, new builds, the big new prisons, the planning appeals on the three and the rapid deployment cells.

Amy took the judgment, which I endorse, that we also needed to advise Ministers that now is the time to formalise the process for police cells, which is called Operation Safeguard and involves about 400 cells. We need to do everything we can to manage the pressures. I do not know whether Amy has anything to add.

Amy Rees: You asked specifically about triggering Operation Safeguard in November. I think that was very much the result of the CBA strike and remand levels increasing quite rapidly in that period. As you know, sometimes we need to safeguard not just because of the total number but because you can have particular pinch points in types of establishments, like local establishment in regions, in particular in the north-west in that period before Christmas.

- Q92 **Maria Eagle:** I understand that as of 11 January no police cells have been used. Is that still the case?

Amy Rees: Yes.

- Q93 **Maria Eagle:** Do you still anticipate placing prisoners in police cells, or



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might you have got over the worst of the potential difficulties that made you reopen Operation Safeguard?

Amy Rees: Just to repeat what I have just said, we may still need them later, not necessarily because of a critical loss of places but because we might have particular areas and types of establishments in all parts of the country where we think it is helpful for us have the safeguard.

The other thing to say is that we do not place prisoners there. They will stay there for a maximum of 24 hours and then we do everything we can to get them moved the following day back into the prison estate, so this represents the very short term.

The alternative is to drive them quite a long way away to any available space that might be in the south of England, for example, rather than the north of England. We place them in cells for one night and move them to an available place the following day.

Q94 **Maria Eagle:** Has there been any consideration of resorting to end-of-custody licence? Ms Romeo will remember that.

Antonia Romeo: I do remember. Obviously, we are working through with Ministers all options to manage down demand and maximise supply.

Q95 **Maria Eagle:** You expect to be able to get 1,000 rapid deployment cells available by the end of this year. Will there be any further use of such things? One of the original plans was to try to get 2,000 cells.

Antonia Romeo: Essentially, it comes down to judgments about funding. Obviously, the best thing to do is to maintain cells such that you do not have the same number of dilapidations.

Q96 **Maria Eagle:** You will stick to 1,000 maximum?

Antonia Romeo: Under our current affordable plans we have 1,000 coming on stream this year. Of course, if the cost fell, or they ended up becoming more VFM compared with other options, there is no reason we would not do more of them in the future.

Q97 **James Daly:** You just used the phrase “manage down demand and maximise supply”. To state the obvious, one of the ways to do that is to take thousands of people who are currently on IPP sentences out of the prison system. I am not asking you to comment on the future response to our report, but what plans are in place to get those people out of custody as soon as possible as we speak?

Antonia Romeo: As I say, we are in the process of looking at policy options with Ministers. As long as those prisoners are under sentences of custody we will provide custodial places for them to stay.

Q98 **James Daly:** Therefore, they are not treated any differently from any other prisoners?

Antonia Romeo: In what sense?



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Q99 **James Daly:** They are—

Antonia Romeo: There is a particular action plan for IPP.

Amy Rees: We have the existing HMPPS action plan, and we are trying to manage through that. As you know, we have been reasonably successful in managing down those who have never been released, because it was over 6,000; now we are down to a much smaller number, but I know you have also highlighted issues about them being recalled when they are released from custody.

Q100 **James Daly:** If we are not going to address IPP, can you give us an update on the delivery of six new prisons and the increase in capacity of 16 existing prisons?

Antonia Romeo: I will start and then Amy will have more things to say. We have 16 prisons. One opened last year, Five Wells, and one, Glen Parva, is due to open this spring. Full Sutton has begun construction. We have three coming in future years. All of those are subject to planning appeals at the moment.

In addition, we have a number of refurbishments and major house block builds. We have already mentioned the RDCs and the huge amount of ongoing maintenance to bring cells back online.

Q101 **James Daly:** To go back to the delivery of six new prisons, we have one new prison. Is that right?

Antonia Romeo: We have one with another one coming. When I come back in six months we will have two.

Q102 **James Daly:** In terms of the Government's priorities, they will have to build four by the end of 2024.

Antonia Romeo: We have three subject to planning appeals, so by definition they are slightly delayed because of that.

Q103 **James Daly:** Why have you not delivered six?

Antonia Romeo: We were not due to deliver six by now. We are on track with the first three, and three are subject to planning appeals. One was due to have been delivered last year and that came on stream as planned; one is due to be delivered this spring and that will come on stream as planned. Full Sutton will come on stream as planned in 2025, and then we have three more that are subject to planning appeals. The answer to why they have not been delivered is that they are subject to planning appeals.

Q104 **James Daly:** How many prison places do you expect to be operational once the additional 20,000 have been built?

Antonia Romeo: Do you mean: what will be the total number once we have the additional 20,000? Right now, we have 84,000 operational capacity. If we build another 20,000 on top of that we will have a little



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over 100,000. This is not a new-for-old scheme. We are not planning to shut some of those, but Amy will say to me that she wants to be able to take some offline to do more maintenance and so on.

Q105 **James Daly:** But it is basically 20,000 on top of what we have now.

Antonia Romeo: The 20,000 is to manage the demand we expect to be created by the new police officers—we will also need new prison officers for those 20,000—and bringing down the outstanding Crown court backlog.

Q106 **James Daly:** We have talked about inflationary pressures already and in building prisons there are clearly inflationary pressures. I take it that will not affect the delivery of the prisons you have just talked about.

Antonia Romeo: We are seeking to manage down inflation where possible. We are doing everything we can. There are inflationary pressures with all major infrastructure projects across Government. Affordability is a massive concern; it is a major concern to me as principal accounting officer. We will be looking closely at that. I will be seeking to do that in the most value-for-money and affordable way possible. What I know is that we have to produce enough prison places to house all prisoners sentenced to custody.

Q107 **James Daly:** What that basically means is that inflationary pressures may mean we do not get our six new prisons because they will cost too much. I am not saying it will happen; given your efficiency, I am sure we will get the six prisons, but there is a potential threat.

Antonia Romeo: A number of factors affect the prison build programme, the most proximate of which is the fact that we are appealing planning processes at the moment. Inflationary pressures would be one, and there will be a range of other things. Producing sufficient prisoner places for all prisoners sentenced to custody is of such importance that I suspect other things will be unaffordable before that is unaffordable.

Q108 **Chair:** That is fair enough. How many empty places are there in open prisons at the moment?

Amy Rees: It is about 600. We are running at about 90% occupancy in the open prison estate.

Q109 **Chair:** So, you have slack in open prisons and overcrowding in closed prisons.

Amy Rees: We have a little bit of slack, but from an operational perspective you can never run the open estate at the same level of occupancy as you can the closed estate, because people get returned from the closed estate at short notice. They go there for short periods; lots more are released on temporary licence. I would never tell you that operationally we can run both things at the level of efficiency. We cannot.

Q110 **Chair:** You will notice that the Parole Board has sent some figures



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showing a massive drop in the acceptance of its recommendations to move to open conditions. It is now down to 13%. It is going to be unsustainable in terms of pressure, especially on the closed estate, is it not?

Amy Rees: It is worth saying that obviously the Parole Board only determines who goes to open prison from among indeterminate-sentence prisoners. For everyone else, the categorisation is done internally by HMPPS, so there is probably only one route into the open estate.

Q111 **Chair:** How many more do you think are likely to be in closed conditions, as opposed to the 94% approval rate of the cohort we are talking about?

Amy Rees: It is very difficult to say. What I do know is that we are anticipating that about 250 more moves to open conditions will go via the Secretary of State for Justice to have a look at whether he agrees with them. How many of those will ultimately be successful is different altogether.

Q112 **Chair:** I used to go to Pentonville to do legal visits years ago and it was a horrible place then—it was not up to scratch. It is getting worse, is it not?

Amy Rees: As you know, there was a recent inspection at Pentonville. Some things have got worse and some things have got better. Broadly speaking, what we found during the pandemic is that we have done well in trying to learn the lessons on safety that were very acute before the pandemic, but we do need to do even more personal activity. We have been seeking to do that since we lifted the restrictions in May of last year to allow us to return to normal.

Q113 **Chair:** The chief inspector says that it is hard to avoid the conclusion that Pentonville cannot safely and decently care for the current population it has, and you are proposing to increase the population. That is reckless, is it not?

Amy Rees: We certainly know the IMB is concerned about the level of crowding in HMP Pentonville. What I would say to you is that we have released a new framework for looking at how many prisoners we crowd in every single establishment.

As for how many people we can physically put in a cell, most cells designed for one person could have two people in them, because you simply need space for a bunk and a locker, but we take much wider considerations as to whether you can physically fit someone in. We look at safety, the regime offered and the stability of the establishment. With the governor and prison group director, we make a determination of how much crowding an individual establishment can hold. We have not increased the levels of crowding at Pentonville.

Q114 **Chair:** Are you preparing to increase the population at Pentonville?

Amy Rees: No.



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Q115 **Chair:** It will stay as it is?

Amy Rees: We are not planning on increasing the crowding at Pentonville.

Chair: That is helpful.

Q116 **Maria Eagle:** A recent inspection report on HMP Isle of Wight is pretty damning. It found significant deterioration in important outcomes and said this was a considerable indictment for a training prison. What are you doing to improve rehabilitation and safety on the Isle of Wight?

Amy Rees: As you probably know, the Isle of Wight was originally conceived as a cat B training prison, and then we moved, because of population demand and changes in shifts, to have some category C prisoners there.

That now requires us to change the regime in the Isle of Wight to make sure that we have additional working places. We also need to put a number of probation officers into the Isle of Wight to ensure they can do the resettlement and pre-release planning work that you mentioned.

We have fortified the management team to be able to help us make those improvements at the Isle of Wight.

Q117 **Maria Eagle:** Many of the sentenced prisoners there have been convicted of serious sexual offences. The report noted that a prison that released up to two high-risk sex offenders a month was failing to prepare inmates effectively for the community. That is a pretty difficult finding to read, is it not? You are releasing serious sex offenders without preparing them effectively.

Amy Rees: Absolutely. We must, we will and are doing more in the Isle of Wight to ensure we are preparing people, but obviously the preparation falls into two categories. One is about ensuring that their risk is managed when they are released; the other is about preparing the individual in terms of resettlement outcomes, etc. We need to do more on both.

Q118 **Maria Eagle:** I also notice that one in five prisoners left the prison without a sustainable place to live. Does that not increase the risks of reoffending and serious harm?

Amy Rees: The permanent secretary mentioned earlier that accommodation is one of the things where we have had major improvements within the past year. You might know that we have rolled out something called CAS3, which is temporary accommodation to house people for up to 84 nights when they are released. It is not yet available in all areas, but we think that the outcomes are making a considerable difference for those individuals.

As you know, we are not a housing provider; our job is to make sure that there is liaison with the local housing provider, but this period of



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accommodation is giving people a really good bridge for us to make the time to work with local authorities to find sustainable housing. We are rolling it out and we will continue to do so. We hope that has a real impact in the Isle of Wight.

Q119 Edward Timpson: May I ask about prosecutors in the Crown court? In 2019, the number of ineffective Crown court trials because of prosecution absence was 19; by 2021, it was 151; and so far in the first three quarter of 2022, it is 235. We have not seen the quarter 4 figures yet.

First, are there any provisional figures that you can share? Secondly, when we had Minister Freer in front of this Committee two weeks ago he said he was unaware of the lack of prosecutors causing problems in the Crown court. Has this concern been raised with HMCTS, and are those figures reflective of the differential that there now is between the fees paid to defence lawyers under the graduated fee scheme and the ongoing dispute with the PCS? I think that is a different dispute. That goes back to the common platform. I am referring to the discrepancy that remains between the fees for defenders and for prosecutors.

Antonia Romeo: There are a number of reasons why a case can be delayed or dropped. The numbers are the numbers. HMCTS will be aware of the numbers, but prosecution fees are a matter for the Attorney General and CPS. They are managing their own negotiations with the Treasury or working out where they will find the money, so it would not be appropriate for me to comment on their decision.

As you well know, those fees are not a matter for the Ministry of Justice. We have implemented Bellamy, which increased via the legal aid fund the amount that went to defence.

Q120 Chair: There is a concern, is there not, that if your courts and HMCTS's courts are standing idle because you do not have prosecutors, that has an impact on your Department?

Antonia Romeo: I completely agree. You are singing from my hymn sheet, Sir Bob, because as a downstream Department, but also as the Department that owns the criminal justice system as a whole, we are reliant on everybody turning up: the professions, the prosecutors, the judges and the staff. We are dealing with all of that. I am not saying it is not a concern. All I am saying is that I cannot speak to the proposed plans for an increase in their fees because that is a matter for the AGO.

Q121 Edward Timpson: Can I ask you more generally about the number of cases still awaiting trial in the Crown court? The latest figures from the end of September 2022 were 62,766. The Department has set a target to be achieved by March 2025 of 53,000. First, is that ambitious enough? Secondly—this may be counterintuitive, having said that—is this over-ambitious and a target you will have to revise?

Nick Goodwin: On the question of the volatility we have experienced in the system, I think I understand where you are coming from. We made



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really good progress post covid, as Antonia said, and then we stalled because of the Criminal Bar Association action.

Since that has come to an end, we have ramped up the disposal of cases incredibly quickly. That would point to being fairly chipper and quite confident about the 53,000 target. However, the stock of those cases—what is in that case load—is difficult, heavy cases, for which reason you might be feeling the other way.

We will do everything we can to get down the backlog as quickly as we can. We are doing pretty well on that. We have absolutely no limits on the sitting days when we can sit. We have very few physical capacity limits, so the estate is absolutely there. We have more Crown court sittings than pre-pandemic, so we are pumping the system as hard as we can to get through those cases, but there are some big unknowns at the moment and we need to see a few more months' data to have greater confidence in whether we are being under or over-optimistic.

Q122 Edward Timpson: Do you have a staging post target for this time next year, January 2024—for where you would want that outstanding case number to be?

Nick Goodwin: I do not at the moment.

Q123 Edward Timpson: It does not exist, or you do not have it?

Antonia Romeo: No, partly because, as you identified, when the 53,000 was set in June 2021 the outstanding case load was about 60,000, but by March of this year it had gone down quite a lot to 57,900. As a result of the CBA's disruptive action it went up significantly, as you identified. It has now stabilised.

The most recent figures from November of last year are 61,900. We are confident that we are now tracking in the right direction, as opposed to the number you quoted where we were tracking in the wrong direction as a result of disruptive action.

However, as Nick says, it is complicated for a number of reasons. The case mix is very difficult, but there is also uncertainty about what is going to flow in, given that police officers are one of the big things driving demand.

At the moment we do not have an interim target that we want to make public. We are signed up to the target of 53,000 and we are doing everything we can to bring that to bear, but the recent volatility means we are not publishing an interim target.

Q124 Edward Timpson: Within those figures, looking at a slightly more granular level, are there any parts of the country, or even individual courts, where you have particular concerns? If so, what are your plans to try to address them?



Nick Goodwin: There are. London and the south-east are particularly difficult; the midlands is difficult. We are worried about the north-east, but on closer examination, although it still needs to be watched, it is perhaps not as severe as those three areas.

To make it a bit more granular for you, the picture for London, if you take out the Old Bailey and Southwark, which deal with the very heavy cases, is not too far adrift from the rest of the country. Nevertheless, those areas are particularly difficult.

There are a number of things that we need to do about it. We have been looking to move judges, wherever possible, to sit where there are the greatest pressures, and we have done various things to make that more attractive to the judiciary. We are also shifting cases the other way where that is a good solution, but through the Crown Court Improvement Group we are pushing for better case management and closer working with Amy's team on prison and probation, which is where we will find overarching improvements.

As Antonia said, the data we now have is really insightful for people to be able to help manage things at the local level. We are throwing everything at it, but the south-east and London are particularly difficult, and they will take some time.

Q125 Edward Timpson: Moving to the family court and some issues around delays there as well, cognisant of the pressure that is being put on with the end of covid and the fallout of that in many cases, particularly in the private law arena, what is HMCTS doing to try to reduce some of those delays? I think private law cases now are up to 45 weeks on average.

In particular, I am interested in the mediation voucher scheme, which is due to conclude at the end of March, despite the fact it would appear from the statistics that it has helped to resolve 77% of cases on the facts I have seen. The ability of that to help reduce some of the pressures on the family court seems quite significant.

Nick Goodwin: I start from the narrow HMCTS perspective rather than the other policy initiatives. You are right that family law has been under considerable pressure. From the annual report, you will see that we have had more sitting days in family than ever before in the year we are examining here, and we continue to have a lot of sitting days in family.

You are right. Of the two—public and private—public law disposals are slightly under receipts, which is regrettable, but, broadly speaking, they are staying at a certain level, although it is far adrift from the 26-week limit.

On private law, the situation is worsening. There are a number of things that we are doing. As I say, the capacity is there. We are also taking fairly novel approaches in family, in civil and across the tribunals, where, as far as possible, we are looking to create virtual regions, which



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effectively allow judges from elsewhere to help out in regions that are particularly struggling with volumes. That should help significantly.

There are quite a few other things we are looking to do. As you know, one of the things the reform is doing is making sure that cases are basically dealt with at the most appropriate and proportionate level. Part of that is delegating certain functions and responsibilities to legal advisers. For example, we are piloting legal advisers being able to make section 8 consent orders in private family law cases. Clearly, that will free up further judicial capacity.

Then there is the wider, more policy-oriented agenda, effectively making sure that the court is there for those cases that need to be there, and that those are diverted wherever possible.

You referred to the mediation voucher scheme, but there is quite a lot of activity, both in civil and family, where the Government are consulting effectively on proportionate and appropriate diversion. Clearly, that would be of great help.

May I mention one other thing that I know you will be keen on? You may have spotted that Sir Andrew McFarlane recently announced a recommitment—another push—on landing the public law outline in public law cases. I think you will understand that is a significant and important development.

Q126 Edward Timpson: For completeness, the Government response to the Committee's court capacity report said that the court reform programme is on track to be completed by December this year. Is that still the case? Whether it is or isn't, what major part of the reform projects remain to be completed so that the programme is at an end?

Nick Goodwin: As applies with the common platform and reform programme, we are broadly speaking on track. We must make sure that we land things in a way that supports operations rather than pulls against it. Those are the things we are thinking about at the moment, but broadly speaking we are on track.

What remains? The common platform remains. I spoke about phase 1 of the roll-out and the more complicated bits, where there are some difficult further releases that are really important to the Crown court. We have to make sure we get that right so that the Crown court is not disturbed as it recovers. That remains outstanding.

A lot has been developed. There is some finishing off to do. We have had the money claim online service for some time. We will seek to expand that into other cases, so there is quite a lot of that sort of activity.

Scheduling and ListAssist are key activities across all jurisdictions that we need to get into place. Again, that goes to the heart of the judicial function. We need to land that sensitively.



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There is more to do. We continue to do video hearing services, and there remains work to do in the tribunals, where we have done a lot. We have to finish that and we are looking really hard at the timing of projects—for example, on private family law.

We have delivered an extraordinary amount of reform in a really pressured environment. Quite a lot of the work we are doing now is to make sure that that is optimised. Quite a lot of the reform that we have landed has gone well but needs to be better.

There is a lot of associated activity, whether you see it as reform or not, which is actually about making sure that this properly delivers in the way we foresaw. Probate, divorce and public family law are good examples of where we are making the system better than it was when we first ran reform products, and that certainly will continue.

Q127 **Chair:** May I butt in and go a little further? We talked about crime and family. What about the county court? We are still using a paper-based system, which is extraordinarily archaic for something where the majority of civil claims end up. What is the plan to modernise the county court?

Nick Goodwin: I struggled to hear you.

Q128 **Chair:** What about modernisation in the county court?

Nick Goodwin: Quite a lot of the civil jurisdiction has been modernised. I referred to money claim online. We will expand that to personal injury. By the time we have completed the reform agenda, quite a lot of the high-volume, lower-value parts of the county court will have been substantially reformed—about 80% by volume will have been reformed.

You are right, and I have a bit of an ambition beyond reform. In that jurisdiction in particular we can probably follow the methodology and sort things out.

You will know that Geoffrey Vos is incredibly active on the wider civil agenda, pushing forward things that align really well with we started to reform to maximise that. There is more to go at, definitely.

Q129 **Chair:** Have you done an assessment of backlogs in the county court?

Nick Goodwin: The county court has struggled of late, particularly with judicial capacity. I referred to virtual regions. To a degree we have had to make sure that resource goes to family, and there is always a trade-off in the county court.

In terms of performance at the moment—let me look at my notes; it is a complicated jurisdiction, so it is difficult to know quite what to pick.

Q130 **Chair:** Would you like to write to us?

Nick Goodwin: The headline point is that it is a difficult jurisdiction. Receipts are outstripping disposals in the county court, and most of the



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timelines are still deteriorating. It is not back to pre-covid levels of disposal, whereas most other jurisdictions are back or beyond pre-covid levels.

Chair: If you write to us with the full detail it will be very helpful.

Q131 **Maria Eagle:** Last December, the Chair of the Committee wrote to Minister Freer to ask for clarification on the court processes used to grant energy companies warrants to enable the forced installation of prepayment meters.

In his response, the Minister gave us some figures showing that between July 2021 and December 2022 the courts granted 536,139 warrants and only 75 were refused. That is 0.0139% and is a significantly smaller figure than the numbers that were withdrawn, having been asked for in error, which were over 1,500.

What work is the Department doing to ensure that this court process, which is being used to enable energy companies to break into people's homes and install prepayment meters, is fair, transparent and supports the vulnerable customers of the energy companies?

Antonia Romeo: As the Business Secretary announced on 23 January, the Government are working on the five-point plan to protect customers who are struggling with the cost of energy. As part of that, BEIS is working with the MOJ and the regulator, Ofgem, to ensure that the process by which suppliers bring cases to court to seek entry to install prepayment meters is transparent and supports vulnerable customers. We are in the process of ensuring that at the moment.

Q132 **Maria Eagle:** It has been reported that the introduction of a telephone hearing process in September 2019 helped to facilitate a massive increase in the number of warrants being approved by the courts, so why did the Courts Service introduce a telephone hearing process that enables homes to be broken into? We have heard stories of some people not even realising that the warrants had been granted and calling the police when the energy companies broke in to install the prepayment meters.

Nick Goodwin: I cannot direct the process or procedure around warrants. It is a question for magistrates and legal advisers acting under powers that come from the judiciary.

The way in which warrants are processed and bulk processed has become more and more centralised. Bulk processing of certain civil orders is a long-standing part of the court system, certainly in respect of uncontested questions. In around 12 centres in the country, there is a list and an application online. The information is held there. A hearing begins. A representative from the energy company takes an oath and withdraws any warrants that do not meet the requirements, and largely speaking the warrants go through. That is the process that is currently in place.

Q133 **Maria Eagle:** Are you satisfied that that is delivering justice?



Antonia Romeo: In a way, this is why we are working with BEIS to make sure that the process by which suppliers seek to bring cases to court is appropriate to the purposes of the individual.

To your point about the telephone method, the problem is making something efficient. If there was something unfair about the process, making it more efficient increases the occurrences of unfairness. It doesn't mean that making it more efficient was wrong. It might mean that the process was not the right one.

Maria Eagle: I don't expect you to comment on whether you think it is wrong.

Q134 **Edward Timpson:** May I ask about children in custody? We have had a report from Charlie Taylor, the prisons inspector. He was pleased to report that safety for children in the secure estate was improving, but that their access to education, visits from family and friends—and therefore their prospects of rehabilitation into the community—were going back.

Mercifully, we now have only about 450 children in custody. What will be the Ministry's response to rise to the need for improved educational rehabilitation for children who, if this is isn't addressed, will undoubtedly end up in the adult prison estate, which is the last place we want them to be?

Amy Rees: The number of children in custody is really low and has decreased 70% over the last 10 to 15 years. In terms of the trends you are talking about, there has been lots of learning since covid. We have done a qualitative and quantitative study of the experience of children during covid. We found that on the whole they felt safer but that they had less access to regimes.

Since last May, we have tried to build up that access as we have come out of it. We took precautions during covid, particularly with children, but we did keep family visits going all the time with children, which we weren't always able to do with adults, so we prioritised that.

We learned a lot about how you can keep in touch via video link as well as in person. We are doing loads in education to improve outcomes.

We must ensure that we build up the regime, probably using smaller groups, so that at the same time as we keep children feeling safer we give them the widest possible access to regime activity.

We kept delivering education throughout the pandemic and we delivered some things that we will use to enhance in-classroom provision, which is some learning that children are able to do on their own via laptops, etc.

We will try to do a combination of both those things, but we absolutely need to maintain the increase in safety and improve access.



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Q135 **Edward Timpson:** May I make one suggestion that you might want to follow up? It is completely up to you. Go and look at the best provision of quality education and care in alternative provision settings and use that knowledge and experience within the secure estate. Often the issues they are dealing with in their setting are ones that will play out in the secure estate. That will potentially help to improve the ability not just to provide education but to improve prospects outside custody.

Amy Rees: We absolutely will do that. We are always learning. The only thing I would say is that HMP Parc, where we hold children, had a clean sweep of fours in inspected outcomes, and Estyn, the Ofsted equivalent in Wales, rated it as outstanding. We do have examples within our estate where we are delivering excellent education provision.

Q136 **Chair:** We know that the review of the roll-out of section 28 pre-recorded cross-examination has now been delayed from the autumn until the spring of this year; Mr Flury helpfully gave us evidence on that. Can you help us with why that is?

Antonia Romeo: Section 28 in so far as it applies to—

Q137 **Chair:** Pre-recorded cross-examination of complainants in serious sexual offences.

Antonia Romeo: That has now been rolled out.

Q138 **Chair:** It was going to be reviewed by the autumn.

Antonia Romeo: We are undertaking the evaluation and we have said we will publish as soon as that is done. We just need to discuss fully with the courts and the relevant parties how they felt it went. The CPS makes the decision about whether to make the application, following discussion with the police and the victim, and the judge ultimately makes the decision. I imagine it has just been an extension of how long that work is going to take.

Q139 **Chair:** Some concern has been expressed in some circles—I put it no higher than that—that, although it has benefits in assisting vulnerable witnesses and may capture the evidence sooner, it may not have the same impact with juries and may therefore have an effect on conviction rates. Will you make sure that that is also looked at?

Antonia Romeo: That is precisely why we need the evaluation. If you want to look into the outcome of the case, the full evaluation will take longer because of how long it takes to put through cases.

Q140 **Chair:** You will be aware that there are still discussions around fee payments.

Antonia Romeo: Yes.

Q141 **Chair:** Has that been resolved yet?



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Antonia Romeo: We gave an additional £4 million for the section 28 roll-out, in addition to having met in full the Bellamy review. That happened last autumn and, I think, is now resolved.

Q142 **Chair:** Mr Goodwin, how much does HMCTS plan to spend in the coming year on the physical court estate?

Nick Goodwin: Our budget ended up being £75 million. We will spend more than that this year; it will be more like £85 million, and that is capital spend. On top of that there is another £20 million that is, effectively, carpets, ceilings and so forth.

Q143 **Chair:** How many courts will be upgraded as a consequence of that spend?

Nick Goodwin: It is difficult to give you the exact number. Many will have been touched by it. We are talking about a capital budget, so I can certainly break that down.

There is constant maintenance going on through our maintenance partner on all courts. Every court will have had something.

Q144 **Chair:** Do you have data on how many sitting days were lost in 2022 because of problems with the condition of the estate, such as leaks in the roof?

Antonia Romeo: There are a number of reasons sitting days are lost. As you will know, we did not hit the full profile, for a whole host of reasons, including judicial capacity and courtrooms that couldn't be used, but often people were moved into the next courtroom. The loss of a courtroom and the loss of a sitting day aren't necessarily the same thing.

Q145 **Chair:** Do you have data?

Nick Goodwin: I do have the data; I am trying to find it. From memory, I think the number of sitting days lost was around 723. I will make sure I give you the right figure.

We only started collecting the data in October the year before, so we don't have a long-term trend.

We are losing more courtrooms than sitting days because we move proceedings, particularly in the Crown court. We are losing most sitting days in the magistrates courts—60%. We are losing about 25% in the Crown court.

Q146 **Chair:** The Lord Chief Justice told us that he remains concerned that the level of spend remains below that necessary to maintain the estate in decent condition.

Antonia Romeo: As Nick said, through financial allocations we set this year a budget for capital maintenance, but put that as the priority place for any emerging money. Any money that came up elsewhere went into



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court maintenance. That was a decision that the Deputy Prime Minister took, so we have been doing that, as Nick said.

Q147 **Chair:** Have you had any discussions with the Legal Services Board about its strategies going forward?

Antonia Romeo: We speak regularly, but is there anything in particular?

Q148 **Chair:** Its principal role is oversight of the approved regulators. Since its last review it has been engaged on a strategy for the whole of the legal sector, calling it "Reshaping Legal Services". Did it discuss that with you?

Antonia Romeo: We welcome strategies from wherever they come.

James McEwen: I regularly meet the chief executive and I am due to see him again, I think.

Q149 **Chair:** Was it within its remit to develop a sector-wide strategy?

James McEwen: The LSB has for a while wanted to take a broader view of the legal services sector and how regulation can improve it. We don't want to discourage ideas in that space.

Q150 **Chair:** Have you talked to the Law Society or the Bar Council about that?

James McEwen: I personally have not.

Q151 **Chair:** That might be worth a conversation.

Thank you very much for your time.

Antonia Romeo: Before we wrap up, may I correct something I said earlier?

When explaining what had happened on reducing reoffending, I said that prison leavers who were in accommodation six months after leaving prison had gone up by two thirds in the last year; I actually meant "in employment".

Q152 **Chair:** Thank you. We are very grateful for that.

James McEwen: Dr Mullan asked me about the refund scheme. It will close in January 2024, six years after it began.

Chair: Thank you for your time and evidence.