



Justice Committee

Oral evidence: Work of the Lord Chancellor, HC 486

Tuesday 17 December 2024

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Watch the meeting

Members present: Andy Slaughter (Chair); Josh Babarinde; Mr Alex Barros-Curtis; Pam Cox; Linsey Farnsworth; Sir Ashley Fox; Warinder Juss; Tessa Munt; Dr Neil Shastri-Hurst.

Questions 1 to 77

Witness

I: The right hon. Shabana Mahmood MP, Lord Chancellor and Secretary of State for Justice.

Written evidence from witness:

– [Add names of witnesses and hyperlink to submissions]



Examination of witness

Witness: Shabana Mahmood.

Chair: Welcome, everyone, to this afternoon's session of the Justice Committee. We have the privilege to be asking questions of the Lord Chancellor about her first six months in office.

Welcome, Lord Chancellor. Thank you very much for joining us and giving up your time this afternoon. Before we go straight into questions, on each occasion we have to do our declarations of interest. I will go round the horseshoe, beginning with Sir Ashley.

Sir Ashley Fox: As declared in the register.

Dr Shastri-Hurst: I am a practising barrister with an active practising certificate.

Tessa Munt: I am a vice-chair of the APPG on whistleblowing, and a director of Whistleblowers UK.

Chair: I am a non-practising barrister. I am a patron of the Hammersmith and Fulham Law Society and the Upper Room charity and a member of the Unite and GMB trade unions.

Josh Babarinde: I have nothing to declare beyond what is in the register.

Mr Barros-Curtis: I hold a practising certificate from the SRA. I am a member of GMB and Unite unions. I am an ordinary member of the APPG on whistleblowing.

Linsey Farnsworth: I am a non-practising solicitor, formerly of the Crown Prosecution Service. My declaration of interests is on the register, but of note is that I am the mission delivery champion for the Safer Streets Mission.

Pam Cox: My interests are as declared on the register.

Warinder Juss: I am a solicitor and a member of the GMB union executive council. I am a member of a number of APPGs.

Q1 **Chair:** Thank you very much. Lord Chancellor, you have made so many announcements recently that it is difficult to know where to start. We are going to start with prisons. Last week, we had the 10-year strategy and the annual analysis. Looking at that, it showed that HMPPS could run out of prison places as early as November next year. A lot of hope seems to be resting on the sentencing review dealing with that. Do you expect to implement the outcome of that review in time to avoid that first potential pinch point in November next year?

Shabana Mahmood: There is quite a lot in that; I will just draw back a little bit. On the 10-year capacity strategy and the annual statement, the annual statement is the first of its kind and sets out properly for the first time supply and demand. You are right, of course, that we have a supply side to deliver in order to try to make sure that we do not run out of



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prison places before any changes as a result of the sentencing review might be made.

There is also a demand side that we have to think about. As you referenced in your opening remarks, that is why I have had to make a series of announcements already. Almost as soon as I walked into the Department in July this year, I became aware that we were days and weeks away from disaster in the prisons. I had to take an emergency measure immediately and have announced a couple of other operational measures.

In the statement, the point at which the two lines cross over on supply and demand is spring 2026, but what I would note is that the picture is very tight and it is going to be difficult. I have made no secret of that in all of my pronouncements to the House and in my various oral statements. I have made it clear that, if there is a requirement for further measures, I will return to the House at the first opportunity. I cannot rule out that I might have to take further measures to make sure that we do not run out of prison places and do not face the situation we faced when I walked into the Department in July.

Is it something that I can guarantee one way or the other? I would say, no. We are keeping a very close eye on exactly what is happening on demand, day by day and week by week. I receive regular updates as to whether we are on our central demand projection or above it or below it. As you know, there are some things that just happen that you could not predict. The summer of disorder that we had earlier this year is a very good example of that. These are projections based on best evidence, experience and judgment. Of course, sometimes events will overcome.

Q2 Chair: You have been very frank that even if the new places are delivered on time, it will not be sufficient.

Shabana Mahmood: Yes.

Q3 Chair: You expect, which gives us an idea about where the sentencing review is going, that that will contribute to demand. It also looks like that is not enough. What other steps is the MOJ considering to bridge the capacity gap? The projection is showing a shortfall of 12,400 places by the end of 2027. Doesn't that mean that overcrowding is going to get worse and that, again, we may be running out of places?

Shabana Mahmood: I think the 12,400 number is from the NAO report rather than from the MOJ's projections, which are contained in the statement and in the 10-year strategy. I believe that is because, when the NAO did their report, at that point SDS40 and the other operational measures on home detention curfew and risk assessment on re-release were not accounted for. That is why the gap is bigger and, in a way, it highlights the scale of the problem.

The emergency and operational measures contribute to preventing us from running out of places. It accounts for quite big numbers, which is



why I have announced the sentencing review as quickly as I have, and put them on a tight timetable, and therefore me and the Department. We are so close to the line that I want to try to get the system not just beyond making sure that it doesn't topple over but to a more sustainable position as quickly as possible.

The NAO number is much bigger because it does not take account of the other measures. Even with the other measures taken account of, by 2027 you are 5,500 places adrift. It shows you the scale of the problem and the task that we have set the sentencing review in that context.

Q4 Chair: Nobody envies you your position on this. You are taking a number of stop-gap measures. There is rapid deployment of cells with a lifespan of 15 years, using house blocks and using early release. That is effectively dealing with an immediate crisis. The sentencing review may provide some relief through alternatives to custody for short sentences, but don't you need to be looking at determinate sentences? Don't you need to be looking at the sentencing inflation that has taken place over the past 20 or 30 years if you are actually going to control prison numbers?

Shabana Mahmood: The sentencing review has a much broader remit, and it is looking at sentencing policy in the round. That is quite clear from the terms of reference. The three principles that underpin the sentencing review are, first and foremost, that we cannot run out of prison places, and we have to have a prison place available for everybody who has to be locked up because they are a danger to the public. We have to do better at rehabilitating people while they are in prison, helping them to turn their lives around. That is a good strategy for cutting crime, as I say, because they need to come out better citizens rather than better criminals. We also have to expand the use of punishment outside prison as well.

The remit is broader than simply looking at, as you said, short sentences. Within that, I have asked them to consider specific cohorts. It is looking at prolific offenders specifically, and how we respond to offences that relate to violence against women and girls. There are specific things I have tasked them to look at. It is a much broader review than the exercise that you might be referring to, which is what led to the last Conservative Government's attempt at a sentencing Bill towards the end of the last Parliament. This is much broader.

Q5 Chair: You would welcome looking at the issue of longer sentences.

Shabana Mahmood: I have asked them to look at sentencing overall. What I welcome is them looking at my terms of reference and providing us with some solutions within those terms of reference. They are aware of, and I have discussed with the panel chair, the necessity of being able to live within our means on prison capacity. That is why making sure that the capacity always to be able to hold those who need to be locked up



must always be there. We cannot be in the position which I inherited, where we are making emergency release mechanisms.

The last Conservative Government were doing end-of-custody supervised licence, which is a form of emergency release. I have had to do SDS40. I would like to rule those out and get the system to sustainability. The sentencing review is crucial to that. I think it is the first time that any Government have accepted that you have to look at both supply and demand, which is a big change in policy. That can only come from a review of this kind.

Q6 Chair: There is a lot of money being spent on new prisons, but not so much on existing prisons, some of which are frankly in a disgraceful condition. The maintenance backlog is now estimated at £1.8 billion. The 10-year strategy says there is £220 million on maintenance for the current financial year and £300 million in the next financial year. Aren't conditions in prisons just going to get worse under that?

Shabana Mahmood: I would just challenge the beginning of your question. For 2024-25 the allocation that I effectively inherited and which we have retained was £220 million. For 2025-26, which is phase 1 of our review process as a new Government, it is £300 million. I am determined to keep making progress. Maintenance and new supply are both equally important. We cannot be in a position where, due to dilapidations, we lose more places than we would anticipate in the normal run of things. Making sure that we stay on top of maintenance is incredibly important. We have allocated more money to it in our first year. Obviously, we will now be going into the next phase of the spending review process.

Q7 Chair: Would you like to see an end to conditions where two people are sharing a cell for one, and there are open toilets where people have to go to the toilet at the same time as people are eating in a very small room?

Shabana Mahmood: My priorities for progress on maintenance is on fire safety where we are working closely with the fire safety inspectorate. There is a plan over the next two to three years to get the whole of the estate right up to spec on fire safety. Obviously, I want to maintain a safe estate, not just for prisoners but for the prison officers who work in it. I am working very closely with HMPPS to make sure that that is what we deliver.

On the crowding—cells built for one that are currently housing two—of course in the long run you would want to make progress. I wouldn't wish to suggest to the Committee that that is going to be easily achievable in the next year or two. My understanding of the previous Conservative Government's record on this is that previous Lord Chancellors worked as closely as they could with HMPPS to get to the maximum tolerable level of crowding in the estate without compromising the safety of staff and others. There is not capacity in the estate to crowd further than we currently have. In the long term I would like to see that come down—of course I would—but there are other priorities for prison maintenance first



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and foremost and that has to relate, I have to say, to fire safety particularly.

Chair: Thank you; that is a very important point. That is all from me for me for now.

Q8 **Pam Cox:** The outcome of the sentencing review may lead to significant changes in the future demand for prison places, as we have just discussed. How is it possible to set out a 10-year prison capacity strategy before that review is complete?

Shabana Mahmood: I announced that we would put a capacity strategy before the House before the end of the year. It is based on current policy. I think it is right to talk about the supply that will be needed. Supply is required as a necessary way of squaring the circle, to make sure that we have the prison places that we need. Supply and demand are both part of the solution. It is important that I have set out where we can go with supply. Obviously, a lot of the supply will be baked into our modelling for where we see potential future shortfalls in prison places. It is important to set that out, and I have done so.

I am not suggesting this is the complete picture because, of course, demand is important as well. That is why we have the sentencing review working. As I came in, of course I announced the emergency measures straightaway. I think it is right that I took a little bit of time to think about what the more medium to long-term solutions will be. I appreciate that not all of those have correlated in timings necessarily, but that relates more to the pressure of needing to do an emergency release upon entering office.

Q9 **Pam Cox:** On the question of timing, do you think six months is enough time to deliver a "landmark" review, as it has been described?

Shabana Mahmood: I thought about the timings for the review very carefully. I guess there would have been an argument possibly to push for an even faster timeline. I wanted to give the review enough time to consider the issues properly, while also working at pace. It is why I asked for David Gauke to lead the review. He is a former Lord Chancellor and knows this area well. He is leading an expert panel, all of whom have relevant expertise.

On the usual amount of work that might be required to read into a topic and get across what is currently happening, because of the expertise of the people that are involved, we have been able to move much more quickly. These are all people who know the territory well. Therefore, some of that background work is not required. There is no doubt but that they are working at pace. That was always an ask of the panel chair. It is something I discussed with David Gauke on timing specifically, and he was happy to do it within the six months. That is the agreement we have.

Q10 **Pam Cox:** In terms of the scope of the review, we are interested in the fact that remand is not included. Given that remand plays such an



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important part in prison capacity, and that so many prisoners are currently held on remand, are the Government planning any future work on remand specifically?

Shabana Mahmood: Yes. I think about remand very carefully. I didn't place everything in the scope of the review, partly because it has a very tight timetable and I wanted to make sure that they could do the work we had asked them to do specifically around sentencing and the profile of sentencing.

On remand specifically, there are a number of other measures. The size of the remand population is intimately connected—I am sure we will discuss this later in the session—with the size of the Crown court backlog. Those two things go hand in hand, and not all of the levers would have been such that the review would be able to consider how they might be pulled. Listing is a judicial function, so the situation in remand I thought was sufficiently different from what else is happening. It is definitely a problem when it comes to prison capacity. I want to make progress on remand, but I didn't think that that was best done in the sentencing review.

Q11 **Pam Cox:** A final question from me. When will legislation be brought forward to implement the two outstanding Wade review recommendations on statutory aggravating factors for murder involving strangulation and those connected with the end of a relationship?

Shabana Mahmood: I believe that there is a statutory requirement for a consultation with the Sentencing Council. I expect the relevant legislation next year. I can write back to the Committee on exact timings. I don't believe it is immediately in the new year, but soon thereafter. I think there is a requirement for a consultation with the Sentencing Council, but I will write to you with the details.

Pam Cox: Thank you, we would appreciate that.

Q12 **Linsey Farnsworth:** I want to go back to the prison population for a moment, in particular in relation to foreign national offenders in our prisons. How is the Department approaching the deportation of foreign national offenders in the context of addressing the prison capacity issues that we face?

Shabana Mahmood: It is absolutely a priority to make as much progress as possible on deportations of foreign national offenders, and to make sure that the early removal scheme works as intended. Obviously, we have to work very closely with the Home Office because the deportations and removals fall within their remit. This year we are on course to deport more than at the same time last year. In fairness to the previous Conservative Administration, last year was a good number. We are set to increase it and go further this year. I want to keep making progress.



What I have committed to in-house—something we are looking at and will be working on closely with other colleagues in Government—is making the early removal scheme function more effectively, and whether there is an argument to bring forward the point at which somebody becomes eligible for early removal from the country. There is a trade-off that is inherent, which is for the requirements of justice to be served in this country versus removal back to country of origin. I am sure that victims and other groups will have comments on that.

My own personal view, which I held for some time before I came into this brief, is that immediate deportation—if you imagine it as a modern form of exile—is punishment too. It is obviously a conversation to have, both in Government and then for wider public debate. From the system we have inherited, we are on course for more deportations this year than in previous years. That is progress that I am pleased to see. We will continue working with the Home Office to push that as quickly as we can.

Q13 Josh Babarinde: Hello, Lord Chancellor. Thanks for joining us. My set of questions is on the SDS40 scheme. We heard from Lord Timpson, as well as from the likes of Amy Rees, about when the scheme would be reviewed. It would be good to understand from you, because we know that next autumn is when a review is likely to take place, what the outcomes, indicators and performance measures are against which you are going to be assessing the success or not of the scheme.

Shabana Mahmood: What I have committed to is reviewing within 18 months of its implementation. It was implemented in September this year and 18 months hence is my timeline for that review. I wouldn't want to get ahead of what that future review is going to look at. I am sure it will consider many of the factors that you indicated. I have not yet designed the future review process, if I may say so, but I would be very happy to consider representations for what others think needs to be looked at.

Essentially, though, we have to accept that it is a capacity reduction measure; it is an emergency response to the fact that we were about to run out of prison places. Of the levers at my disposal, this was the one that was most likely and most capable of preventing us from running out of prison places. I know that members of the Committee are aware that by the final week in August we had gone down to fewer than 100 places. The first tranche of SDS40 were released on 10 September. Between the end of August and 10 September was a very difficult period and it was still possible in that period for us to run out completely.

Members might remember that Operation Early Dawn and some of the other mechanisms that the last Conservative Administration had brought in were being operated then to stop us running out. It is an emergency measure. I guess its fundamental requirement, in terms of efficacy, is, has it in fact yielded prison places? Obviously, we all know the answer is yes, it has given us some more headroom on capacity to prevent us from running out.



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There are other questions on its implementation that I will want to look at, and that I believe Amy Rees and others have already been speaking about to this Committee. There has already been a lessons learned exercise between tranche 1 on 10 September and tranche 2 on 22 October. We set quite a hard challenge for probation, in particular, to try to maintain business as usual planning for releases, even though they are on a tight timetable. I am very proud of the probation staff who worked so hard and so diligently over the summer. For the most part, the system was able to perform at a very good level, but of course we will review any further changes that need to be made.

Q14 **Josh Babarinde:** I am sure we all agree with you in praising the probation staff and all MOJ staff who were involved in helping.

Shabana Mahmood: They all had a very busy summer, and we owe them a debt of gratitude.

Q15 **Josh Babarinde:** Absolutely. On the question of the criteria that you are using to review it at the end of the 18 months, it strikes me as a missed opportunity not to have set those criteria, at least internally, now or when the scheme began, so that as the scheme was rolling you could be making an assessment against the same criteria now that you would be using then. I will accept your invitation to submit examples of criteria going forward and—

Shabana Mahmood: Forgive me. The scheme has been designed based on the levers available to me from a legislation perspective; that is, what measures I could implement to prevent us running out of prison places. It is in the nature of the change that it is legislative so I thought the best thing to do was to look at it again in 18 months' time to see how it is functioning, and whether or not it is still needed. Of course, that will also be informed by the sentencing review.

When I walked into office I did not, of course, at that point announce a sentencing review. The sentencing review has come as a result of looking at the system and thinking about how we might get it to longer-term sustainability, if you see what I mean. I appreciate that the timeline looks like it is a bit out of sync because, on top of this, you now have the sentencing review, but it would not have been possible to do anything different from what happened. The situation was far starker upon entering office than I think anybody had realised.

Q16 **Josh Babarinde:** One of the criteria that I think should be used to assess the efficacy is the extent to which victims and survivors of domestic abuse are protected. That must be one of them. I would be keen to understand from you whether, despite the assurances given to exclude as many domestic abusers as possible from being released early under the scheme, you accept that there are people who are abusers, but convicted of offences like ABH, common assault and GBH, who are eligible for early release. Do you accept that that is the case?



Shabana Mahmood: As you and I have discussed on a number of occasions in the House during orals, it is the case that, by law, you can only exclude offence types rather than cohorts of offenders. I do not have a legislative lever at my disposal to prevent the release of a particular cohort of offenders. Much as I would like to have had such a lever, that is not possible. In law, it is only possible to exclude by offence type, which is why I chose the offences that I did. They are offences that are most closely connected to taking place in domestic abuse-type environments: coercive control, non-fatal strangulation, brutal restraining orders. We know that almost all of those offences, when committed, are because of domestic abuse.

There is not an offence of domestic abuse, which I think may be a common misunderstanding. A lot of people who have committed assault might have done so in the context of an abusive relationship, where they have abused their partner. You would have to exclude all common assault in order to prevent the scenario that you are describing from happening. That is one of the reasons, going forward, why I asked David Gauke and the panel to look at the way that we sentence in relation to those who commit violence against women and girls. That is specifically a focus of this Government, and that is why I have asked the sentencing review, in their terms of reference, specifically to look at that. It is partly learning the lessons, looking to see what levers I could pull, on discovering that it is on offences rather than offender cohort.

Q17 **Josh Babarinde:** You spoke about not having access to the legislative levers. Of course, as the Government you can create those levers. In fact, one of the director generals of policy for prisons, offenders and analysis came in and spoke to us on 19 November and said that “primary legislation...could conceivably be changed” to help change up that scenario, for example to create a specific set of offences of domestic abuse.

As you know, that is exactly what I have proposed in a private Member’s Bill, so that you could have domestic abuse aggravated assault, GBH, and so on, so that they could be excluded from an early release scheme. Women’s Aid are backing that, for example. To what extent are you going to consider that kind of proposal to best protect victims and survivors of abuse under the scheme?

Shabana Mahmood: Yes, we are the Government of the day. Yes, we control the primary legislation agenda. It would not have been possible, on entering office and realising that I needed to act straight away, to pull in a primary legislation mechanism that changes the law and then bring forward SIs that seek to do emergency release. As you can imagine, there were not that many days to play with at that point.

Changing primary legislation, even when you are moving at breakneck speed, is still going to take time. It is time that cannot be truncated. I am sure that parliamentary Select Committees, and others, would have quite



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a lot to say if in fact that time was truncated in a way that did not allow Parliament to properly consider the issues.

That level was not available, and could never have been available, on a timescale that would have allowed me to deal with the emergency release problem. I was dealing with a decision that needed to be made in days about which was the best lever to pull, and getting it implemented before Parliament rose for recess. We still sat a week later, as you know, but I needed to pull that lever across both Houses by means of the SI and have an implementation date for the first tranche of 10 September.

In that period, everybody was working frenetically to recalculate sentence dates and starting to do pre-release plans. It was at very much breakneck speed, I have to say, and any delay by choosing a different path, such as moving primary legislation, could have meant coming back in September before the legislation had cleared both Houses and then doing an SI, by which time, Mr Babarinde, we would have run out of prison places.

At the point at which you run out, as I know this Committee is aware, you are stopping arrests and trials taking place. In my view, that is the breakdown of law and order in the country. You cannot gum up the system in that way, so that is why the pace had to be what it was. It was the best available mechanism, as well as the fastest available, to prevent us from running out of places.

Q18 Josh Babarinde: There is still over a year left of the scheme. You know that domestic abusers are being released early, so I think the breakneck speed excuse no longer stands. Are you going to look at this in time for the end of the scheme? We don't know when the end date of the scheme is, but the Government have time. There is legislation coming forward, whether it is Home Office legislation or the victims, courts and public protection Bill, to be able to make a change in primary legislation.

Shabana Mahmood: I will certainly consider any further proposals, and the Government will also respond to the sentencing review, which has specifically been asked to look at the treatment under our sentencing framework of offences of violence against women and girls. In a way, that could be one solution if the sentencing review was not looking at how to treat the cohort of offenders who commit VAWG offences, but because the sentencing review is looking at that, it probably provides us with a faster mechanism.

I think, ultimately, we are trying to deal with the same problem. The question is which is the fastest and best mechanism. Having asked the review to look at it, I think it is right to wait to see what the review recommends and then take a view on what the best mechanism is to make any further changes.

I wouldn't want you to think that I am closing the door on the conversation. I have been weighing up, as we have been going along,



what is the best way to put us on a sustainable footing for the future, and to make sure that victims in this country do not feel let down, and that they understand what is going on and that it is a system they can have confidence in. It is very much working as we are going, and a work in progress.

Q19 Josh Babarinde: Thank you. I appreciate that the door is open, and I look forward to continuing that conversation. I would briefly like to ask about the SI. It excluded a further six offences from the early release scheme. These include things like breaches of stalking orders, sexual harm prevention orders and even murder in very specific cases of British nationals who have committed murder in foreign jurisdictions and are then deported back here. Why were they not included in the first place? I have a feeling that the answer is going to be speed, speed, speed, but these are pretty big omissions.

Shabana Mahmood: There are two things. We were moving at pace. If you bring in a measure with no exclusions at all, that is the fastest way to move at pace because you don't have to worry about what you have excluded. You don't have to do a check of what you have not excluded. That was one of the options on the table. I wanted to make sure there were some exclusions because I was concerned about the issue in relation to domestic abusers. Even if I couldn't pull every lever, because they do not exist in relation to the cohort of offenders, I wanted at least to have pulled the levers that were at my disposal, which were to exclude the offences most closely connected to domestic abuse.

Q20 Josh Babarinde: But you left out murder.

Shabana Mahmood: There are two things; I will deal with the murder point in a moment. On the other offences—this is actually a bit of a bugbear of mine, and maybe of some other former lawyers on this Committee—Parliament regularly creates new offences that are not dissimilar to other offences that are already on the statute book. Usually, everyone moves to charging, convicting and sentencing against the new offence. Occasionally, there is still some old and outdated legislation that exists and can still be viably charged, convicted and sentenced against. These are very similar offences to those that have been excluded, but they are much older.

Moving at pace, we were able to pick off the newer offences that are now the most commonly used in these areas, but there was still the older, outdated legislation. I was very clear about this with the House when I announced the measures. We were moving at pace, and we would come back if we needed to add anything else, and that is what we have done.

On murder, there is something very specific; I wouldn't say it is a quirk. There is a difference in the way that murder is treated in this jurisdiction from what happens in some other foreign jurisdictions. Here, it is indeterminate, and it is automatically excluded. In some other countries the sentence is a determinate sentence and where there is a prisoner



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transfer agreement in place, and the said British national returns from wherever they committed a murder and were sentenced, because of the way the legislation is framed it could have been treated—because it was a determinate sentence—as having SDS40 applied to it. Obviously, that is not our intention, so we excluded it. It is not a hypothetical that has been realised. As we were doing the tidying-up exercise, I wanted to make sure it definitively had the door closed on it.

Q21 Josh Babarinde: This is my last question. How many ex-offenders who were convicted of those six additional offences were released in the first two tranches? Do you plan to recall them now that it is the case that they would be excluded from the scheme?

Shabana Mahmood: They will have been legally released, so I could not go back and apply a standard to them that did not apply when they were being released. I believe the total number is around 60. That would be the difference between the older, outdated legislation and those who have been excluded under the new. It is 60, but they have been lawfully and legally released.

Q22 Josh Babarinde: Are you able to provide the Committee with a breakdown, among those 60, of which of those six offences they aligned to?

Shabana Mahmood: There is nothing, obviously, on murder. I would have to go back, have a look and write to the Committee with an update on that.

Q23 Chair: I have a follow-up question on that. Lord Chancellor, you doubled the length of home detention curfew periods, again to relieve pressure on prison numbers. With the combination of SDS40 and the HDC extension, someone given a sentence of six years would now be eligible for release from custody after around 17 months. Previously it would have been 30 months. For a sentence of four years, eligibility for release would be at around nine and a half months, whereas previously it would have been 18 months. Are you comfortable with those release periods?

Shabana Mahmood: The home detention curfew is a policy that has been in place coming up to about 25 years. It is a well-used mechanism that already exists. The previous Conservative Administration extended it a number of times, quite significantly. I recognise that this is a further significant extension. My first aim is to ensure that we do not run out of prison places. These are the available operational measures to make sure that, in this interim phase before any changes that might come from the sentencing review are able to be implemented and the impact of those changes is seen in the system, the operation levers we are pulling are able to help us deal with capacity issues and are also the right ones.

HDC has been well used for over two decades. We know that the rates of recall and reoffending are much lower for those who are on a home detention curfew. I think the performance of HDC for managing offenders outside prison is pretty good. There is not just domestic evidence from



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HMIP and others, but international evidence in this space. It is a reasonable mechanism.

I appreciate that when you look at the intention of the court at the point at which the sentences were being made, it looks like a reduction of the time in custody. Of course, anyone who does not abide by the terms of their licence or does not stick to their curfew will be recalled. I feel like this is the best way, again, to try to square many of the circles that I am currently trying to do in order to not run out of prison places and to get the system to a position not just to stop it from keeling over but to overall sustainability.

Chair: We have questions on sitting days from Tessa Munt and Neil Shastri-Hurst.

Q24 **Dr Shastri-Hurst:** Good afternoon, Lord Chancellor. On entering Government, you increased the number of sitting days initially by 500 to 106,500. In a letter to the Chair of this Committee dated yesterday, you said there were going to be another additional 2,000 sitting days. However, when the Lady Chief Justice appeared before this Committee a few weeks ago, she told the Committee that the Crown court could have sat up to 113,000 during the course of this financial year.

Given the Government's commitment to tackling the backlog when you came into office, can you set out why the number of sitting days has been initially limited to 6,500 below that capacity level, and is still 4,500 below it?

Shabana Mahmood: Yes, I can set out a bit about the history of what I inherited when I came in, conscious that I am speaking for a process that I was not a part of. The agreement on 106,000 was reached between the previous Lord Chancellor and the Lady Chief Justice, concluding the concordat process in the usual way, although the Committee and I might have some things to say about the timing of that. It was concluded in June, during the period of the short campaign in the general election. When the letters were exchanged, the offer was made of 106,000 sitting days. That was accepted by the judiciary. They had some observations to make about some of the challenges that were presented by the settlement, but an offer was made and accepted in June this year.

When I arrived in the Department, there was already a 2024-25 annual allocation of 106,000 sitting days. I understand there has been some questioning over what the maximum capacity was, and what was known at what point. I don't think it is for me to litigate all of the history of the discussions between the previous Lord Chancellor and the Lady Chief Justice.

I believe, at the point at which the 106,000 allocation was agreed, there was an understanding that the maximum operational capacity of the Crown courts was higher and not at the level it is now believed to be. It was at about 109,000, but the modellings shift, sometimes quite significantly, in terms of what the HMCTS data shows. Nevertheless, in



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July, by the time I became Lord Chancellor, the agreement had already been set at 106,000 sitting days.

Q25 **Tessa Munt:** But is it not the case, Lord Chancellor, that the judiciary had actually listed trials for significantly more than that? Wouldn't it have been better just to give extra money and let it roll?

Shabana Mahmood: It is only possible to give extra money if extra money is available. In addition to my constitutional obligations to the Crown court, I am sure the Committee will understand that I have a wider set of responsibilities, one of which is to make sure that we stick within the budget that we have been given.

For 2024-25, what the settlement allowed—the agreement that the previous Lord Chancellor made—was sitting to 106,000 days. It would have to come from somewhere. It would require a cut in something else in order to try to put the money into Crown court sitting days. It would require a cut in-year in something else to provide that additional money. I don't think it is irresponsible, having inherited a funding envelope, to say that there isn't any additional money available. We have to stick within the funding envelope that we have.

Q26 **Tessa Munt:** But setting your cap means you just decide—

Shabana Mahmood: It is not my cap, Ms Munt. For clarity for the Committee, the cap was set before I became Lord Chancellor at 106,000.

Q27 **Tessa Munt:** Yes, but you are now the Lord Chancellor.

Shabana Mahmood: It is a cap I have inherited and there is not the funding, and has not been, to extend it, except of course—we may come on to this—the decision on the extra 2,000. There are small fluctuations in the budget, which we monitor on a monthly basis to see that our projections are what they need to be. I have given a very clear steer to the system that I want to make sure that if there are any fluctuations that create some headroom, I would want to try to spend that headroom on Crown court capacity wherever possible. It has been possible to move a bit now on the extra 2,000, just as when I entered office it was possible to add the extra 500 sitting days that we did.

Q28 **Dr Shastri-Hurst:** May I pick up on that point? You increased the capacity by 500 when you came in. We all know that court listings get overbooked, and then the courts have to adjust accordingly to the number of sitting days that they are ascribed. Inevitably, court listings were cancelled and vacated as a consequence.

You have now increased that capacity further but, of course, those listings have already been vacated. What assessment has been made to determine whether they can be relisted within this financial year? You are pushing back access to justice for the victims of those crimes and for the just disposal of the hearings.



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Shabana Mahmood: The first thing to say is that it is important to make sure we are not in a position where there is over-listing again to the agreed allocation. It is not for me to litigate everything that was said and done prior to 5 July. Clearly, we have had an issue. I suspect it has a lot to do with the timing when that agreement was made. It ran very late. I made a clear commitment that I will not run the process that late again, but it was run very late.

As I say, others will have things to say about how exactly the over-listing happened. It should be avoided at all costs because exactly this point occurs; dates are set and then they have to be cancelled. I do not want us to be in that position again, and will do everything in my power to prevent it from happening going forward. I was limited in what I could do, having come in myself in July. That is the first point.

Secondly, on entering office I asked HMCTS and MOJ to look at whether there was anything more we could do in our 2024-25 settlement to increase capacity in the Crown court. That was when I was advised that at HMCTS there was enough money to absorb the cost of an additional 500.

One thing the Committee should be aware of is that it is not just the cost within HMCTS—the cost of the judges and running the court—but it is actually the consequential cost of legal aid. That also has to be available. Legal aid is the responsibility of the MOJ and not HMCTS. The MOJ advised me that there was enough money; we would be able to absorb the cost of 500 sitting days, both on the HMCTS side as well as the legal aid cost.

As a clear steer to the system, I asked whether there were any other fluctuations that enabled additional choices to be made. So that I could fulfil my priority of going as far as I can on the Crown court and sitting days, I wanted to be aware of them at the earliest opportunity. Just over two weeks ago I was advised that there was some additional headroom expected due to standard fluctuations in budget, and that might give me the capacity to sit more in Crown court this year. I asked HMCTS to give me an indication of what can physically be achieved between now and the end of March. I am advised, and I have received assurances, that the 2,000 which I have made allocation for can be sat.

Q29 **Tessa Munt:** So you are in negotiation now, already, for next year's allocation.

Shabana Mahmood: Next year's concordat. The process for next year's concordat has already begun. There is a big data and modelling phase, and then we move into negotiation with HMCTS. The board are involved, and me and the Lady Chief Justice. It is already under way.

Q30 **Tessa Munt:** And you anticipate concluding those negotiations when?



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Shabana Mahmood: I would like, and am pushing from my side of the system, a resolution by the end of January or beginning of February next year.

Q31 **Dr Shastri-Hurst:** I have a couple of points to follow up on. You told the House that you were funding the additional 500 sitting days. When the Lady Chief Justice came before us, she told us that there was actually no additional funding, and that the funding came from the existing allocation to HMCTS. Can you clarify for me whether the funding for those additional 500 days was from additional Treasury funding, or was it from the existing allocation and, likewise, the 2,000 additional days?

Shabana Mahmood: This is a point I have just made in my previous answer. On the sitting days, when it comes to funding, there is the cost of running the court, judicial salaries and salaries of other staff running the building, and then there is the consequential cost of legal aid. The HMCTS element of the cost for the 500 came from within the HMCTS existing allocation. I believe that is what the Lady Chief Justice was referring to. That was around £1 million or so, but the consequential legal aid cost of that was just over £3 million, and that was met by the MOJ. That did not come from HMCTS funding; it was from wider MOJ budgets. I made a decision to prioritise absorbing that cost so that we could get up to the additional 500 days.

Q32 **Tessa Munt:** What consideration have you given to multi-year agreements, to give certainty, so that this kind of shambles does not happen again?

Shabana Mahmood: I am absolutely looking at every part of the process, given where we were in the year and the necessity of starting the next process and getting the agreed allocation for 2025-26. What I have committed to on change is getting it done quicker, so that we do not have the issue around delay and possible over-listing, and also being more transparent. I am considering at the moment headline numbers on sitting days, but I would like to go a bit further so that there is greater public information about what is actually going on and what funding in the round is being made available. That is a transparency point that I will come back to the Committee on with an update. I want to be more transparent than the process currently has been.

Going further forward, there is a question about multi-year which I would be willing to consider and will consider. There is an element of it, though, which is necessarily an annual process. Your capacity and demand levels might shift year to year. You want to make sure that, of the allocation that you have, you are getting absolute maximum bang for your buck. This is public money, and we have to attain value for money, and make sure that we squeeze out every bit of capacity that we think the system can, and should, be delivering. There is an element that I suspect will always require an annual aspect and annual adjustments, even if you move to a more multi-year process. I am absolutely now considering the more medium to long-term changes that we might make to the process.



Q33 **Tessa Munt:** What does “medium to long-term” mean?

Shabana Mahmood: We have to conclude the 2025-26 one more quickly than would allow for a proper look at—

Q34 **Tessa Munt:** Urgent.

Shabana Mahmood: Yes, that is more urgent. As I say, my steer to the system and everything that I am pushing is that I would like this concluded by the end of January or beginning of February next year. I would want to be more transparent on that. Then I would want to think very carefully about what the next one looks like.

Q35 **Tessa Munt:** Three years?

Shabana Mahmood: There is a spending review process as well, which might helpfully align with anything that we might want to say on a multi-year basis. I don't want to get ahead of that. I just assure the Committee that it is something I am looking at. I will happily return to—

Q36 **Tessa Munt:** I am just making the point that victims and witnesses are looking at 2027-28. That is a very long way ahead. They will want certainty that there is some end to all of this.

Shabana Mahmood: Absolutely. That is why I made it very clear to the Department, when I entered in July, that for 2024-25 I wanted any change that was positive in terms of headroom, to make sure that I was maximising what I could achieve in the Crown court. I am very conscious, as a constituency Member of Parliament, and I know many people myself caught in this system as victims. The situation is intolerable for them. I have every empathy with that, and I am pushing the system to try to deliver better for all concerned, especially victims.

For the more medium to long term, the Crown court backlog is going to go up. We know that with the demand coming into the system, even with disposals at a very high rate—judges are cracking through disposals as fast as they can—there is still a huge mismatch. That is why I have announced the Leveson review. We are going to have to think about policy solutions and policy reforms that we can implement in order ultimately to do better by victims, get the backlog down and get the system moving in a more timely way.

Q37 **Dr Shastri-Hurst:** I have one last question, which is about the metric for measuring or setting capacity in Crown courts. We use sitting days as the current standard, but of course we know that judges' work goes far beyond having parties in front of them. There is box work, judgment writing, and so on. The Lady Chief Justice questioned whether sitting days was the right metric. I am interested, and I am sure the Committee is, in your view on whether that is the long-term unit of measure, or what other options would be available.

Shabana Mahmood: Indeed—“to sitting day or not to sitting day”. Having got myself across all the ways in which sitting days are defined



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across the different jurisdictions, and they do vary, in order to take account of the specific features of the different courts and tribunals that we have, would you necessarily start with a sitting day? My first observation is maybe not. It is a technically complicated and complex exercise by which we arrive at what we think is the capacity of the courts.

From a first principles point, of course we need some measure. There has to be some way of reliably capturing what activity we expect for the public funding that goes into the system. It is public money, taxpayers' money, at the end of the day. There has to be a mechanism by which you are able to hold every player in the system accountable to spend that money wisely on things that people would expect.

There has to be a mechanism and, of the two available at the moment, there are sitting days and disposals. I am very sympathetic to the Lady Chief Justice and others who say that it does not necessarily capture all the work that judges are doing. I meet many judges. People tell me, and I know myself as a former barrister, that there is a wider level of work that goes on as well. There is an argument for looking at how we best capture that in the methodology and the measures that we use.

I am willing to have that conversation. I think, given that Sir Brian Leveson is going to look at efficiencies in the system as well, there is a useful moment at which to interrogate. If you were designing the system from scratch, you had public money and your absolute first principles approach was to have accountability for that money, what is the best way for having a metric that measures that? I am willing to engage in that conversation. I have a slight hesitancy only because at the moment it is difficult to work out what else it would be, if you didn't have sitting days and disposal rates. I think that was captured in the Lady Chief Justice's evidence to you as well. It is not obvious what your other measure would be, but I am absolutely willing to look at it. If anybody has any better ideas, I am all ears.

Q38 **Chair:** There are two, quick, practical questions from me on this. First, how much money have you found, either in the MOJ—

Shabana Mahmood: For the 2,000?

Q39 **Chair:** For the 2,000, given, as I understand it, that you will have legal aid costs and administrative costs, but you are using salaried judges, so presumably they are already being paid.

Shabana Mahmood: Because it is for salaried judges, what you might term the HMCTS running the system cost is around £1 million. The consequential legal aid cost, I believe, is just over £8 million. The total cost comes in at about £9 million.

Q40 **Chair:** It is obviously very welcome news, but you've only got the last quarter of the financial year to spend it. Most of the decisions on postponing trials have gone ahead. In practice, how is it going to work



now?

Shabana Mahmood: The advice I received from HMCTS is that the 2,000 sittings between now and the end of the year—the additional sitting days—is a viable number to be delivered. I appreciate that it is late in the day. If a headroom emerges in-year, there is always a choice about what you spend that headroom on.

I guess I could have made a different decision, to spend the headroom on something else potentially, but I am very clear that I want to make progress on Crown court sitting days wherever possible. I knew that sending that steer to the system might mean that we were potentially able to increase, but it would happen fairly late. I thought that was still better than not taking that decision, if you see what I mean.

None of this is ideal. In an ideal scenario, you would not have concluded the decision in June, and you would be doing it much earlier in the process. Given where we are, I am comfortable with the choice I made, which is that I will take any capacity or headroom available that assists with getting Crown court sitting days up.

Chair: On the related topic of court backlogs, Linsey Farnsworth.

Q41 **Linsey Farnsworth:** Lord Chancellor, you are on record as saying that justice delayed is justice denied. I certainly agree with that. As my colleague said, the Committee is aware that cases are now being listed to take place in 2027. In the King's Speech, the Government committed to fast-tracking rape cases, but that is against a backdrop of an average wait for rape victims of 48 weeks for their trial to be heard. What can be done to improve the situation for victims in my constituency of Amber Valley and across the UK in terms of waiting?

Shabana Mahmood: First, as I said in relation to a previous answer, I recognise the real-life consequences of having a Crown court backlog. I am first and foremost a constituency Member of Parliament, just like all the rest of you, and I see the impacts in my advice surgeries. I have constituents who are victims and who are caught up in the system. Getting that backlog down is an absolute top priority for me. It is why I have sent the steer to the system that I have, which is trying to maximise as much as possible, within the funding envelope I have, the sittings that we can make available in the Crown court. I have been pleased to make a bit more progress on that in the last day or so.

I believe that fundamental reform is required. The backlog is big; it is at 73,000 and is probably going to get bigger because we already know that demand coming into the system is fast outstripping the ability to dispose of cases quickly. The disposal rates are high as well, but even with higher disposal rates, demand is still fast outstripping them, and therefore the backlog will increase.

I then have to ask myself a separate question, which is: what are the other big changes that we can make? Inevitably, you have to look at a



process of reform of the sorts of cases that go into the Crown court and all of that side of the equation. That is why I asked Sir Brian Leveson to look at policy changes as well as efficiency. I think you have to look at both. Is it possible to make changes on the efficiency side that help cases move through the system faster, and therefore enable us to get cases done more quickly, but also what can we do from a policy and reform side that helps us get the backlog down? That inevitably has to look at reform of what the Crown court does and does not do. That is what I have asked Sir Brian to do.

Q42 Linsey Farnsworth: You mentioned the current statistic of just over 73,000 cases in the Crown court backlog. I think that was increased when the official statistics came out. Originally, it was just over 67,500. You said that you are expecting the Crown court backlog to increase this year. How will the Department ensure that there aren't any quality issues, in the way that we have seen when the official statistics came out, for future statistics so that going forward the modelling can be more accurate?

Shabana Mahmood: It is a good question. It is why we took the time to make sure that when the Crown court statistics were published we were very confident they had been quality-assured by independent auditors as well. As it happens, the number has not changed very much, as you noted in your question, but it is important to make sure that it is a robust set of data that we can all rely on.

When I entered office, the data issue had just been discovered at that point. I believe it was discovered because the senior presiding judge and others, having made a decision, rightly in my view, to fast-track or make more progress on older cases in the system that had been sitting there for two years or longer, and to prioritise those for listing, had discovered there was a discrepancy and some of those cases no longer existed. That is what originally alerted people to the idea that there was an issue with what was being counted, and whether the systems were up to scratch or not. A number of other issues then came to the fore. Some were human error— closing some files or leaving others open when they needed to be closed, as well as two sets of statistics with two completely different methodologies for what counts.

It is right that we took some time to iron out all those issues, having discovered that they were there, and move to one methodology that applies to unify that and then have it quality-assured by independent assessors so that now what is in the public domain can be relied on. It was right that we took the time to do that, and I am confident in that number. I am very alive to any possible future data issues, and can assure the Committee that I will be on to them like a shot myself. I feel like we have taken the time to get it right now.

Q43 Linsey Farnsworth: That sounds reassuring, so thank you for the work that you have done on that.



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I want to move to the magistrates court backlog, which I think, if I may say so, gets discussed a little bit less, but I am conscious that the Government have extended magistrates' sentencing powers. How many additional cases can the magistrates courts effectively manage, given that their backlog is over 333,000 now, which has increased by 22% on the previous year. What can the Government do to support magistrates courts, given the situation that they are in?

Shabana Mahmood: First, thank you for your question. It gives me a good opportunity to pay tribute to the tremendous work done by the magistracy and our magistrates court system. I am sure that members of the Committee with professional experience know that 90% of all criminal cases go to the magistrates court. They hear around a million or so cases every year.

In that context, I think their backlog numbers have a different character from what is happening in the Crown court. Before extending the sentencing powers, obviously I wanted to make sure the capacity was there to do that. I am assured that it is. I am not anticipating any additional issues for the magistrates courts in being able to deal with the cases that are now coming their way as a result of the increase in powers.

It was a measure that was implemented by the previous Conservative Administration as well. They had also increased magistrates' sentencing powers from six months to 12 months. In fact, the reason that they then switched that power off and dropped back down to six months' sentencing powers was prison capacity. The issue was not court capacity or magistrates' ability to handle the extra work that was coming their way. It was in fact on prisons. It is a good reminder that it is an end-to-end system, and changes in policy in one area have a downstream impact on other areas of the system as well. I am confident that having switched the change back on, and gone back up to 12 months, the system can handle that.

Q44 **Linsey Farnsworth:** That brings me nicely to my last question, which is about the impact that extending the sentencing powers for magistrates has had. Is there any evidence yet that it has had an impact on the remand population, on court sitting days and/or on prison places?

Shabana Mahmood: It is a little early to have done that assessment, particularly on remand. It is something I will be following very closely, given the size of the remand population. It is one of the drivers for wanting to make the change, but it is too early to say.

On the Crown court sitting days, it is expected to yield the equivalent of 2,000 places in steady state. That is pretty much bolted on and based on previous experience as well, so I wouldn't anticipate that changing. On what impact it makes on the remand population and prison places, I think early next year would be a reasonable time to start to assess whether it



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is coming in at the projections that we had made when we brought in the change.

Q45 **Linsey Farnsworth:** Watch this space then.

Shabana Mahmood: Watch this space, yes. Correct.

Q46 **Chair:** In the letter you sent last night, Lord Chancellor, in relation to sitting days, the sentence that stood out for me was, "Due to rising demand...at all possible sitting day levels, the open caseload would increase." Even going to capacity and going to what the Lady Chief Justice would desirably like, that leaves us in a situation where it looks like the Leveson review, which you have mentioned a couple of times, is going to fulfil the same role for the courts backlog as the Gauke review is going to do for freeing up prison places.

The sorts of ideas that are being suggested are extremely radical. We are talking about not allowing appeals from the magistrates court about either-way offences becoming summary offences, or about an intermediate court. That is a massive administrative change, perhaps the biggest for more than 50 years, since we had the assizes. There are big constitutional changes as well. Are you comfortable that enough time is being given to the process, and that there will be enough opportunity to consult and reach a measured judgment on this?

Shabana Mahmood: It is partly the tragedy of the inheritance, I guess, that even with all the money available to sit at maximum operational capacity, and go absolutely hell for leather, it is still not enough. You are right to observe, Chair, that in a way therefore the Leveson review is not dissimilar, in terms of the scale of the challenge that we are facing, to the sentencing review, where it is true that however fast you go on building prison places, you cannot build your way out of that problem. You cannot build fast enough to keep up with the demand that is coming into the system.

Just as I have been honest about what is happening with supply and demand on prison places, almost the same is true in the Crown courts. It is almost as if you cannot sit enough in the Crown court in order to keep up with the demand coming in. I look at the fact that disposals are high and disposal rates are good and sound, and that in any normal world you would bank that and think the system was working great, yet it is still not enough given how much more demand is still coming in.

It is time to consider broader reform. To be fair to the previous Administration, they would say that covid and the related impacts of the pandemic and the Bar strike are how we have got to a position where the backlog is almost out of control. I have to deal with the system as I have inherited it. If I know already that there is no level of sitting at operational capacity that could bring this down, I have to think bigger and think about bolder reforms to the system. That is what I have asked Sir Brian to look at.



In the end, you have to reinterrogate what justice means. That justice delayed is justice denied is a very true thing. Is it right that victims are caught up in the system for years on end? It is undoubtedly the case that some defendants are gaming the system. You have heard evidence from others, like the DPP, to that effect. There are also going to be some innocent defendants caught up in the system, who will have waited years and years to clear their name. It doesn't serve anybody well at the moment. Therefore, I know that we have to do something different.

Are they potentially big changes? I don't want to get ahead of what Sir Brian might recommend. I asked him specifically not just to look at overall recommendations that he might make, but at the sequencing of any particular changes, with the central driver that we want to get the backlog down and have a manageable level of work in the Crown court that we can dispose of in a timely way that ensures that justice is done. So, yes, it is a lot, but it has to be done.

Q47 Chair: Aren't you worried at all? We have seen examples from the single justice procedure, where moving towards summary justice creates problems. This would be quite a rush towards restriction on jury trial and restriction on appeals and decisions, and setting up new courts. Does it worry you at all that we might be creating new injustices while trying to resolve the current ones?

Shabana Mahmood: There is an absolute premium on not making anything worse or creating further problems. Of course, I would not want that to be the result of what we are considering, or what Sir Brian might recommend. Parts of his terms of reference are to make sure that we do not compromise our principles around fairness and due process, and what counts as a fair process for the hearings of criminal matters. I am sure all those very same issues will be in his mind as he conducts his review and makes his recommendations.

I think Sir Brian is the right person to be doing the review. He has a very excellent reputation, and a huge amount of personal expertise that he will bring to it. I have every confidence that what will result from his review will be a range of measures, on which the Government still have to take a view; I will still have to consider the options that he makes available, but I am confident that kicking off this review with the individual who is doing it for us is the right way forward.

Q48 Tessa Munt: We did a visit to the central London county court, which seemed to be a place of vast quantities of paper, yet the Ministry of Justice's digital strategy 2025 says that its objective is to "strip out paper, unnecessary hearings, forms and duplication". I wondered how that was going, and whether you would like to update us on how digitalisation is going.

Shabana Mahmood: Let me say a bit about the inherited position because those were the previous Government's programmes. It would be fair to say that there is still a long way to go on—



Q49 **Tessa Munt:** Is it not the Department's programme?

Shabana Mahmood: Correct, but I would like to signal that ahead of spending review phase 2 we are looking at productivity, the use of data and further digitalisation as part of the spending review process, not just as an MOJ responsibility but as a direct steer from the Prime Minister that he expects the whole of Government to be looking at. On what the future looks like and the further progress that we might make on productivity, increased digital infrastructure and on data, the spending review process will be our opportunity, I guess, to put our own stamp on it, with our own priorities. I agree that there is too much paper in the county courts. There is too much paper in the prison system—something like 5 million sheets of paper every month across the prison estate. It is an astonishing amount of paper.

In fact, the other thing I was pretty shocked by when I entered the Department was when we were looking at implementing SDS40. You are looking at paper warrants, and it is a paper-based sentencing calculation exercise. There is a big piece of work that remains to be completed from what previous Administrations have tried and other changes that we, as a new Government, would want to make. I want to make sure that we crack on with it. There has been some progress in the county courts on digitising money claims and damages claims. I believe HMCTS's next phase of that digital work is to move on to possession claims.

My understanding of the previous Government's policy, working with HMCTS, was to look at the prioritisation of the digital programme based on a cohort of claim types in the county court. Those are the biggest areas. The intention was to digitalise them first and then move on to other areas afterwards. Some progress has been made, but we can all agree that there is a lot further to go.

Q50 **Tessa Munt:** Is there an envisaged end date for paper bundles to be not a thing any more?

Shabana Mahmood: We will set out our fresh look at productivity gains that we can make from further digital infrastructure and greater use of data, more cross-Government working and so on at the next spending review process. Once we are able to reshape what we have inherited in that space, based on our own spending review priorities, I will be able to come back to the Committee to talk about the future and what that should look like.

Q51 **Tessa Munt:** To pick up on the data point, in July, the Judicial Office published a report on data in the family justice system and said that the core case data, the new case management system under the reform programme, "is not designed to monitor and evaluate the family courts". Are there plans in place to do something about that and to introduce something to develop a system to deal with family courts?

Shabana Mahmood: Let me take away the specific on the data and what it currently can and cannot do. Again, it may be helpful for me to



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explain our first principles approach. We think there is more that can be achieved with better-quality data, using that data to monitor live what is going on in the system, driving the best possible decisions at the right time.

I will obviously want to interrogate the data picture that I inherited and whether that is the best kind of data we can have and whether we are maximising its potential to drive good policy decision making. In the end, you are not just collecting it. There is a necessary transparency element to collecting and publishing it, but at policy level and for Ministers it should be driving policy decisions that will, hopefully, get ahead of problems and enable you to take a strategic view. I want to make sure that the system we craft is able to do that.

Q52 **Tessa Munt:** When you are writing to the Committee about that, maybe you could let us know exactly what new data is available as a result that has already been worked. That would be helpful. Thank you.

Shabana Mahmood: Yes.

Q53 **Tessa Munt:** As I understand it, each Department has been asked to find 5% efficiencies by reducing expenditure that is not aligned with the priorities of the Department. What is not a priority in the MOJ?

Shabana Mahmood: I hope you will forgive me if I do not get ahead of a process that is only just being conducted. The spending review process, as you know, has been kicked off by the Chancellor and the Chief Secretary to the Treasury. We will be carrying out a zero-based review. Understandably, they wish to set a target on efficiency gains. We will obviously do our bit in that process.

Q54 **Tessa Munt:** If you do not know what the non-priorities are, what are your priorities for the fixed spending envelope that you have?

Shabana Mahmood: As you will see from the decisions I have been making, in the range of measures I have already implemented, and in particular the two main reviews that I have announced, I inherited a system, every bit of which is broken or about to fully and finally break. Prisons are on the verge of collapse. The probation service is already straining under the pressure on it. The court system is hugely backlogged, doing a tremendous disservice to victims and others as well.

My first priority is to make sure no bit of the system completely topples over, which is why I had to make the choices on prisons that I did as soon as I came into office. I then have to get us to a position of greater stability. My long-term vision, and the reforms that I am looking at and the reviews that I have announced, is designed to get us to the position of a sustainable system, end to end, for all the parts of the system for which I am responsible, from the minute they enter, which is the courts, and then out into probation, if we are looking at crime, for example.



We need a sustainable system. Sadly, that cannot be achieved overnight. It is a process. It will take some time. It will, no doubt, require more difficult decisions further down the track of the order that the Chair and I have already been discussing. This is a system under tremendous pressure and tremendous strain. We have to turn it around. It is reform and getting us to a position, first, of stability and then to it being a sustainable system.

Q55 Tessa Munt: We understand that the headquarters has had an increase of 66% in its staff, an extra 3,000 full-time staff in the last five years. That is all about programme delivery data and digital. We have heard already about the digital stuff and data. The frontline, which you have described, of prisons and probation is under serious resource constraint. How will you get that priority sorted? Are the new staff in the right place?

Shabana Mahmood: In a way, this will all be part of the zero-based review, where we go through line by line what we are currently spending money on. We will, of course, be looking at staffing. The vast majority of staff for the MOJ are out in the community delivering services. They are frontline staff, whether that is probation staff or prison staff. Those staff account for a huge number—over 90%, I believe—of our total staffing complement.

You are right that the HQ staffing has increased. Again, those were decisions made by my predecessors and officials at the Department. I believe the rationale for those changes, as they were made, was around bringing in house functions at each of the different agencies that the MOJ was carrying out themselves. If they were here they would say that it was an attempt at a rationalisation of spend and making sure that the expertise is in-house where it needs to be, allowing those out in the field and on the frontline to carry on with the focus that they need.

There has obviously also been an increase in frontline staff as well. In a way, that is the inherited position, and going into spending review phase 2 will be the opportunity to interrogate whether that rationalisation has worked as it should, with all of the questions that you would expect me to ask if I am doing a zero-based review.

Q56 Tessa Munt: There is a 2024 budget commitment to “recruit thousands more prison and probation staff”. How many thousands, and by when?

Shabana Mahmood: You will already know about the commitment on 1,000 new in probation by the end of March. On prisons specifically, we are, if not at full capacity on staffing, almost at it. I can write to the Committee with the exact number.

You all know that obviously there is an attrition rate. You don't stand still on your staffing. You have to make sure that, if there are any gaps, you are able to recruit. The funding settlement allows us to do that for 2024-25, but more importantly for 2025-26. That will necessarily depend a



little bit on what is actually happening in terms of retention. I can write to the Committee with further detail on that.

Tessa Munt: Thank you very much indeed.

Q57 **Mr Barros-Curtis:** Following on from that, Lord Chancellor, I am wondering about your recollections from when you came in, and now your perceptions of the morale of the Justice team; I don't just mean at headquarters. As you say, there are those in the wider ecology of the ecosystem out there in the community.

As you referred to in a previous answer, and we see it in our constituencies, there are consequences of backlogs and the impact that has on our constituents. This is not to speak for everyone on the Committee, but from the visits we have done, we have seen it with the probation staff and the prison staff who are doing brilliant work in very difficult circumstances, with SDS40 and so on. We have spoken with victims. I am curious about your perception of the morale that you saw at the moment you came in, where it is now and how you see it going forward, particularly given that the MOJ touches so much of our lives, yet it is not a protected budget.

Shabana Mahmood: When I came in, it was very much an emergency situation. It was a system and a system of people under huge amounts of stress, essentially going bust. That is a way of characterising what happens when you run out of prison places.

What I was really struck by was that it was not just people in the MOJ bit of the system—prison governors, prison officers and other probation staff. It was not just our staff; it was people across the whole of the criminal justice system. I was very struck at my first Criminal Justice Board, which I chair and which brings together all the players in the criminal justice system, from policing to barristers, solicitors, the CPS and everybody—the Home Office is represented there as well—that everybody was seized of the problem in relation to prison places. In fact we discovered soon after, over the summer, that the head of the Met and other police chiefs had been writing to the previous Administration to tell them that they needed to make some decisions on prison capacity, otherwise the whole system would go bust.

The whole system was seized of the problem. Everybody was worried. Morale was low, and there was a sense that we were literally surviving day by day. Having made some very difficult decisions early and trying to get us to a position of stability gave some confidence to the system. At least something was being done and the problem was being gripped. I have tried to give as clear a signal as I can to everybody across the criminal justice system that dealing with not just the prisons capacity crisis but the wider crisis in the justice system is a priority for this Government. I hope that they are able to take that confidence from the changes that I have already made and the reviews that I have announced, with further reforms and changes to come.



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I'm not going to pretend that the picture out there is easy. I see a fair bit of prison officers and probation officers. I have been out to Stocken recently, chatting with prison officers there. It is a tough job. At the best of times, it is a difficult job. We ask a lot of our people who work in this system. They have been working under unacceptable conditions for far too long. I think people recognise that we are trying to change things, and that that change will take some time. There is a premium on me being able to send a signal that change is on its way. I am seized of that personally every day.

For what it is worth, I will observe that in every single bit of the system since I have been in, despite what I have asked of them, how difficult it is and how quickly they have had to work, people have all risen to the occasion.

Q58 Warinder Juss: Lord Chancellor, we have been talking about Crown court backlogs and the various personnel involved in our justice system. One of the reasons given for there being a backlog in Crown court cases is the lack of lawyers. I have a few statistics. Last year, 139 sex offence trials did not go ahead because a prosecution lawyer was not available; 113 trials were postponed because there was no defence lawyer. This compares to only four times that it had happened in 2018 and nine times in 2019. The Criminal Bar Association found that in one year nearly 40% of junior barristers decided not to do any criminal work.

There are a couple of issues, especially when it comes to rape and serious sexual offences. Barristers are finding the cases to be increasingly complex, and they do not pay as well as other areas of the law. In fact, the pay is regarded as quite poor. You yourself, as a former barrister, will know that barristers only get paid once a case is concluded. There may be some provision for interim payments being made.

You have announced increased funding for criminal legal aid, but is that going to be enough to get additional lawyers on board to do these cases? The increased funding for criminal legal aid is only going to apply to new cases, so what is going to happen in dealing with the backlog of Crown court cases that we have?

Shabana Mahmood: Obviously, I have made some changes already as you alluded to, Mr Juss, on Crime Lower and the £24 million uplift. The first thing to note is that the legal aid system, like every other bit, is of course under stress. The previous Administration faced legal action and had a bit of a history with the professions on legal aid and pay, for crime in particular. We made some quick decisions to try to stabilise the system.

I don't wish to get ahead of any further announcements to be made because I need to do that in the proper way, but I will be doing everything I can to take further steps to stabilise not just criminal legal aid but civil legal aid. The first priority is to try to move to a stable position. I will then be working very closely with Minister Sackman—this



falls within her area of responsibility—to think about any longer-term changes that we need to make as well.

Q59 Warinder Juss: You mentioned civil legal aid. As you said, you have announced consultation on increasing civil legal aid funding as well. You said that it is an important step in rebuilding the justice system. I understand that at the moment the proposal, when it comes to civil legal aid, to increase funding will only apply to immigration and housing cases. What about the rest of the civil law area cases? Is that going to be enough to have access to justice for civil legally aided cases?

Shabana Mahmood: You are right that the announcement on the consultation applies to immigration work and housing. In the very broad picture of the civil system and civil legal aid, those are the two areas of greatest stress. I am trying to maximise what I can achieve within the funding envelope that I have. I have tried to stabilise the system and prop up the bits that are most likely to experience system failure. That is where I have made that choice. I obviously want to look at the broader civil system as well. You know about the review of civil legal aid, which I have been considering very carefully. We will set out further proposals in the fullness of time. As I say, it will be a top priority for Minister Sackman and me.

Our challenge is obviously trying to make sure that we have an affordable system and can stay within the funding envelope that we have, but we have to make sure we maximise that envelope to get the best possible coverage of civil legal aid and criminal legal aid so as not to impact negatively on access to justice. It is a priority, and we are looking at it very carefully. I expect to be able to say more imminently, but I don't wish to make any further announcements now.

Q60 Warinder Juss: I have a final two questions. The proposal to increase civil legal aid funding does not currently apply to family law cases. When we had the LASPO legislation back in 2012, it led to an increase in litigants in person, most notably in family law. Currently, what additional support is going to be available for those who are not entitled to legal aid? What about organisations that may be able to offer support for those people or individuals?

Shabana Mahmood: I think there is already some grant funding for those who are not eligible for legal aid. I can write to the Committee with the details, but I think there is between 15% and 20% of that grant specifically for litigants in person at court. I accept, again, that if you look at what has happened over the last 14 years, when you make such big changes as the previous Administration did on the availability of legal aid, it is going to have some downstream impacts. We are obviously seeing those impacts play out.

We want to make sure that we have sufficient coverage within the funding envelope that is available to us, and whatever else we negotiate in the next round of the spending review, to maximise what we can get



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out of that funding for legal aid, stabilising the system and moving it to a position almost exactly as in Crown courts and in the prison system, going from stability to longer-term sustainability. We want to achieve the same in legal aid. I will look carefully at what the evidence is around litigants in person, whether that is a further stress on the system and whether other funding earlier might prevent some of the things that we are seeing. That is a big piece of work that is currently getting under way.

Q61 Warinder Juss: It is reassuring to hear that you are carrying out a review to ensure proper access to justice. Is there any indication in terms of timescales? When do you think we may have answers to everything that we have discussed this afternoon?

Shabana Mahmood: We will be making some further announcements in due course which speak to trying to get the system to a position of sustainability. In the new year, Minister Sackman and I will set out a broader direction of travel on legal aid. Some of that will be spending review dependent. We obviously want to maximise our position, like every Government Department, on our settlement, but that will then necessitate further decisions on legal aid.

We want to make progress. We want a system that is sustainable and does what society expects it to do, which is to provide access to justice. We want to make sure that we do not have any legal aid deserts. It is the Legal Aid Agency's job to try to prevent those from happening, using its levers to make sure that there is full coverage. We need to make sure that all of that is working as it should. As you would expect of any new Government, to the extent that we are able to, given our funding situation, we will think about the longer-term health of that system as well. It is obviously something we care about deeply.

Chair: Thank you. We are going over to Alex Barros-Curtis on youth justice.

Q62 Mr Barros-Curtis: As the Chair said, I want to focus on youth justice for a few questions, Lord Chancellor. The first is to reflect on the number of children currently in custody. In the last decade, we have seen that number reduce significantly. I am just checking my figures. In 2014-15 it was 1,037. By 2022-23 it had gone down to 440, but of course that reduction is not shared evenly across all demographic groups.

The number in 2020 and 2021 of children and young people in custody who were white reduced by 86%, but minority ethnic groups totalled only 60%. Currently, black children continue to be over-represented in custody. I would be grateful for your comments on that, and also on what the Government's long-term ambition is in respect of youth custody.

Shabana Mahmood: Thank you. On what happened in terms of the youth estate, it is one of the few areas where I can commend the progress made by the previous Administration. We have seen a huge reduction in the size of the youth estate. I think that is very welcome.



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We are incarcerating far fewer children than we used to. Across Government there has been a real push to divert children away from custody and to try to make other interventions happen earlier that get children out of the vicious cycle of getting caught in a life of crime, which is what decides their outcomes in life as an adult as well. My start point is that that is a direction of travel that was set by the previous Administration which I agree with. It is progress that we have inherited and want to build on.

One of the learnings from that huge decrease in the size of the youth estate is that, of course, in the children who are now imprisoned, you have a much more complex cohort. It is right that 70% or so of the children now in custody are in for offences of violence, and usually violence at the more serious end of the spectrum. It is a very positive development that we are imprisoning far fewer children, but those we imprison present a different challenge in terms of cohort.

My priorities for the youth estate are that I want to run a youth estate that is safer. We know that levels of violence are very high. Our first priority, which I know Minister Dakin is working on directly, relates to getting levels of violence down and getting educational activity up. Those two things are fundamental and crucial. I don't want to read further reports of children being more scared now, compared to what was the case in previous years, of fights breaking out and of staff being hurt. Those are top priorities.

We have to be able to run a safe estate. It is smaller, but the danger level is different and the cohort is different. That has its own challenges. That is priority No. 1. Aligned to that is education. We want to make sure that those children are put in the best possible position to leave a custodial setting able to move on with their lives, having repaid their debt to society and, hopefully, having the support they need to turn a corner.

Those are top priorities. Other things necessarily flow from that. Of course, I am interested in differentials. We know that there is already what looks like differential treatment of white children and black children when it comes to remand. Where similar cases lead to remand for black children, it does not necessarily replicate when it is a white child. I want to take a bit of time to work through how we prevent that differential from occurring, but our top priority has to be on dealing with violence in the estate and on education. Fundamentally, children who are going to come out from the system at some point need to come out more capable of succeeding in the rest of their life.

Q63 Mr Barros-Curtis: I appreciate that. On your point about differentials, we heard evidence from the DPP a week or two ago. He was talking about a review that he wrote to the Chair about, in terms of the approach taken with charging on that specific point. It has to be a holistic approach.

Shabana Mahmood: There has to be a system-wide approach because it is a system-wide problem.



Q64 Mr Barros-Curtis: Exactly right. Touching on how you tackle the decline in education, which was picked up in a joint review by the chief inspector of prisons and Ofsted, and the tackling of violence and lowering those levels to deal with the complexities you identified, what strategies or plans are the Government employing to bring those into effect?

Shabana Mahmood: Minister Dakin is directly looking at the educational offer in the youth estate and where we might make some changes for the medium and the long term. Again, for the funding that we have available, are we getting the best possible deal and achieving everything that we want from it?

The Committee will obviously be aware of the new secure school that is up and running. I understand it is making good progress and will ramp up over the next few months or so. We will want to evaluate and look at that very closely to see whether the outcomes are better in that sort of setting than what we see in our YOIs. There is already some work under way that we have inherited and that we want to build on. We will set out more on education in the youth estate over the course of the next year.

Q65 Mr Barros-Curtis: You mentioned the secure school. The last Government had a commitment to close young offender institutions and secure training centres. Is that a commitment this Government hold to, or is it contingent on the evaluation, for example, of the secure school that you mentioned, in order to evaluate whether the alternative measures are working in the way that it is fashioned for?

Shabana Mahmood: I have the same desire, which is to try to further squeeze down the youth estate as much as possible and, longer term, look at, if they prove to be successful, secure school-type settings. Now that one is under way, the appropriate thing would be to look at what the evidence shows us in terms of outcomes for children. I guess that is the crucial determinant of where policy goes.

The only reason I would not give that cast-iron commitment now today is that, as I say, the cohort now in the youth estate presents different kinds of challenges. I want to be confident that with the challenge on violence, we make sure that we are able to make the interventions necessary to reduce that violence, not just in the estate but to help the children who go in for really quite violent offences, and properly turn their lives around and be rehabilitated. I want to be very confident that we have stress-tested that fully before we make broader indications of further reductions that we might want to see.

It is not completely contingent. There has mostly been cross-party consensus, rightly, that imprisoning children is not where you want to go as your first option. It should very much be the last option on the table, but I want to see more of the evidence on the secure school first, and also that we have properly interrogated what is happening with this particular cohort that has its own challenges, before I think I can set a



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broader direction of travel as to where we want to be by the end of the Parliament.

Q66 **Mr Barros-Curtis:** I appreciate that. Do you have a sense right now of the timeframes you might be thinking about for that evaluation vis-à-vis the secure school, and then for the broader approaches to tackle violence and so on?

Shabana Mahmood: Yes. Without wanting to speak for Minister Dakin, I will take that away and write to you and give you a sense of what you can expect and when next year.

Mr Barros-Curtis: That would be helpful. If there was an indication of milestones for when updates might be presented, whether to Parliament or to this Committee, that would be very helpful.

Q67 **Tessa Munt:** I want to raise quickly one particular matter relating to the youth justice system. If a young person comes into the youth justice system for something that has happened, and they go past their 18th birthday and find themselves being dealt with as an adult, is there a way of reversing that? It seems unfair, if the delays in the system relate to two, three or four years before anything is resolved, that on something you might do at 14 or 15 means you are dealt with as an adult come 18.

Shabana Mahmood: You raised this at oral questions, and you have written. Let me take that away, and we will come back to you with a response.

Q68 **Tessa Munt:** I am alarmed that you have to think about it.

Shabana Mahmood: It is a question of what you could do to change that situation. Let me come back to you with what commitment we might be able to make.

Q69 **Pam Cox:** Going back to the secure schools issue, we have had secure schools of various kinds since the 1850s. They have had various names, such as industrial schools, approved schools, reformatory schools, community homes with education and so on. There is lots of evidence around how they have worked in the past. There is a suggestion by the Association of Directors of Children's Services in the MacAlister review that a really bold thing to do would be to move youth justice policy to the Department for Education and out of the Ministry of Justice. Other states do that; other countries operate the system through their education system. Is there any possibility of considering that?

Shabana Mahmood: That is not a conversation I have directly had with the Education Secretary, so I would not want to make a commitment here today. I can see why that case is made. What I reassure you and the Committee on is that the Ministers responsible—Minister Daby in the Department for Education and Minister Dakin from the MOJ—are working closely together. The Government, of course, have their opportunity mission, which is about outcomes for young people. Both Ministers from the two Departments are looking carefully at the work of that mission and



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what we might be able to achieve for young people who are caught in the criminal justice system.

There is certainly good cross-government working and Ministers are already engaged. Is there a broader question about where the policy area sits? I think it is a conversation. I am not shutting the door on that conversation. I would be willing to discuss further with DFE colleagues. Ultimately, it will be up to the Prime Minister whether he wishes to make a bigger machinery of government-type change. Absent that, I want to reassure you that the approach of this Government is very much to work across Departments.

The Prime Minister is very clear that he does not expect his Secretaries of State to be caught in silos, not talking to one another and not pooling resources where possible. I can reassure you that the fact that it sits here and not at DFE is not a bar to considering best practice about how we make the estate function as it should.

Q70 Chair: We're moving on. We are almost there. One of your policy priorities is a women's justice board. What do you hope to have seen that initiative achieve by the end of this Parliament?

Shabana Mahmood: You might have seen, Chair, from my speech at conference when I announced the women's justice board, that going from first principles we imprison far too many women. Too many women in the women's estate have been imprisoned for non-violent offences. Too many of them are mothers, and in too many cases when mum is in prison it leads to the break-up of the family home. There is a wider cost to society that I would like to limit as much as possible. Ultimately, my broad ambition is to see fewer women prisoners and fewer women's prisons. That is the steer I have given to the women's justice board.

It will be up and running early in the new year, when we will set out more of its work and its full remit. I am very excited to be launching it soon. They will have some things that they are looking at directly for us. We have a particular interest in reducing rates of self-harm among the female population in prison and looking at alternative settings to custody for women. There will obviously be a relationship between what happens in the female estate and the outcome of the sentencing review, which the women's justice board will be very alive to.

Very early next year you will see the announcement of the board, its members and the initial work that it will start conducting. Once it is under way, and depending on the interaction that any changes they might make have with the sentencing review, I hope to be able to set out more about where I think we can get to with the female estate. In fact, we have just been discussing what happened in the youth estate. We have seen a big shrinking of that estate over time. It is a little bit too early to say that, but I have started it and set it up with the ambition of fewer women prisoners and, ultimately, fewer women's prisons.



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Chair: Finally, we are going to start our first major inquiry in the new year on rehabilitation and resettlement. I have a question to lead into that, but Warinder has a quick question.

Q71 **Warinder Juss:** One of the questions I had in mind, Lord Chancellor, is this. There is a view that, although we need to lock up serious offenders for the safety of the public, we have too many people in prison. Could you give any indication as to how far you have looked into ways of providing punishment and rehabilitation through a non-custodial sentence, avoiding prison but still giving an element of punishment and, moreover, providing rehabilitation without somebody having to go to prison?

Shabana Mahmood: I guess the first answer to your question, given the position I have inherited, is that I do not have the luxury of interrogating from first principles what an ideal prison population might look like or what the picture of sentencing has led to. In a way, I have a crisis. We have to do supply, we have to build; and we have to look at demand and everything in between. That is why the sentencing review is looking specifically, first, at making sure we have the prison places we need for the people who have to be locked up and, secondly, at how we do a better job of rehabilitation, because you are exactly right: we are not doing as well on reducing reoffending as we should be.

Too many people are coming out of prison basically as better criminals than they were before they went in. When you have a situation where 80% of offenders are reoffenders, you know you have a big problem on reoffending. You know your rehabilitation is not achieving what it needs to achieve. That is a specific task for the sentencing review. Finally, it is how we expand the range and the use of punishment outside prison. This is a space where I think advances in technology can very much help give the public confidence in our ability to supervise and monitor offenders who are outside prison, and where we can deliver what looks and feels like proper punishment because it is effectively still a curtailment of liberty, with strict conditions attached.

My own test, as it were, for any further expansion of punishment outside prison is that it has to meet the test of public confidence. I have to be able to look my own constituents in the face and say, "This is a good system that you and I can both have confidence in," because without confidence from the public the whole system falls apart. I am very clear that there are consequences to actions. Prison has a place and will continue to have a place, and that place is about punishment and rehabilitation. The two things go hand in hand.

Q72 **Warinder Juss:** Very quickly, we have heard of cases—we made a visit to Brixton prison and heard the story there—where people are going into prison who were not using drugs, but they come out using drugs.

Shabana Mahmood: They become drug-addicted in prison, yes.

Q73 **Warinder Juss:** Do you have a view as to whether you think there are



people in prison who perhaps should not be there?

Shabana Mahmood: The driver of the sentencing review is making sure that people who have to be locked up always have a prison place. If you run out, you are no longer able to make a choice between who needs to be locked up and who you can give a community sentence instead. You have just run out of places at that point, and you do not have all those levers at your disposal any more.

I do not start from an ideological position that certain types of people should not be in prison and others should. In the end, independent judges will make a decision on what the appropriate sentence is, based on the case that they have heard in front of them. We need to make sure that the sentencing regime and its relationship to prison places is such that there is always a prison place for those who have to be locked up.

Your separate point is on those who become drug-addicted in prison. The situation with relation to drugs in prison is an absolute travesty. I think you are about to have an inquiry and I would be very interested in engaging with you on your work. The real driver for policy on drugs in prisons has to be decreasing demand for drugs in prison. We can make progress on cracking down on supplies and preventing drugs from getting into prison. I am sure that when you do your inquiry you will see all the changes on security. Entering prison has much more airport-style security. It is designed to root out drugs getting into prison. There are no-fly zones. You will see the netting, I am sure, designed to prevent drones, but the reality is that as demand remains high in prisons, you can expect that they will find another way in.

To stop drugs getting in, you are playing whack-a-mole. It is important that we keep physically trying to stop the drugs getting in, but that has to go hand in hand with doing a better job with the prisoners who are inside prison, to decrease demand as well. I think that needs a bigger space and much more usage of drug-free wings and getting in early with help and support for prisoners who already have a drug problem and are in prison. We must make sure that the whole system pivots towards getting them off drugs. That is good for them, but we also need to crack down on the supply that is coming in.

Q74 **Chair:** Where can we look for good examples of rehabilitation in prisons, given that the chief inspector has just found that, of 32 prisons he reviewed, only two were rated reasonably good or good for purposeful activity?

Shabana Mahmood: I think when the Minister for Prisons was in front of you, he named some examples: Hatfield, I believe, Drake Hall and Rye Hill. They are the three that come to mind immediately. I think that is based on HMIP reports. I will write to you with a list of others that you can look to for good practice.

Chair: Very helpful.



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Shabana Mahmood: I assure you, Chair, that there are some good examples out there. It isn't always a bleak picture.

Chair: The last question is from Josh Babarinde.

Q75 **Josh Babarinde:** I cut short my questioning earlier to make sure everyone else had a chance. I cannot stop thinking about those 60 or so abusers, people who have perpetrated breaches of sexual harm prevention orders, stalking protection orders, restraining orders or perpetrators of revenge porn and who, due to the oversight you mentioned because of the speed, have been released early—those who would not qualify now. Were all the victims and survivors of the crimes that those people perpetrated informed of their early release? What support is being provided to them?

Shabana Mahmood: The usual arrangements on the victim contact scheme or victim notification scheme will have been in place. I am not aware that any of those schemes did not work as they should in the case of the 60, but, as I say, I can write to you with further details on that.

Q76 **Josh Babarinde:** The victims will only be contacted under the victim contact scheme if their abuser received a sentence of 12 months or longer. We know that there are abusers who received sentences of less than that, so those victims and survivors will not be contacted under the scheme. Do you think that is something that needs to be reformed? If you do, what steps will you take towards making sure that all victims and survivors, regardless of the length of the sentence, will be communicated with via the scheme?

Shabana Mahmood: The schemes have been designed by previous Administrations, and by previous Members of Parliament campaigning for more information and advice being available to different cohorts of victim. That would be true. Once the sentencing review has made its recommendations and given us some further proposals on how we look at offences of violence against women and girls, that is the appropriate moment to then also look at what the broader picture is on victims as well. It is certainly something that is very much on my radar.

I have been discussing with the Victims' Commissioner, the Domestic Abuse Commissioner and other campaigners in that space as well. It is a clear focus for the Minister for Victims. We will return to the schemes we have and what shape they may have in future, given where we think we might get to with the sentencing review. I think the sentencing review is the first opportunity to take stock properly and to get to a coherent treatment of VAWG offences across the system.

Q77 **Josh Babarinde:** But surely, abuse is abuse regardless of the sentence.

Shabana Mahmood: We are in agreement about the principle. The question is what you implement and when, and what is the right moment to think about further changes. If you are already looking at the sentencing for a cohort of offenders, once we have those proposals is the



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appropriate moment to think about what other system changes you might need to support the new direction of travel, if there is one, based on what the sentencing review says.

Chair: It only remains for me to thank you, Lord Chancellor, for all your time this afternoon. I also thank all the witnesses who have appeared before us. I thank the Committee who, apart from Tessa and me, are all new Members and new to the Committee. I have been doing it for years.

Today, I particularly thank our secretariat, without which this show would not be on the road, and our chief Clerk, Rob Cope, who is moving on to higher things after a number of years. Thank you, Rob, for all the wonderful support that we have had. I wish everybody a merry Christmas.