



## Justice and Home Affairs Committee

### Corrected oral evidence: The Deputy Prime Minister, Lord Chancellor and Secretary of State for Justice.

Wednesday 15 March 2023

10 am

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Members present: Baroness Hamwee (The Chair); Lord Blunkett; Baroness Chakrabarti; Lord Filkin; Lord McInnes of Kilwinning; Baroness Meacher; Baroness Prashar; Baroness Sanderson of Welton; Lord Sandhurst; Baroness Shackleton of Belgravia.

Evidence Session No. 1

Heard in public

Questions 1 - 19

#### Witness

I: The Rt Hon Dominic Raab MP, Deputy Prime Minister, Lord Chancellor and Secretary of State for Justice.

#### USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on [www.parliamentlive.tv](http://www.parliamentlive.tv).

## Examination of witness

Dominic Raab MP.

**Q1 The Chair:** Good morning, everyone. Welcome to the Justice and Home Affairs Select Committee in the House of Lords. Welcome particularly to Dominic Raab, Deputy Prime Minister, Lord Chancellor and Secretary of State for Justice. For our purposes, it is Lord Chancellor and Secretary of State for Justice, because we have questions about you and your department, obviously. Thank you very much for coming, Lord Chancellor.

We have a number of questions. You have had notice of the headline questions, as it were. Perhaps we can dive straight in.

**Dominic Raab MP:** I am very happy to, Chair. It is a great pleasure to be here in front of your committee.

**The Chair:** Thank you for coming. Obviously, you cannot talk about the Budget, so this is not a financially focused question. We know that other departments' policies impact on the MoJ, so we wondered what your ambitions are for your own department.

**Dominic Raab MP:** Thank you. Again, it is a great pleasure to be here before your committee.

I think that summarising those ambitions has to reflect the need for long-term strategic planning and the fact that we are now within two years of an election, and I want to be realistic about delivery, so it would be a Bill of Rights and the agenda on victims. We have pledged to introduce a victims Bill, but there is also a huge amount of other work that we are doing.

We have quadrupled funding for victims since 2010. On the Parole Board, we consulted on a root and branch review. I am committed to bringing in legislation very shortly in relation to that. There are SLAPPs, and strengthening, both as part of the Bill of Rights and more generally, the culture of free speech in the UK. Those are some of them, which are particularly on the legislative side.

More generally, there are clearly issues around Covid recovery, most obviously in the courts and the Crown Courts. Related, although frankly we would be doing this in any event, is the work we are doing on RASSO—rape and serious sexual offences. We have a task force that I chair. That is a good example of the Justice Secretary and the DPM role helping institutionally, because, effectively, I bring forward the Home Office, the Justice Ministers, the law officers and the DPP. It is a safe space based on our dashboards of data on rape, which we now publish, as well as those on general crime, which are localised, to look at every stage of the process—police, CPS and court stage—and drive up our output as appropriately as we can, given the operational independence. In the last year we have seen the volume of convictions increase by two-thirds. Clearly, there are issues around legal aid and our response

to Lord Bellamy's review, and making sure that we have a sustainable basis for practitioners.

On prisons, there is both capacity and our agenda to create 20,000 extra prison places. There is also the prisons White Paper that we are now implementing, with everything from getting more offenders into work, which will increase the volume or the proportion of offenders getting into work within six months by two-thirds in one year alone, right the way through to drug rehabilitation and the expansion of drug recovery wings.

That gives you a sense of the priorities over the next two years in particular, where we are very focused on delivery.

**The Chair:** We all understand that, looked at from one point of view, that period of time is because it is the opportunity for delivery. It is also the run-up to the election, so there are different forces at work there.

You used the word "strategic". The other word you used was "agenda". I imagine that anybody coming into the post of Lord Chancellor would think, "This is my opportunity to do something I am really passionate about" rather than be driven by outside forces. Is that possible in the position you are in, or is it a question of being driven by events?

**Dominic Raab MP:** It is an interesting question as a Secretary of State, and you have a number who have performed that role on your committee. Inevitably, there is an element of what you do, depending on whether it is the Home Office, the Foreign Office or the Ministry of Justice, where you are responding. There is an element of that, but I think the priorities that I have set out show you the proactive and strategic agenda that we want to drive forward.

Some of them, inevitably, respond to Covid. The backlog in the Crown Courts has clearly been pushed up by Covid and, subsequently, the Criminal Bar Association (CBA) strike. Some of them will be responsive, but most of them, strategically, are about what are the key things we need to deliver for the best interests of the British people, and reassuring the public that they can have confidence in the justice system. That is particularly important for the violence against women and girls agenda and, secondly, the wider victims agenda for the people who most use or come into contact with the justice system, for a lot of whom, I think it is fair to say, it feels a very difficult process, notwithstanding the professionalism of all the arms of the justice system, from police to the courts and the self-critique that we perform.

I have met countless victims, from Denise Fergus—the mother of Jamie Bulger—through to Tony Hudgell's adoptive parents, and Lissie Harper, whose husband PC Harper was killed in appalling circumstances. One of the things you glean when you do that, and I think it is important to do it, is to try to close down the distance that victims and those who come into direct contact with the justice system feel there is

between what they feel heart and soul and what the justice system is delivering. I think that is important too.

**The Chair:** Thank you. We will come back to some of the issues, but I turn now to Lord Filkin.

**Q2 Lord Filkin:** Good morning, Lord Chancellor. On 21 February this year, you told the House of Commons that the Government would not rule out withdrawing from the European Convention on Human Rights. As you know, Part 3 of the UK-EU Trade and Cooperation Agreement contained provisions for co-operation on law enforcement and criminal justice, and those can be terminated immediately if there is a significant breach by the UK of the ECHR. I am sure you have been advised by your officials of the consequences of such a unilateral action by the ECHR decision-makers. Could you tell us what you see as the consequences, were that to occur?

**Dominic Raab MP:** Yes, thank you. Of course, I am very mindful of the TCA. The position of the Government—you can see it in our Bill of Rights—is that not only are we committed to remaining a state party, but we have retained certainly one element of the HRA model, which is to incorporate the convention and schedule. That is important.

I do not think there is any risk in the short to medium term. Indeed, we have reaffirmed our commitment to the ECHR. It is true that we cannot rule out for ever and a day the possibility that we might need to revisit our membership, but there are lots of steps that would need to be taken before then. I was in Strasbourg recently. I spoke to everyone from the senior members of the judiciary to the Secretary-General. We made it clear that we wanted a positive relationship. We want to engage in dialogue, which is what we are entitled to do, and to avail ourselves of the margin of appreciation.

There are issues in relation to illegal immigration interim measures. We want to talk those through, and that is why I went. That was not just a one-off meeting. I will continue to do it. I have engaged with them very constructively before, for example over prisoner voting, so I do not think it is likely, but we cannot rule it out for all eternity. I think folk know that I believe we should strive with every sinew to remain in the ECHR. There are various reasons for that. On something like illegal immigration, the case law of the Strasbourg court has ebbed and flowed over the years. If you think of the period during the nineties and the noughties, there was a huge amount of emphasis on the living instrument document.

In fairness—I always want to be fair about this—under Judge and President Robert Spano there is more emphasis on the age of subsidiarity and he talked extra-judicially about that. I think you could say fairly about the Supreme Court and the Strasbourg court that some of the more expansive judicial interpretations have ebbed in recent years. What ebbs may flow and it is important, I think, to curtail within the proper bounds of the separation of powers how much judicial legislation there is at domestic level and at international level. I think it is a proper subject for

dialogue between the UK and Strasbourg, and we want to do that constructively. I understand the question you ask, but we are not remotely in that territory.

**Lord Filkin:** Maybe I could come back in a second to the chances of a breach, which you have characterised as very low. Before doing so, can we clarify what the risks would be were we, for one reason or another, to exit the ECHR? To give you an illustration of what is in the committee's head, we received evidence yesterday from the National Crime Agency and police services about how the system, by and large, is recovering after exiting. We have put systems in place for the exchange of information that allow it to be workable if not perfect. I am putting it very simply.

The NCA pointed out that, for example, in 2019-20 we extradited 285 individuals. There were about 4,500 offenders on whom we wanted information from the EU, in the form of fingerprints, criminal records and other forms of data that are pretty essential to the pursuit of law enforcement and criminal justice. As you know better than we do, most criminality is international in nature at present, so such systems are pretty fundamental. All of that would be lost, not least the ability to extradite serious criminals and terrorists from the EU, were we to leave the ECHR. That is the case, is it not?

**Dominic Raab MP:** Thank you. First, even if, and I do not foresee it for a second, there was a breach of the TCA, there would be a whole range of negotiation before you ended up anywhere near the consequences you talked about. I do not quite jump to those consequences, because your original question was about risk. Secondly, in terms of context, exiting the EU has given us back control over our immigration policy and our borders, so for the purposes of immigration control and deportation, there is a major, major advantage.

Thirdly, to hone in on the point you made, I certainly accept that there are some things that we would like to do with our EU partners in the JHA field that rely on the TCA, for sure. I am glad to hear you say that in the current relationship, although it may not be perfect, actually we have maintained quite a lot of the law enforcement co-operation. In a committee like this before we had negotiated our exit, there were doomsday scenarios on what would happen to law enforcement that, frankly, have not materialised. In the way that you have now set out, I think fairly, we have a good working relationship. We want to keep it. It may not be perfect and there may be more that we can do, but we want to keep it.

I think, overall, that we are in the right place. We would need a very good reason to want to jeopardise that. Of course, as ever, this is not just about what the UK does. First, it is about what the Strasbourg court does, which is why I referred to the age of subsidiarity. If it continues along that line, and if we see the right measure of margin of appreciation, I do not think the risks you talk about will materialise. Secondly, the relationship we have with the EU is in a much stronger place, both because of the TCA and because of things like resolving the Northern Ireland protocol through the Windsor Framework. I think you can see over the last week that the bilateral relationship with France is clearly in a stronger place.

I would feel a bit more upbeat, but I am certainly not dismissing the fact that there is value in law enforcement co-operation, and you have made the points well. Where it adds value, whether because the NCA or others make that case, we should try to preserve it.

**Q3 Lord Filkin:** I have two last questions on the issue. The first question is the level of risk. Lord Chancellor, you said there is little or no chance that we would leave the ECHR. I am going from memory, but I thought that Suella Braverman had said there was at least a 50% chance that the Bill of Rights was non-compliant with the ECHR. How do you square those two?

**Dominic Raab MP:** She did not say that, and it is not. The Bill of Rights is being introduced. Put it this way: the current Home Secretary was Attorney-General when we produced the Bill of Rights, and you can see from the papers that were published when we did so that we felt confident that it is lawful.

**Lord Filkin:** You are right. It was the Attorney-General who said it, was it not, rather than Suella Braverman?

**Dominic Raab MP:** Which Attorney-General, because Suella Braverman was of course previously Attorney-General?

**Lord Filkin:** Whatever. It was from that office.

**Dominic Raab MP:** Whatever? Why do you not clarify the question, and then I will try to give you a more precise answer? What I can tell you is that the Attorney-General, who was Suella Braverman at the time, gave the Bill of Rights a clean bill of health, both as a matter of domestic and international law.

**Q4 Lord Filkin:** Right. Let us leave that for now. On 21 February you said that you would not rule out the withdrawal. On 27 February the Prime Minister told the House of Commons that the UK is, and will remain, a member of the ECHR. My question is not asking you to resolve those contradictory statements, but whether you agree that this confusion undermines the confidence of our judicial and law enforcement partners in respect for law and in the consistency of the UK's position regarding ECHR.

**Dominic Raab MP:** With the greatest respect, you may be confused, but I do not think they are. The position is very clear. We are committed to staying in the ECHR, but we have said, if asked, that we could not rule out for ever and a day that we might have to revisit that position. That would depend on the response of the Strasbourg court to the vital issues that we are trying to pursue in this country, including stopping the small boats.

**The Chair:** That may be where you are thinking of the 50%.

**Q5 Lord McInnes of Kilwinning:** Good morning, Lord Chancellor. You referred earlier to the importance of the announcement on the protection of women and girls from domestic violence that the Government made in February. An important element of that policy is electronic tagging and monitoring. I have two questions. First, I

wondered what your personal opinion was on the efficacy of electronic monitoring and tagging in general. Secondly, what will you be looking for in the trials that will be carried out of electronic tagging and monitoring, specifically in relation to the protection of victims of domestic violence?

**Dominic Raab MP:** I am on my fourth tour of duty in the Ministry of Justice, and tagging has come a long way. Lord Blunkett will remember from his time some of the ups and downs in tagging. The big tech shift has been between RF tags and GPS tagging. With RF tags, effectively, you could be told only whether an offender, for example in relation to a curfew, was not at home. GPS tagging tells you where the individual is. That is particularly important, for example, with a stalking offender or someone with a track record of domestic abuse. You would know not just where they are not but where they are, and whether they are breaching any conditions that may be geographically prescribed.

We have come a long way. As the technology improves and the cost comes down, the ability to roll out EM tagging with the GPS is very significant. This year, we are going to launch a project that will allow for EM at the point of release from custody of domestic abuse perpetrators and for offenders when an intelligence risk comes to light later, post sentence. Obviously, we want to incarcerate those who are dangerous for as long as possible, but within the bounds of what sentence is passed down by the court, EM tagging in those areas offers us a significant extra tier of protection. I want to evaluate very carefully how it works in practice.

The committee will be aware of the changes in the 2021 Domestic Abuse Act and the domestic abuse protection order. We want to look at the measures that we have introduced there for domestic abuse and apply them in other areas such as the family courts, with the police being able to use a DAPO in the magistrates' courts. We will pilot that from spring 2024, and they will be fully evaluated. I would probably envisage a phased national rollout, but I do not want to prejudice the outcome of the pilots.

**Q6 Baroness Prashar:** Good morning, Lord Chancellor. Before asking my questions I declare two interests. I was the executive chairman of the Parole Board from 1997 to 2001, which is now nearly a quarter of a century ago. Currently, I am the vice-chair of the Penal Affairs All-Party Parliamentary Group.

My questions are about the parole system and the changes that you have introduced. In March last year, as you said earlier, you published a root and branch review of the parole system. Subsequently, in June, you introduced changes to the criteria for transfer to open conditions, including the power of Ministers to be involved, because you said you wanted closer ministerial oversight. What do those changes actually mean in practice? What have been the consequences of the changes and how have the changes impacted on pre-tariff reviews? Of course, some have argued that the changes introduced by you are a risk to public safety. I would like your views on all of those questions, please.

**Dominic Raab MP:** Thank you, and thank you for your service. The Parole Board and all those acting in probation and related to it do an incredible job. Systemically, my

diagnosis is that parole has become adrift from its original moorings, which were strictly public protection. At all times, my overriding priority is public protection.

If you look through each judgment and some of the case law since the Human Rights Act, and inevitably because of it, a strict public protection test has become stretched or redefined in order, first, that it balances with the interests of the offender, whether it is in rehabilitation or proportionality, and various other things. Therefore, it is not, in the way that Parliament originally conceived it, a strict public protection test. There are various reasons why the judiciary have gone in that direction. I do not criticise them individually, but I reflect on the direction of case law.

What that means when you come down to the brass tacks of reviewing parole cases is that, effectively, you get about four or more professional reports. For example, OASys tends to look strictly at risk—the bread and butter of what the public protection test should do. You then look at things like psychiatric assessment. You also look at the extent of engagement with offender rehabilitation programmes. You then get a separate report on the ability to manage in the community with licence conditions. At every stage, except the first, my fear is that we have come away from the context of strict, factual inquisitorial assessment of risk. I want to re-anchor the parole system in that.

The second thing I notice is that fewer than one in 20 parole board members has any law enforcement experience. We recruit, and we are recruiting, more former police officer or law enforcement folk to sit on parole board panels. In relation to the most serious cases, where there is threat to life or limb, I think we need to mandate it. I say that, because if you are a psychiatrist or you are working with someone who has committed a very grisly offence—particularly multiple murders or rape—getting them to engage at all with rehabilitation programmes is often very difficult. If you track their progress by millimetres rather than metres, if I can put it that way, you notice positive steps, but actually, if you take a step back and look at the big picture, the individual is still an excruciatingly risky proposition, both in danger to the public and, secondly, in any sense of predicting what they may or may not do.

I think there needs to be a bit more humility around assessment of risk in relation to some of the most serious offenders. My experience is that people who have worked in law enforcement or probation, or probably on the wing of a prison, and have had to deal with the individuals we are talking about—people in a category A prison or who have committed very serious egregious offences—will have a slightly different view of risk from someone in the social science field, who looks at it in terms of the baby steps of engagement they have had.

The final outcome of that, therefore, is that I want to take a more precautionary approach to risk. I want to change the criteria in the public protection test to re-anchor it and be more prescriptive about risk. At Secretary of State level, I also believe that those who are either the greatest risk to life or limb or the greatest risk

of likely serious further offending ought to have a further tier of check at ministerial level. I am thinking of murderers, terrorists, rapists and those who kill children unlawfully.

Everything we are doing is focused on risk. I would be very happy to address any specific question. I understand the point you are making—that transferring offenders into open conditions gives you a chance to test their level of risk before going into the community. The only time I have ever vetoed that is when I did not think that it had been made out and where, when balancing that opportunity with the risk to the public or the risk of an abscond, I have taken a different view.

I wanted to try to answer all the elements of your question. I am sorry if my answer was too long, but that is the approach that we are taking.

**Q7 Baroness Prashar:** I have a couple of supplementary questions. I understand that you balance the question of harm, risk and rehabilitation, but from what you say it does not quite stack up against the evidence. If you look at the record of the Parole Board—I do not have the figures before me—it is pretty good on reoffending and so on. Secondly, when you talk about the assessment of risk, in my experience—I have observed this carefully—the Parole Board members are multidisciplinary. You need different perspectives. The changes that you have introduced do not seem to be based on any consultation or firm evidence.

There is evidence that transfer to open prisons has really declined, and that is having an impact on the prison population. It would be very helpful for the committee to have some evidence of the impact of the changes on the prison population. The numbers being moved or transferred to open prisons have actually declined quite a lot.

**Dominic Raab MP:** That is a really good question. In terms of serious further offences, I am not criticising the track record of the Parole Board so much as recognising, in the way I described, that it has become adrift from its original moorings. The track record in relation to serious further offences is generally fine, but for murderers and rapists—some of this arguably goes to sentencing; I am not criticising judges but sentencing policy—you could exponentially increase prison sentences for some of the most dangerous offenders.

I am not sure that would be the right answer either, but having a more robust parole decision-making process can help in relation to the worst serious further offences. That is why, for example, in the proposals that we put forward for a ministerial check, it is only on those with SFOs. I do not even argue that it has deteriorated. I would just argue that, if you have a murderer or a rapist committing further offences, that creates public confidence issues. If you look at where we have concentrated, it is in the areas where that arises.

I agree with what you say about a multidisciplinary composition of the Parole Board, but that was not the point I made. My point is that we have squeezed out the raw law enforcement risk assessment people who can tell you and who know and

understand risk. Why? As I am sure Lord Blunkett will know, you get all sorts of bits of advice as a Secretary of State, but police officers know what it is like to pursue a murderer, a rapist or a terrorist. They are also the ones who go and tell families the bad news. Therefore, having them airbrushed out by degree—I gave you the figures; fewer than one in 20 Parole Board panel members has law enforcement experience—is not getting range. In fact, we have lost range of disciplinary expertise.

On consultation, may I politely disagree with you? We consulted on this in the root and branch review. I envisage finding a legislative vehicle for the parole reforms, and I would like to say something about that shortly. There will be all the proper scrutiny.

On open conditions, you are right; if you look at the capacity in the closed prison estate, it is in the high 90 percentages, 98% or 99%. If you look at the open conditions, it is something like 85%. Forgive me, I may have got that wrong, in which case we will follow up. I definitely want to make greater use of the open prison estate, but I want to be very careful that I do it with those who pose a lesser risk and have more chance of being rehabilitated in the community, making sure that the closed estate is there for those with a higher risk. I accept your last point in terms of diagnosis, but I think if you look at what we are now doing in practice it is slightly behind the curve, if I may say so.

**Q8 Baroness Prashar:** I have one more question. You rightly said yourself that you are looking at the composition of the Parole Board. When I was there, there was the right mix. If that is the case, why do you not change the composition of the membership of the Parole Board rather than giving the Secretary of State greater powers? That would be contrary to the European Convention on Human Rights in a way, because it says that release should be determined by a court-like body. How can you be involved in both the process and making the judgment?

**Dominic Raab MP:** I would make two points on that. First, we are doing that on composition. There is a recruitment campaign under way to recruit more people with a law enforcement background. I totally accept that, and that is what we are doing.

Let me gently say that I think the paradigm of the Parole Board as a quasi-judicial body rather than an inquisitorial body engaged in the fact-finding process of assessing risk is wrong. Although we will make sure that our approach and our reforms are legally compliant, I think if public protection is your number one and overriding priority, actually it is an inquisitorial and fact-finding process in the way I described. I do not think it is particularly helpful to regard it as a judicial or even a quasi-judicial body, whatever that means in practice. What I will always accept, however, is that you need checks and balances and the ability to question and challenge the detention beyond the tariff.

**Baroness Prashar:** I am afraid I have to challenge you on that. Risk assessment is always inquisitorial, and a court body can be inquisitorial, but I think we will leave it

at that.

**Dominic Raab MP:** Let us test that, because I think you raise a good point. Judges conduct independent inquiries all the time, but there is a fundamental difference between a quasi-judicial process and an inquisitorial process. One is adversarial, which is where we have the testing of risk versus the interests of the offender. I do not think, in my view, that that is the paradigm that serves the interests of public protection best, but an inquisitorial process is, whoever the individual leading that process, whether it is a judge or a non-judge.

**Baroness Prashar:** I agree with that, because risk assessment is always inquisitorial. That is what it was when I was there.

**Dominic Raab MP:** You did a fabulous job.

**The Chair:** As a committee, we will come back to that. There are different views as to what goes to create public protection best. Some of us remember the slogan “Prison works”. Let us move to IPP and Lord Blunkett.

Q9 **Lord Blunkett:** I declare an interest in the sense that I was the lead on the introduction of the Criminal Justice Act 2003. Lord Chancellor, 20 years ago we were weighing the issues that you have just been addressing in respect of risk. We put in place, as you know, imprisonment for public protection in the belief that there would be therapeutic courses and measures taken in the Prison Service that would enable those who were released to be able to stay freely in the community without committing further crime. That part of the Act has clearly failed on a number of fronts. I could spend all morning, which I will not, Chair, on addressing why.

**The Chair:** Good.

**Lord Blunkett:** Thank you. Lord Chancellor, could we explore why, in responding to the Justice Select Committee in the Commons on 7 February, on behalf of the Government, you rejected the idea of an independent expert panel? Even if you were rejecting re-sentencing for those under the IPP sentence, it might have helped to address other parts of the possible solutions in reducing both the number who are still in prison—around just over 1,400 have never been released—and the 1,500 or so who are currently on licence with the constant danger of recall.

**Dominic Raab MP:** Thank you, Lord Blunkett. Did I detect a mea culpa in all that?

**Lord Blunkett:** Yes. It is very rare in politics that you get the chance to try to do something to redeem something you have got wrong.

**Dominic Raab MP:** Bless you for that candour. Let me try to address this as straightforwardly as possible. I think the IPP sentence was a mistake. We have changed the law, and the question is what we do with those who have already been sentenced.

I still believe that the action plan we have put forward is the best way forward. It is, in the way you have described, trying to prepare offenders subject to an IPP

sentence to be able to pass the parole test that they are no longer a risk to the public. I do not agree with the proposal to re-sentence them, whether with a panel or otherwise. I think that would, on everything that we currently see, result in an unacceptable risk. We come back to the kinds of considerations that I was discussing earlier.

Following the JSC report, I asked the Chief Inspector of Probation to carry out an independent thematic inspection on the proportionality of recall, to make sure that we get it right. I have changed the policy so that offenders with five years' continuous good behaviour in the community will automatically be considered to have their continued supervision reviewed. I suppose we are making progress, but not fast enough. So that we are clear on the figures, we inherited over 6,000 IPP offenders in prison in 2012. The number of unreleased IPPs now stands at 1,394, slightly below the figure that you gave.

**Lord Blunkett:** Only by six, Lord Chancellor. That is nit-picking.

**Dominic Raab MP:** I am just giving you the accurate figures so that we can have an informed debate. I want to get that number down—I recognise that it was a mistaken policy—but I want to do so in the right way and, as ever, I am very focused on risk.

**Lord Blunkett:** There is great cross-party agreement in the House of Lords on trying to do something drastic to put this right. I think you actually have cross-party opposition support for whatever measures you take that ameliorate the situation, which is unusual and allows you some political leeway. We are all in favour of the refreshed action plan. What would be the role of the supervisory board that was mentioned in the response on 7 February? Will it have a longer-term role in trying to get this right?

**Dominic Raab MP:** I am open-minded. I am not theological about any of it. What I want to try to do is get the numbers down practically, safely and responsibly.

**Q10 Lord Blunkett:** Without overegging the issue this morning, forgive me, could we address very briefly those who are on licence? That is a really big issue for those subject to the licence conditions and for their families. You mentioned a five-year point. It used to be four years. It is true, is it not, that if people are going to reoffend it is usually under two years from release? There is real concern about the nature of the recall to prison on breach as opposed to breaches being dealt with in other ways, including more intensive supervision or even, as we were discussing earlier this morning, the issue of tagging. Is it not simply true that we put greater pressure on the already beleaguered prison system by recalling people who then return on the original IPP sentence, not sentenced on the actual breach that they have undertaken?

**Dominic Raab MP:** There is some merit in that, but of course that is why they are subject to licence conditions. I want to look at the proportionality of recall in the way I described. I want to try to allow IPP offenders who have five years of good

behaviour in the community to be able to get a clean bill of health. The truth with a lot of these offenders, as a result of the sentencing by your Government—if I can put it as bluntly as that—and the time they have spent in prison, is that they are very complicated cases. We have got the backlog down from 6,000 to 1,394, but there is a reason for the Parole Board decision—it operates independently of me—and why they keep failing to get approval to be released into the community.

What you are therefore asking me in relation to the proposal for re-sentencing is to brush that to one side, to put them in the community and then to assume the risk to the public that that involves. I find that very difficult to do. I think the right course of action is to try to prepare them as best they can to pass the Parole Board test that they are currently failing.

**Lord Blunkett:** It was my Government who introduced it, although there were prisoners on “Two strikes and you remain in” who are still in prison from the 1990s. I am dealing with one case of a man who was sentenced to seven years—it was not murder or rape—and has been in for 33 years, so I do not think we need to concern ourselves with purity in political ideology.

Perhaps you would just address the issue that has been raised with me by forensic psychologists and psychiatrists who at the time, 20 years ago, thought there was a real case for the IPP and now, as I do, realise that it was a mistake. Their point is that the longer these prisoners are in, or are on licence, the more likely it is that rehabilitation will fail.

**Dominic Raab MP:** That is exactly the snare that the policy has left for this Government to try to deal with. It is exactly the snare. I think the answer to your question on psychologists, and social scientists more generally, is that we need to have more humility about the concept of risk. My job is to protect the public. By the way, if you look at what we are doing on drug rehabilitation, getting offenders into work, giving them the skills they need, offender homelessness and all those rehabilitative elements, we are driving forward massive change, and I am entirely convinced of the case for it.

In relation to IPP and some of the other cases where the question of dangerousness arises, I think the psychiatrists and social scientists involved need to have more humility, not just in our ability to forecast risk but in our methodology of looking at it in the round in a way that can deliver any precise results. In the same way as economic forecasting has come under quite a lot of criticism, forecasting risk in some of these very complicated cases—you are right, Lord Blunkett, particularly when that has been compounded by years in prison—is inherently difficult. I am afraid that is why, whether it is on this or on parole, I take a precautionary approach.

**Lord Blunkett:** I am very grateful, Chair, to the Lord Chancellor, not least for being the first Conservative Lord Chancellor I have ever heard accuse a Labour Government of being too tough.

**Dominic Raab MP:** It is not a question of being too tough. I do not think—

**Lord Blunkett:** All right. You had a go at me, and I am just having a go back.

**Dominic Raab MP:** Sure. It is not about being too tough. It is about being smart.

**The Chair:** There is a lot that we could pursue there. We could spend the rest of the day talking about all this. I re-emphasise the point that Lord Blunkett made about the cross-party enthusiasm in the Lords for trying to get this right. Let us move to the beleaguered, as somebody said, prison system.

**Q11 Lord Sandhurst:** Lord Chancellor, I would like to ask you about prison overcrowding. In October, the House of Commons Library produced an overview of the prison population statistics. In respect of England and Wales—I will focus on them, obviously—they showed that 52% of prison establishments were overcrowded, in the sense that, using the jargon in the prison population bulletin, they exceeded certified normal accommodation limits. The February bulletin, which I had a look at last night, showed that the current excess is 6,966, which I calculate as 9%. Interestingly, the bulletin itself describes certified normal accommodation as a “good, decent standard of accommodation” and talks about humane conditions.

I have two questions in that context. First, how is the Ministry of Justice working to ensure that such decent standards and health and safety for prisoners, and indeed staff, are maintained? Secondly, how do penal policy and prison strategy and planning respond to the current excess and possibly increasing proportion of custodial sentences and their increasing length? If they are going up, this problem will be a problem for you.

**Dominic Raab MP:** Yes. Thank you very much. It is a really important issue. It is one of the things I am spending a lot of time on. I think there is some learning to be done, which this Government are actively engaged on, in thinking about the system more holistically. Again, I am four times in the Ministry of Justice and am encouraging a joined-up process, from the impact of what happens among police forces right the way through to not just what happens in prisons but on probation and subsequently on licence. That is very important. It is important even in other less obvious ways, such as the continuity of NHS provision on drug rehabilitation and making sure that you do not get a cliff edge with the approach in prisons compared to what is there in the community.

The short answer to the challenges that you have described is that we are delivering, and committed to delivering, 20,000 more prison places that will provide not just the space but the kinds of conditions, capacity and regime that will drive rehabilitation. At Five Wells, it is extraordinary what you can do with in-cell technology so that offenders do not just sit with their feet up on the bunks but engage meaningfully with counselling and education. The workshops at Five Wells are getting offenders working again and deriving skills they need, which is critical to going straight on the outside.

The quality and not just the quantity of prisons that we are now able to produce is a quantum leap forward. We have delivered 3,100 of those prison places already. Covid has certainly not helped that, both in terms of inflation and in what has happened to supply chains. We of course recognise all of that, and we are very focused on delivering as much as we can. In all of that, we are waiting for the places to come on tap. We have made progress, but there is more to do. We continually monitor prison conditions. We look at safety levels and maintenance. We have a cell certification process in prisons that are over the threshold for crowding. We have committed £37 million to make prisons safer, both for staff and for offenders.

The big thing for me is that prison clearly has a role in the incarceration and incapacitation of dangerous offenders. We have just spent a lot of time talking about that. I also believe very heartily in a second-chance society—for example, what we are doing on drug addiction. There are too many people who get dumped on methadone and languish on it. There is a theological battle that I hope we have now settled on the importance of methadone for opiate users, heroin or otherwise, as a short-term, stabilisation phase before you get offenders abstinent. If you look at the rollout of incentivised substance-free living units and then drug recovery wings, I think you can see what we are doing in relation to that.

We are making progress on getting offenders into work, increasing the proportion of offenders in work by two-thirds within six months of release. There are also other things. The prisoner passport for resettlement looks at all the things that give an offender a fighting chance of going straight and taking the second chance that I have described, from homelessness to drug rehabilitation provision. We are giving governors the ability not to release on a Friday. Those around the committee with experience will know that, although that sounds like a small thing, it is a big thing in avoiding an offender going straight back into old ways without access to the benefits and other support they need.

The prison strategy has a capacity question, which you rightly raise, but also a regime question that we are just as focused on. Edward Timpson has done an extraordinary job working with us in getting employment advisory boards into prisons and making that workpiece really effective. There is more to do.

**Lord Sandhurst:** That is very helpful. There are 20,000 more places. What they call certified normal accommodation is just under 77,000, so let us call it a 25% increase in places. That also presumably requires at least a 25% increase in prison staff. I assume that if the manning is to be proportionate there needs to be a substantial increase in warders, governors and no doubt probation officers who go into prisons. Do you have the budget for that or is it going to come from other things?

**Dominic Raab MP:** I can certainly write back to the committee with the budget. There are a lot of effusive things rightly said about all our emergency service workers, from the NHS to carers and police officers, and rightly so. I have to say that in my experience there are no finer public servants serving the UK today than prison officers, who are doing a remarkable job. I would add the probation officers to that.

I have been from category C prisons to category A prisons such as HMP Frankland, which are doing an astonishing job with a very difficult cohort. They are obviously different, depending on the prison. I have spent a lot of time thinking about how we can make their job, in both financial and non-financial terms, as rewarding as possible. I think the team at the MoJ—Phil Copple and Amy Rees—are doing an extraordinary job.

On recruitment and retention, we have a plan for recruiting more officers. At the last SR—I will not say anything about the current Budget—we delivered the biggest increased investment in the MoJ for a decade. Rightly, that included provision for recruitment of more prison and probation staff, and the broader piece about retention and making it a profession that is recognised for the extraordinary job they do, particularly because they are out of sight and out of mind for a lot of people. As I say, I have worked in quite a few government departments and I have been struck by quite what a job that is. It has probably changed massively over the last 20 years, and even over the last 10 years. Even if you take something like terrorism in prison, because of the TACT legislation that was introduced, we now see that the prison population made up of terrorist offenders, to give one example, has changed dramatically over the last 10 or 15 years, with all the challenges that that provides.

I think the prison service and the officers do an incredible job, both individually and collectively. Yes, I am very focused on investment to make sure that we recruit more and retain more. We recognise the heroic job they do.

**Q12 Baroness Chakrabarti:** Lord Chancellor, earlier you touched on your ambitions for a culture of free speech in our country. As a former government lawyer from 1996 to 2001, I have to ask you about the culture of free speech in your department.

At the turn of the year we read that an internal survey suggested that a third of private office staff in your department answered that they felt that they had been bullied or harassed in the previous year. I know that you are currently under investigation, but, as we have learned today, you have a great deal of responsibility in the interim. You are still in post. You have used the word “humility”, I think, two or three times, so I have to ask whether anything is currently being done in the department to improve staff morale and to change the culture or improve people’s sense of self-worth and ability to do this vital work?

**Dominic Raab MP:** Thank you. I am not going to touch on anything that relates to the inquiry. I am sure you would agree that that would be improper of me. Let me say generally that, both in previous departments and in the Ministry of Justice, we are served by a terrific cohort of civil servants. By and large, the relationship is very effective with Ministers across the board.

We have a very ambitious agenda, in the way I described. The overwhelming majority relish that. Like you, I was a former government lawyer, so I appreciate the equities and the value of the Civil Service. I work very closely with Antonia Romeo, my Permanent Secretary. We have all the processes in place in relation to bullying

processes and procedures, to make sure that folk who want to make a complaint can do so in the right way. It is important that that is there.

I recognise that Covid has been very difficult across the board. It has been difficult for anyone working in HMPPS because of the impact of Covid on the prison regime. In the courts, obviously in jury trials the social distancing rules had to be changed, and that has created a backlog.

**Baroness Chakrabarti:** I understand that, but I am talking specifically about your Whitehall staff, your private office and close staff. In the spirit of humility and regardless of the investigation, which will no doubt conclude shortly, as we all hope and I am sure you hope, in the interim have you reflected and done anything different to change the dynamic in the department with your close staff? It is a serious thing to be accused of.

**Dominic Raab MP:** I think you are now trying to take me into the inquiry, which is improper and has nothing to do with free speech. I am going to leave it there.

**The Chair:** I would like to be able to use what time we have left on where there is a possibility of our taking the discussion further, if we can. I am sorry to stop you, Shami.

**Q13 Baroness Meacher:** Lord Chancellor, if I may, I will ask you a question that rather follows Lord Sandhurst's discussion with you. We now have a considerable body of evidence showing that community sentences are more effective in reducing reoffending than short-term prison sentences. Obviously, we are not talking about serious violent offenders; we are talking about short-term prison sentences.

Perhaps I could mention a couple of examples. A 2015 Scottish Government study referred to a number of different studies, all of which came to the same conclusion, which was that community sentences are more effective in reducing reoffending. A review commissioned by the Sentencing Council concluded that short-term prison sentences actually promote reoffending, so other solutions are welcomed. Can you help me understand why the Government continue to promote short-term prison sentences, bearing in mind that ever-growing body of evidence suggesting that that is not really the right way?

**Dominic Raab MP:** Thank you, Baroness Meacher. I think the evidence is mixed, but I take on board the evidence you have cited. There are two elements to it. First, are community sentences getting more effective? I think things like community payback and electronic monitoring have all been significant steps forward in rehabilitation. I am thinking of visible community payback.

I have been to, and seen in, Birmingham and elsewhere the kind of work that has been done, for example, to clear up and clean up a community. Other things are being done. When members of a community see offenders righting wrongs and engaging in restorative justice, it is quite a powerful thing, both for rehabilitation and for public confidence. I agree with you. As the evidence base for what works progresses, I think we will use more of it. We are doing electronic monitoring and

community payback, and absolutely driving that forward. The more who can be effectively diverted from the prison population, the better.

As a result, I think the cohort and the quality, not just the quantity, of those in prison has shifted quite significantly over time. I think it is very difficult to get into prison. There are probably two areas that I would want to look at. By and large, we have very serious offenders in prison who should be there. There are two areas where I think we need to do more. There is a cohort of mentally unwell individuals who trip up into prison. The forthcoming NHS Bill and the work I have been doing with Steve Barclay is very important in ending prison as a place of safety and to ensure that community NHS workers take responsibility for those individuals.

The second cohort I want to remove from prison as best I can is the foreign national offender population, which is over 10%. Removing them, whether it is to Albania or other countries, where it is safe, ought to be a no-brainer, but it is very fiddly. I think the top five cohorts by nationality of FNOs in the prison population in England and Wales are European. You need a PTA—prison transfer agreement—in place, or you need to have the early release scheme operating.

That, of course, requires great co-operation with the Home Office, which we have. We work very closely with the Home Secretary, but there is also the relationship with the countries involved. Certainly, in relation to European countries and perhaps with a more positive relationship with our European partners as we resolve things like the Northern Ireland protocol and turn the page on the Brexit era as we deliberate and take the advantages, I think there is an opportunity with those bilateral relations to expedite the removal of FNOs.

Aside from prison supply and capacity in the 20,000 prison places, if we could deal with the component of mentally unwell folk who commit crimes but trip up into prison, and have the NHS services in the community to prevent that happening in the first place, and if we could remove the FNO population more readily—we have a programme of work to deal with both of those problems comprehensively—it would substantially ease the numbers in prison.

**Baroness Meacher:** Thank you for that reply, Lord Chancellor. I am pleased you mentioned restorative justice. It seems to me that there is a lot of potential there. You really can turn people around—or begin to.

The other point is that what comes out of all the evidence is that the value of community sentences is when they seek solutions to the underlying causes of criminal behaviour. I think you were somewhat alluding to that in terms of mental health and the proportion of prisoners who have either mental health or addiction problems. It seems that we are not too far away from each other in wanting far more focus on getting at the fundamental causes of criminal behaviour and dealing far more with people within the community in that way. Hopefully, we will reduce the numbers of victims, reduce the amount of reoffending and make some progress.

**Dominic Raab MP:** I think that is right. You could add others. There is homelessness. We have talked about mental health. There is drug addiction and alcohol addiction as well as family breakdown and all those things.

I gently make the point that since 2010 the reoffending rate overall has declined by seven percentage points. If you think of the number of crimes and harm to the public that that spares and saves, that is strong progress, but there is more to do.

**Baroness Meacher:** Why do the Government still promote short-term prison sentences rather than promoting what you have been saying, which is the need to focus on—

**Dominic Raab MP:** We do both. I do not look at this in a theological or binary way. I accept the case for reinforcing the effectiveness of community sentences, but I also think there is a case for shorter-term sentences in some contexts. It is very individual-specific. It is quite hard to get a sentence of imprisonment these days unless you have done something both significant and serious and/or that involves a risk to the public.

**Baroness Meacher:** You do not accept the Sentencing Council's conclusion that short-term prison sentences actually promote reoffending.

**Dominic Raab MP:** Look, I think if you can use the prison regime to deal with skills, addiction, employability and mental health issues, it can actually have a positive impact. We did not talk about numeracy and literacy levels in prison. They are astonishingly low. There is certainly more that we can do, but I do not think it is quite as binary as some suggest. We need to try to be absolutely robust in public protection. Again, for those who are able and willing to grasp a second chance, we must make sure that provision is there. I think that is the right approach.

**The Chair:** As a committee, we will be pursuing these issues further over the next few months. We will be glad of further input from you, Lord Chancellor.

We turn to the issue of the Lugano Convention and Lord Sandhurst.

**Q14 Lord Sandhurst:** Me again, Lord Chancellor. As you know, the convention provides for the recognition and enforcement of a wide range of civil and commercial judgments between all the EU and EFTA states. We are no longer part of that group.

In April 2020, the UK formally applied to accede. We are still waiting for a decision. The EFTA and non-EU states have said that they are willing to support our application, as you know. Your predecessor, Sir Robert Buckland, told this committee in 2021 that the Government believed that to accede to the convention would be the right outcome for consumers, citizens and businesses, not just here but in the EU. At the moment, or historically, as I understand it, the EU is playing hard to get on this. Is it still the Government's wish to accede? That is the first thing. If not, why not? Assuming it is, now that we have, we hope, the Northern Ireland agreement in process, is this not the time to make a real push for Lugano?

**Dominic Raab MP:** It is an important area. I looked at it as Brexit Secretary and as Justice Minister previously. The EU's position was in the way you described. I am not going to say anything pejorative. I think it was part of a political stubbornness. Lugano is probably a good example of the kind of win-win thing that, whatever else, we ought to continue doing. The Government are still committed to it. Of course, it effectively got delayed until after the TCA had been negotiated and concluded.

I still think it is a good thing. We will approach it in the right way. I am reluctant to go running after the EU, in the sense that there is always a price to pay. What I would do, however, is make the argument for win-win. Hopefully, there is a new atmosphere that will allow it to end in a more propitious conclusion. I leave it there.

**Lord Sandhurst:** I will leave the follow-up to Baroness Shackleton, who I think is bursting to ask a question.

Q15 **Baroness Shackleton of Belgravia:** I am not quite bursting. Lord Chancellor, apologies for not being in the room with you. Thank you for coming.

I am fairly passionate about this, because the area of law I do benefits from cross-border reciprocation of the enforcement of financial judgments. Is there not a case to be made to the EU that it is just as much in its interests to be looped up with us as it is for us to be looped up with it in Lugano?

**Dominic Raab MP:** Yes, I agree. It is win-win in the way I described. In what is covered, given all the challenges we have, the commercial interest in doing this and trying to remove barriers to resolving disputes, and dealing with cross-border disputes in particular, it is a no-brainer.

**Baroness Shackleton of Belgravia:** Thank you very much. Will you try extra hard?

**Dominic Raab MP:** Only because you ask so nicely.

**The Chair:** Lord Chancellor, I do not think you need to be a groupie running after other states on this. It seems to us that you have a very personal opportunity to talk to your counterparts in other states. As you say, it is win-win. It does not impugn our position to make the point direct to them.

**Dominic Raab MP:** Absolutely. We need to move beyond the debates of the past. I have a good opportunity coming up. I am hosting a meeting with my Dutch opposite number on Monday, with between 30 and 40 Justice Ministers or Attorneys-General coming to support the ICC in relation to its work in Ukraine. There is quite a good opportunity in the margins, and this is the kind of thing I will raise. They are not all European, I should add.

**Baroness Shackleton of Belgravia:** Thank you very much. Of course, the real point is that the deterrent of having it in place stops people offending and breaching agreements. It is knowing it is there that is of real significant value.

**Dominic Raab MP:** Well articulated, and I totally agree.

**Q16 The Chair:** Lord Chancellor, you talked at the beginning of this meeting about meeting victims and victims' families, and how concerned you are about victims. Can I raise with you the appointment of the Victims' Commissioner? In November, you said to the Justice Committee in the Commons that you thought it was an incredibly important role, and that you expected to appoint to the post as soon as possible in the new year. Given that there is much concern in the public domain about the position of victims at the moment, rightly, and we have the victims Bill coming up, can you update us on the appointment process?

**Dominic Raab MP:** Yes, of course. There is obviously a much wider victims' agenda. I have talked about the quadrupling of funding for victims. We have the victims Bill coming forward. I have to say that when I meet the victims—I would not say universally, and it is not for me to speak for them—the number who want us to pursue things like parole reform to protect them and others who might face the kind of situations they have faced is very striking. In terms of the Victims' Commissioner role, obviously I have to follow the process and do it in the proper way. I can tell you that we expect to appoint a new commissioner by the end of the spring.

**The Chair:** In parliamentary speak, spring could probably be anything up to the middle of the year. Have you shortlisted? Whereabouts are you in the process?

**Dominic Raab MP:** There are interviews ongoing. Yes, we have shortlisted. It will be more meteorological spring than, if you like, political spring.

**Q17 Baroness Sanderson of Welton:** Thank you, Lord Chancellor, for coming today. I have the last question, so I will be very quick. It is about the Independent Public Advocate (IPA), which we are very pleased to see. I just have one question. The consultation was in 2018. I think you have said publicly that you welcome the input of victims and survivors. I declare an interest as somebody who still works with the Grenfell community, as you have done in the past. We want to make sure that their voices will be heard in the shaping of this, with direct engagement. If we are to get this right, they are the ones who will give the greatest insight and input. It is to make sure that that is part of the strategy moving forward.

**Dominic Raab MP:** Thank you for all your work. As Housing Minister, I worked very closely with Baroness Sanderson at a very difficult time with the victims of Grenfell. I would be very happy to meet them in person. I have written to them as well as, for example, the Hillsborough families and victims' groups and individuals from the Manchester bombings. We are searching for a legislative vehicle for the IPA, and I hope to say more on that shortly.

I am very keen to do this sooner rather than later. I want to make sure that it is something that all victims' groups, existing but also prospectively, have confidence in. We will be listening very carefully to the views. This is a cross-party issue for sure, and we will be listening very carefully to the views both in the Commons and in the other place. What would be great is one of those rare things where there is a

cross-party interest in doing something. If we do it with sensitivity and care, I think we can get something that we are all proud of.

**The Chair:** The sense from the Lords, when the Statement was debated, was that it was a really good thing and it should not be spoiled just by trying to get a really good thing in place, when a little time and deliberation would help it to be an even better thing. I think that is a fair summary. Thank you.

We have a few minutes left before you need to go, Lord Chancellor, so let us use them as well as we can. Unless people would like to come in, I have a few questions that I would like to follow up on, but not ahead of colleagues. Can I go back to the question of tagging? I am sorry if this is bitty. You talked about the development of the technology and restrictions on individual freedoms. Are there any corresponding additional safeguards that we should be thinking about as the technology develops?

**Dominic Raab MP:** When you say “safeguards”, do you mean safeguards for the offenders or for the public?

**The Chair:** I would see them all as part of one issue.

**Dominic Raab MP:** The big thing is the reliability of the technology. As I said, the GPS tagging is much more reliable. As technology improves, confidence in it improves. It is not just about tagging. We now have alcohol abstinence orders, backed up with the ability to monitor whether an offender, for example, has breached and is drinking in contravention of a licence condition or community order.

There is something like 97% compliance. That shows you what good technology can do. It has the deterrent effect that is the elixir that I suspect Justice Secretaries and Home Secretaries are looking for. It is virtually full compliance. Imagine if we could do the same for some form of drug tagging. It would be extraordinary. It would be a real game-changer. As well as GPS, RF tagging and alcohol abstinence orders, and the technology that is required to make those effective, we are also looking at the next generation. We are not there yet, but I wanted to give you a sense of how we should not rest on our laurels with the technology, and actually we should go further.

**Lord Blunkett:** It has certainly come a very long way in the 20 years that I have experienced it. We had problems when the technology could not distinguish between a living human being and an artificial limb. People were able to take it off and make a nonsense of it. If it has improved so much, why are we not using it—back to the IPP—on licence in a much more effective way, which would allow follow-up in terms of remedial action on alcohol misuse, for instance, rather than a return to prison?

**Dominic Raab MP:** It is a bit like mobile phones, Lord Blunkett. The GPS tagging was very effective, but the cost of it has come down as the technology has been refined.

Some of it is about innovation and some of it is about cost, given, as you rightly challenge, the desire, when you have a good product, to do it more at scale.

**The Chair:** There are all sorts of jokes that could be made about “Do a U-turn now” on this. Is the new technology being used for all current tagging, or are some people on old technology?

**Dominic Raab MP:** Inevitably, we want to cover the whole range, but the GPS tagging is being used as much as possible, given the volumes that we can procure and given the cost, to focus on the most serious cases and the cases where it can add the most value.

**The Chair:** It is a gradual changeover to a new system rather than everybody at once.

**Dominic Raab MP:** It depends on the offender. If all you need to know is whether they are actually at home, there have been improvements in RF tagging and that may still serve to do the job. If there is a more granular set of restrictions on what an individual can do—I gave some examples in my earlier evidence—that clearly ought to have a greater call on the GPS tags that we use.

**Q18 The Chair:** To change the subject not quite completely but substantially, the MoJ has, I think, the second largest government estate, not just prisons but courts and tribunals, for instance. I understand that the MoJ has delayed the publication of its strategy on meeting the carbon neutrality objectives. The NAO annual report for 2021-22 reported that of the eight commitments on a RAG rating basis—red, amber, green—four of the eight were rated red, which means they have not happened and there is not a lot of likelihood. Three were amber, so they were sort of getting there; that is not a technical way of describing it; it has not happened and there is a risk that it will not. Only one was green. What effort is the MoJ putting into that? It is obviously part of everybody’s agenda now.

**Dominic Raab MP:** I totally agree. We are entirely committed to the net-zero 2050 target. To give you the headline, we have cut emissions by a third if you compare 2022 with a 2017-18 baseline. I would not accept a characterisation that did not take into account that dramatic shift.

The kinds of things we are doing are on energy efficiency and reducing emissions from heating and transport. We are increasing energy generation in the estate itself. Obviously, the estate is enormous if you include the prison estate and the courts estate. There are some bits that are older than others. It takes time to get around it all. HMP Millsike is an all-electric prison. That will reduce operational emissions by something like 70% compared with a prison like Fosse Way. In 2021-22, we invested over £6 million in boiler efficiency devices. We had £20 million from what was BEIS and is now DESNZ to decarbonise our dirtier fossil fuel boilers. I think we have installed over 600 electric vehicle charging points. There is more to do, for sure, but we are doing our bit. I hope the initiatives, and the headline reduction emissions, give you that sense.

**The Chair:** We are all aware that one of the challenges that faces you is the state of court and tribunal buildings and how work has been hampered there with buildings not in a position to be used because of their condition. It seems to me that one should be looking at dealing with physical condition and using the opportunities. I say this as an occupant of a building where similar problems arise, as we all are. That would be an opportunity, would it not, to be a bit more forward-looking and not just stick bits together.

**Dominic Raab MP:** I totally agree. Of course, I discuss it regularly with HMCTS and the judiciary. When lay persons consider it, they just think of it in terms of the quality of the rooms, but of course it has a big impact on judicial recruitment and retention, probably as much as financial considerations. The feedback to me is that the conditions of the court estate, where they are good, can have a really positive impact. Where they are less good, the reverse is true. I am very focused on that. It is always if and when. As well as the significant amounts we are investing, if and when we get an underspend it is one of the first things we prioritise.

**Baroness Prashar:** I have a brief request, if I may. It would be very helpful if your office could send us some figures about the impact that the changes introduced in transfer to open prisons has had on the numbers. What was the position before and after? That would be very useful.

**Dominic Raab MP:** We will provide that to the committee. It is a perfectly reasonable question.

Q19 **Baroness Meacher:** I have a quick question following our earlier discussion, but in relation to courts. You very helpfully said that if people with mental health problems could be dealt with by the NHS, great. Do you therefore support courts that divert people from the criminal justice system into treatment? Would that be something you would really welcome?

**Dominic Raab MP:** That is a matter for sentencing. Any Lord Chancellor knows very carefully not to impinge on those prerogatives. The truth is that, if someone with a significant mental health challenge ends up in court because they have not been dealt with or treated properly, we have intervened too late. I would probably have more emphasis—if I may put it like this—on the work my department and I are doing with DHSC in the consultation papers, the proposals and the legislation on the time limit for referrals and the ending of prison as a place of safety. The preventive work is crucial. It is a fair question, but I am always careful not to comment on judicial sentencing or listing. That is a very sensitive one as well.

**The Chair:** Thank you very much for your time, Lord Chancellor, and what you have shared with us. I know from the work that we have planned over the next few months that we will be coming back to you and asking for your input to what we are doing.

I would like to take this opportunity on behalf of the committee, including our staff, to say a very big thank you to your officials with whom the committee staff deal.

They are notably very helpful, not only in responding when questions are raised but in alerting us to things that are coming down the path. We appreciate that very much. We appreciate their taking the care to work in partnership, if I can put it that way.

***Dominic Raab MP:*** Thank you very much; they will appreciate that.

**The Chair:** I would be grateful if you could pass that back to all those concerned.

***Dominic Raab MP:*** I certainly will.

**Lord Blunkett:** One very small point. It is the Ides of March. The last Lord Chancellor who came before us had gone by half-past three, so we wish you well.

***Dominic Raab MP:*** I take moral support from wherever it comes, Lord Blunkett.

**The Chair:** Thank you very much.