

Public Accounts Committee

Oral evidence: Crown Court backlogs, HC 348

Thursday 9 January 2025

Ordered by the House of Commons to be published on 9 January 2025.

[Watch the meeting](#)

Public Accounts Committee members present: Sir Geoffrey Clifton-Brown (Chair); Mr Clive Betts; Nesil Caliskan; Anna Dixon; Peter Fortune; Rachel Gilmour; Rebecca Paul; Oliver Ryan.

Justice Committee member present: Andy Slaughter.

Gareth Davies, Comptroller and Auditor General, National Audit Office, Lee Summerfield, Director, National Audit Office, and Marius Gallaher, Alternate Treasury Officer of Accounts, HM Treasury, were in attendance.

Questions 1-86

Witnesses

I: Dame Antonia Romeo DCB, Permanent Secretary and Clerk of the Crown in Chancery, Ministry of Justice; Jerome Glass, Director General, Courts and Access to Justice Policy, Ministry of Justice; Nick Goodwin, Chief Executive, HM Courts and Tribunals Service; Daniel Flury, Operations Director, HM Courts and Tribunals Service.

Report by the Comptroller and Auditor General
Reducing the backlog in the Crown Court, HC 728

Examination of witnesses

Witnesses: Dame Antonia Romeo, Jerome Glass, Nick Goodwin and Daniel Flury.

Chair: Welcome to the Public Accounts Committee on 9 January 2025. We are examining the Crown court backlog, which has reached an unprecedented high, given the figure of 73,105 cases being unheard at the end of September 2024, representing a 10% increase on the previous year and approximately twice the figure in 2019. As the Bar Council said in evidence to us, long waits for cases have a serious effect on defendants, witnesses and victims, including on victims' deteriorating mental wellbeing and with an increasing number of defendants spending long periods on remand awaiting trial.

Today, we will question our witnesses from the MOJ and HMCTS on what they have done to reduce the Crown court backlog and on their understanding of the wider impact on victims, witnesses and defendants. We will also examine what the MOJ and HMCTS are planning to do to reduce the Crown court backlog and to address the unacceptable delays to justice for all those involved in the justice system.

Just to let everyone know, including our witnesses and anyone else who may be attending the sitting, we will have an informal five-minute break about an hour into our public session.

With no further ado, I extend a warm welcome to our witnesses, and I hope that they all had a happy new year. Dame Antonia Romeo is the permanent secretary to the Ministry of Justice, which she joined in 2021—you have corporate memory of all this. Nick Goodwin is the chief executive of HM Courts and Tribunals Service and was appointed in March 2022. Jerome Glass is the director general of the policy and strategy group at the MOJ and was appointed permanently to that post in August 2021. I have no piece of paper about you, Daniel—my memory is to be refreshed shortly, I hope, but perhaps you will introduce yourself.

Daniel Flury: I am Daniel Flury; I was appointed operations director of HMCTS in 2023.

Q1 **Chair:** Brilliant—thank you. Welcome, all of you. Let's go straight in.

I have a soft question for you, Dame Antonia, just to get us used to questions. Do you agree with the old legal maxim that justice delayed is justice denied?

Dame Antonia Romeo: Certainly, yes, and in particular I note that the Lord Chancellor in December reaffirmed her strong view that justice

delayed is justice denied to the Justice Committee. I see we have its Chair with us today.

Q2 **Chair:** Without giving a huge, long answer, will you briefly—almost just with sketches on each item—tell us what you are doing about that? Members of the Committee can then come in on all those aspects, I have no doubt.

Dame Antonia Romeo: Thank you for having us, Chair. If I may, I will quickly set the scene on what has happened on the outstanding caseload since, as you say, the pre-pandemic level, which in 2018 was at a record low. Obviously the pandemic led to a significant increase in the caseload up to about 58,000—a little over—in March 2022. In October 2021 it was at 59,000. That was when we set the original ambition that by March 2025 we would bring the caseload down to 53,000.

We were on track to begin to do that post pandemic. Then the CBA disruptive action added a number of cases into the outstanding caseload, so it started to go up again significantly. That, combined with the harder case mix that had developed as a result of the cases in that outstanding caseload and the significant increase in receipts from demand, with new demand coming in, for example, from the additional police being recruited, meant that the caseload continued to go up. As you say, it is now at a record high of 73,000.

In terms of what we are doing to reduce it, there are clusters of things. There is ensuring that we have the physical capacity to do the work to bring the caseload down and to do as much as we can within the funding constraints on sitting days. That is about having physical capacity in the courts. It is about having additional Nightingale courts where needed—we can say more about that if needed. We have done a huge amount of judicial recruitment. In the past, there had been constraints in some areas. We have been running major recruitments for circuit judges and recorders.

Then it is about some policy things that we can do. For example, in November, we increased the magistrates' sentencing powers back to 12 months from six months. It is partly about looking at what we can do within our current arrangements for some diversion out of Crown. We are very much focused on that.

The other thing that the Government has recently announced is the Leveson review, which will look at what more can be done to try and divert out of Crown to focus on, within the constraints of needing to have a fair trial, looking at diversion where it can be done and to reduce timeliness, and in particular, to also look at efficiency. The reason we do all of this is that we recognise the real-world impacts that delays have on victims. It is very serious. The Lord Chancellor and the Government have been very clear that they want us to focus significantly on this.

Chair: That was a very helpful introduction—thank you. To start to unpack all that, I call on Oliver Ryan to ask his first question.



Q3 Oliver Ryan: Dame Antonia, you have sort of answered this question in your opening statement. In 2021, you assured us, as you said, that you would get the backlog down to 53,000 by March this year. You have mentioned the pandemic, industrial action, demand and additional complexity. As a kind of second layer, to build on the question I was going to ask—which was, “Why haven’t you met it?”—is it purely an issue of capacity, and that there were issues in the system such as the pandemic and the strikes that meant you could not meet the sitting day targets that you wanted to meet? What was the in-built reason, logistically, why you did not meet those targets?

Dame Antonia Romeo: It is different things at different points, really. The fundamental unanswerable point is that the demand on the system is greater than our capacity to dispose of that demand. Receipts are increasing significantly, and the ability to dispose of that has not kept pace. Therefore, the outstanding caseload goes up. There have been at different points—during the pandemic, there was a physical capacity constraint. There was at one point a judicial capacity constraint, and the significant in-flow from new demand from the police has meant that we are constantly trying to put in place the ability to manage this influx of demand.

But I would say that what the Government has recognised is that with all the money in the world, at the point where we are, given what is happening in the trajectory, it would be very difficult to get back into line, which is why we are looking at what can be done through the Leveson review. We have asked Sir Brian Leveson to look at what can be done with some bigger reforms in terms of what comes to Crown.

I would also take this opportunity to pay tribute to the people who work in the courts—I mean Crown, as well as all jurisdictions and colleagues across the whole justice system—who have fought to try and get this down into line. We are all very focused on it to bring the backlogs down.

Q4 Oliver Ryan: Do you know, as we sit here today, the current backlog figure? We have the 73,000 figure for, I think, September last year. What is it as of now?

Dame Antonia Romeo: We are working with 73,105. The next figure, which is for December, will, I think, come out in March. As we have learned—I am sure we will get into this—we have to assure the data before we use the figure publicly. If anything, my expectation is that it will be higher.

Q5 Oliver Ryan: Right, okay—it will be higher again. It is a worry. People will get into this as we go through, but it is the wait for victims and the wait for justice that concerns us most. It is almost not about the procedure of the legal process. It is about the really harrowing stories that we have had in written evidence to the Committee, which show, as the Chair referred to, that people waiting for justice often suffer because of that wait. What is your current ambition for the level of open Crown court cases? Do you think you can get to the 53,000 that you wanted to get to?

Dame Antonia Romeo: As I think the Lord Chancellor has said, given where we are at the moment, the number is definitely not going to come down to the previous ambition of October 2021 by March 2025, and I would not want to make any predictions of when we will get it down to that level. It will depend, crucially, on what comes out of the Sir Brian Leveson efficiency review.

Q6 **Oliver Ryan:** I have just one more question; the Committee will touch on different issues in further questions. There is something to be said for the industrial action, as you say, and the effects of legal aid cuts over the last few years. I think something like 48% of Government cash was pulled out of legal aid. That has obviously caused issues with processing cases in the courts.

There is also a figure in the NAO Report that says that something like 27% of cases were ineffective in the courts in 2023. That is particularly concerning, because you are allocating them sitting time. You are trying to process them through the system but they are failing when they get there, which seems like a bit of a missed opportunity. If these cases were more effective, you would be able to get them through the system quicker.

Dame Antonia Romeo: I know that Nick and Daniel want to comment on the ineffective trials and what has driven up the rate. As for the throughputs, we have been running the system much hotter; the number of sitting days has been going up, and as that happens, you tend to see an uptick in ineffective trials. As the Report sets out, there are a number of reasons why trials are ineffective. The Leveson review in particular will tackle what is seen in the second point in the Report, which is poor case preparation. A lot of it is about case preparation and the things we can remove from the system to make the case management flow more efficiently and better. We are doing some things that will help with that specifically. I might ask Daniel and Nick to say something about ineffective trials.

Daniel Flury: The rate is currently 25%, as published in the latest stats. That is far too high. As Antonia says, it is a symptom of the heat in the system. It is principally caused by defendants being absent, by the defence not being ready and by our desire to maximise court time in the Crown court by sometimes over-listing cases to ensure that we can get on with as many as possible. We are working closely with judges to look at ineffective trial rates. In particular, a judicially led assessment of listing policies in the Crown court is under way and we expect it to report in the spring. That will look at ways in which we can reduce the rate further.

Oliver Ryan: I do not want to take too much time on this, because I am cautious that I have probably overstepped the first question—but, Dan, can I just check that you said the figure is currently 23%?

Daniel Flury: 25%.

Oliver Ryan: That is down from the 27% that we have in the Report.

Daniel Flury: It is, yes.

Oliver Ryan: So the rate is improving.

Q7 **Nesil Caliskan:** Thank you for setting the scene. We know that the backlog in 2019 was just under 40,000 and that it rose by 60% by June 2021. That is pre-covid, so there was already a rise in the backlog of cases.

Dame Antonia Romeo: June 2021 was post covid.

Nesil Caliskan: Post covid, but the covid period included the pre-covid period too. Is it fair to say that there was also an increase in the backlog of cases pre-covid?

Dame Antonia Romeo: There was an increase in the outstanding caseload, yes. From memory, I think it was about 33,000 to about 38,000 between 2018 and 2019. Is that right?

Jerome Glass: Yes.

Q8 **Nesil Caliskan:** So there is an acceptance that there was already a trend in train.

Dame Antonia Romeo: From a record low, yes.

Q9 **Nesil Caliskan:** But the trajectory was going up pre-covid. I ask that because £477 million was given to the Department to deal with the covid backlog, and I want to probe that a bit more. I want to understand whether it was just for the covid backlog or whether it was also to tackle an increasing number of cases pre-covid.

Dame Antonia Romeo: Let me say something, and then I can see that Nick wants to come in. The first thing to say is that the £477 million was for overall CJS recovery. As Nick will be the first to remind me and, doubtless, the Committee, it did not all go to HMCTS for that purpose. In HMCTS, it went on things like Nightingale courts, video hearings, additional sitting days and so on. It also provided money for legal aid for the appropriate cases and went on the probation caseload. A significant proportion of it went on the new prisons we were building—the medium-term estate strategy, so new prisons and the resource to run them. That is the money we were given in that spending review. All that money did not go to HMCTS with a particular focus on reducing the backlogs, if that is your question.

Nesil Caliskan: But they are all interlinked, aren't they?

Dame Antonia Romeo: Of course, yes. It is one big system.

Nesil Caliskan: Nick, did you want to add anything?

Nick Goodwin: I was just going to clarify some of the financials. Of the £477 million, about £42 million went directly to the criminal court side of things. That was required to do things like having Nightingale courts, more video hearings, more cleaning and so forth. We also had a pot of covid money of about £65 million at about the same time. In total for the courts, we had about £107 million to deal with both covid and covid recovery. As I



say, that was very much to make sure the physical space of the court was safe so we could sit trials there, and to help us fund the increased activity with more sitting days to get through the backlog.

- Q10 **Nesil Caliskan:** Okay. The reason I ask is that there is a strong view from barristers that by not including or acknowledging the pre-covid figures, there is a false economy—I think that is the phrase they use—so we must recognise the pre-covid trend of the backlog. There was a *Guardian* article in 2019 and a further article in 2020. Barristers have been quite articulate in accusing the courts of a false economy—as I say, that is the phrase that they use—by not tackling the backlog in 2019, prior to covid.

Dame Antonia Romeo: I am not sure about that, so more detail on the false economy and what exactly is meant by that would be really helpful. There is no suggestion that there has been any attempt not to be clear about the figures. We are very clear about what was happening with the backlog before. It was at a record low, and it went up. It was going up a little bit, but obviously the 38,000 is nothing compared with what it has now ended up being and, indeed, what it was post covid—in October '21, it was 59,000. That was a significant rise, and I do not think people are saying that—

- Q11 **Nesil Caliskan:** But there has been a long-standing issue. It was exacerbated by covid, but there is a view that there was a longer-standing issue. If you don't agree with that, that is fine; I am just trying to understand.

Dame Antonia Romeo: I think it is hard to say that it was exacerbated when the massive amount happened during covid, but I definitely acknowledge that it had gone up a bit pre-covid—absolutely. Jerome may want to come in.

- Q12 **Nesil Caliskan:** The reason I am probing this is that there is such a significant backlog figure and Department officials are being asked to come up with a new way of dealing with it. If it is a temporary issue caused by covid, rather than a longer-term issue caused by a greater flow of cases coming in, that might dictate what structure or systems you put in place to deal with the backlog. If it is the view of officials that it is covid-related and only temporary, that is one view, and it may dictate how you move forward, but if the general trend is that cases are increasing, that may indicate that there needs to be something more fundamental in your approach to dealing with cases coming through the system.

Dame Antonia Romeo: It is a good point, and it is the latter. As I have said, what is happening is that demand is outstripping our ability to meet that demand. It is not just a temporary issue because of covid, although that did originally cause that increasing demand.

Jerome Glass: To pick up on the point about it being a long-term trend, as the permanent secretary said, the backlog went down to about 33,000 in 2018. In fact, the trend prior to that had been a reduction. From 2015, it was about 51,000; it came down, and then it came up a little bit pre-



HOUSE OF COMMONS

covid. As the permanent secretary said, covid completely blew that out of the water.

There are two things going on. First, covid was the thing that really structurally changed things, along with the CBA strike. Additionally, we now have additional demand coming from the extra police officers, and the structure of the crime and the receipts coming into the Crown court are quite different as well, so it is not just a covid effect.

- Q13 **Nesil Caliskan:** They are not temporary measures; they are fundamental policy changes that dictate the number of cases coming in. That is different from a covid period where there would be a temporary demand.

Jerome Glass: That is exactly right, and that is why the Lord Chancellor has launched the Leveson review. We accept that this is a structural issue that requires a different way of thinking, and that is what we have asked Sir Brian Leveson to look at.

- Q14 **Nesil Caliskan:** Given what you have said, do you accept that there is a lack of joined-up thinking between the three levels of justice—policing, courts and prisons—and that one of the impacts has been this huge backlog?

Dame Antonia Romeo: Thank you for that question, but would you mind saying when you think the lack of joined-up thinking occurred, and to what extent a lack of joined-up thinking led to the backlog?

- Q15 **Nesil Caliskan:** If a policy decision is made around policing that would lead to more arrests, that would inevitably mean that more people would be charged and there would be pressure on the courts. Was that not planned for?

Dame Antonia Romeo: It was planned for. In fact, in SR21 we were explicitly given money for the fact that there was going to be additional demand on our system coming from the fact that the new police were being recruited. It was understood—the end-to-end system approach. As Sir Geoffrey knows, I am very happy to talk at length about the criminal justice action group, which I chair.

Chair: We will come on to that next.

Dame Antonia Romeo: Good. I will not give a spoiler now.

We work really hard to join up across the whole system. It was understood at the time that the police were being recruited. I think the point Jerome was making was that it is not just about the new police. It is also about things that happened that we had not entirely predicted. The fact of covid did not just add 7,000 cases into the caseload; it made that case mix much harder. That means those cases are more difficult to handle.

- Q16 **Nesil Caliskan:** Dame Antonia, forgive me, but the two things that were temporary—the strikes and covid—are over, and the numbers are continuing to increase.



HOUSE OF COMMONS

Dame Antonia Romeo: Right, but as you will understand, the lag that is triggered by something like a case mix becoming much harder, and 7,000 additional cases being added to the caseload, cannot be fixed overnight. The lag is quite long.

Just to be clear again, I am not suggesting that this is a temporary problem. The problem is that the demand coming in is not being met. We do not have the ability to dispose of the cases that are coming in at the rate that they are coming in. That is why the caseload is increasing.

Nesil Caliskan: I understand what you are saying, but there seems to be a contradiction. If there wasn't capacity—

Dame Antonia Romeo: Both things can be true.

Nesil Caliskan: Both things can be true. You can plan well, but a Government just does not give you enough resources. Those two things can be true, and if that is the case, it is helpful for you to say that to us. Or, actually, perhaps it did not matter how much we planned, because at that moment in time we did have enough resources, but we had two things—the strikes and covid—that have made things very difficult, which is why the numbers increased. I can accept that, except that there has been considerable time since those two things and the caseload is not coming down. If I am wrong about the latter, I am happy to hear why I am wrong, but my understanding from the figures is that the caseload is increasing.

The Committee needs to understand this. We will come on to the amount of money that has been spent. Given that hundreds of millions of additional moneys have been spent, how can we have confidence that the caseload will come down? That is the context in which I am asking the question, but I will leave it there.

Chair: Thank you very much for probing the historical genesis of all this. Clive Betts will now talk about the rise in legal aid fees.

Q17 **Mr Betts:** On the independent review of criminal legal aid, didn't the fact that you had to have a review indicate that the Department had rather lost its grip of the situation?

Dame Antonia Romeo: The fact that we had an independent review of criminal legal aid?

Mr Betts: Yes. It indicates that something is wrong if you set up an independent review, doesn't it?

Dame Antonia Romeo: To some extent, the Government can choose to have reviews to look in more detail into what needs to be done. In that case it was understood that, obviously, on a historic basis, changes had been made to legal aid. The Government at the time listened to what practitioners were saying and therefore set up an independent review under Sir Christopher Bellamy to look at what had happened. That review



HOUSE OF COMMONS

made recommendations, and the Government are in the process of responding to and implementing those recommendations.

Mr Betts: Right, but before the review, between 2008 and 2021, legal aid fee rates reduced by one third. That seems to indicate a problem, doesn't it? There is something going on there that you are not dealing with on an ongoing basis, isn't there?

Dame Antonia Romeo: I know you will not expect me to comment on the policy of a many times previous Administration. Policy decisions on legal aid rates are something to which the response—practitioners had a view, things happened in the market, and the response therefore was the independent review.

Q18 **Mr Betts:** But it was causing problems a long time before you had the review, wasn't it?

Dame Antonia Romeo: Not having been around at the time, I would indicate that the fact that practitioners were saying—

Mr Betts: But the Department was there.

Dame Antonia Romeo: Indeed. Practitioners were obviously saying that there were problems, and that was what led to the review.

Mr Betts: But you set up the review because there were problems.

Dame Antonia Romeo: Jerome might remember.

Jerome Glass: In terms of what it means for the Crown court backlog, clearly what has been happening over the long term is that there has been a reduction—this is talked about in the Report—in the number of crime barristers and indeed criminal solicitors. The review was done against that backdrop, looking at what things we could potentially do to address that. There is an enormous amount of data in the Report about exactly how many barristers there are—trying to get to the bottom of it.

One positive thing to come out of the Report is that we are now much better at sharing data between the Bar Council and the Law Society, and we have a better understanding of exactly what the picture looks like. It is also fair to say that since we have taken action, both in 2022 when we responded to the criminal legal aid independent review and, indeed, with the subsequent actions, we have seen an increase again in the number of barristers. That is a positive development.

To your point about whether there was a historic problem, I think that was exactly what we wanted the review to look at. It made some recommendations, we have acted on the recommendations, and they appear to be working.

Q19 **Mr Betts:** We will come on to that in a second. Basically, you are saying that before the review you did not really know what was happening, and you hadn't got enough data to do assessments of what was happening.



HOUSE OF COMMONS

Jerome Glass: No. What I would say is that we did a review in order to get the right understanding of exactly what policy measures we wanted to put in place. Whether or not it was working is not quite the question. It is more about how we address the issues. That is what the review was trying to do. It was trying to get to an understanding of what the actual picture was.

Prior to the review in 2018, we put some money into criminal legal aid for barristers in particular, and before putting in more money—we have put in substantial investment since then, with £141 million in 2022 alone—we wanted to know where best to target it. That strikes me as the right way to do it—to have an independent review to look at where to put it, and then we put the investment in.

Q20 Mr Betts: So you had an independent review and then it took you a year to implement it.

Dame Antonia Romeo: Well, we consulted, and we responded to the consultation.

Jerome Glass: Changes in legal aid need to be consulted on. There were a large number of recommendations in the review. There were 19 recommendations, if I recall correctly, and we wanted to ensure that we were taking action. Not all of them were about fees—indeed, a lot of them were not about fees, and in our full response we consulted on that. We did an interim response the year after, in June 2022, and a full response in November 2022, and we have been implementing the changes since then. It is a detailed report; it takes a long time to consider its recommendations.

Q21 Mr Betts: With hindsight, this was a problem a long time in the making, with little effort to address it until the review and the recommendations being implemented. Is that right?

Dame Antonia Romeo: I suppose it must be true. The fact that the review made recommendations that we are now implementing means that there were recommendations to be made—in other words, there were improvements that could be made to the system, so it must be right that there needed to be improvements. We are trying to make those improvements now in responding to the review. As Jerome said, there was an original £141 million, and there have been significant fee uplifts since then both for solicitors and for barristers, as well as, importantly, the setting up of the criminal legal aid advisory board—sorry, you might be about to come on to that, Mr Betts.

Q22 Mr Betts: I will just deal with the 15% rise. Has it worked? Has it solved the problem?

Dame Antonia Romeo: Jerome will want to say more, but the number of barristers working on any crime and on over 80% crime has gone up. If you are asking whether it is working in terms of reinforcing numbers in the profession, I would say yes on barristers. On solicitors, it is stabilising, but we just announced an additional £92 million at the end of last year. That

will not have had an effect yet, but we expect that it will also make a significant difference.

Mr Betts: Was the increase sufficient to deal with the problem?

Dame Antonia Romeo: It is quite early to tell.

Jerome Glass: Can I add another data point? We talked earlier about the number of ineffective trials. There is a bit in the Report about the number of trials that are ineffective because of a lack of prosecution and defence barristers. Certainly, we were seeing an increase in those numbers, which the Report talks about. Now what we are seeing is the beginnings of a decrease. As Dame Antonia says, it is too early to say whether it is working, but it is an interesting data point that that trend has begun to move the other way.

Q23 **Chair:** Thank you very much, Mr Glass. Let me help you a little. Can I give you this opportunity to put on the record the information that you kindly sent to us, which we have published today? First, you referred to the 12% increase for solicitor criminal legal aid, at a cost of £92 million. Can I confirm that that is what you have now implemented?

Jerome Glass: Yes—and to be clear, that is 12% on top of the 12% that we put in place for solicitors from CLAIR. It was 12% from the original report and then 12% that we announced in December.

Chair: So with a little bit of luck, that will have the same effect as the increase in legal aid for barristers. It might help to encourage more criminal solicitors into the system.

Jerome Glass: That is very much the thinking behind that work. It is also worth saying that we recently—last year, actually—implemented a £24 million increase targeted at police stations in particular, which is where we were seeing some of the problems with duty solicitors.

Q24 **Chair:** That is very helpful—thank you. On 29 September, you very kindly sent us a letter, which we published today, on the 10% increase in the immigration and asylum and housing Department legal aid. You did not give us a figure on that in the letter. This Committee always welcomes figures if you send us information like that. Could you very briefly explain that?

Jerome Glass: That is in civil legal aid. Alongside criminal legal aid, we have been conducting our own review of civil legal aid, looking at the state of the market right across civil legal aid. That flows all the way back to the changes that were made in the LASPO Act in about 2012-13. I can certainly try to see whether we can get you a figure for that.

Chair: This Committee likes figures.

Jerome Glass: The 10% is what we are applying. The actual amount of spend will be something we can come back to.

Chair: I will now welcome the Chair of the Justice Committee, Andy



HOUSE OF COMMONS

Slaughter. Before you come in with the next question, Mr Slaughter, if there are any interests that should be declared, I remind you and everybody else that you should do it before you speak.

- Q25 **Andy Slaughter:** Thank you for permitting me to join your Committee this morning. I should say, by way of declarations, that I am a non-practising barrister.

Good morning to the witnesses. I do want to pursue this issue of funding, particularly over legal aid, but can we go back one step? You have already mentioned the Leveson review three times. That is to be welcomed, but is that your solution to the Crown court backlog? It does rather seem that you are betting the house on one report, and it is a report for which the inquiry is just starting. It will be controversial—I think that is reasonable to say—if it proposes significant changes to the way in which the criminal justice system works, and you then have to implement them. How long is all that going to take?

Dame Antonia Romeo: The first thing to say is that I do not see it as just a report. What it will be is a fundamental look at reforms that we can make it in the longer term.

Andy Slaughter: That is my point: that takes time.

Dame Antonia Romeo: I expect it will be wide-ranging and important in what it proposes. The other point I would make is that you have to look at the system as a whole, and this comes back to the point that Ms Caliskan was making. Everything is connected, including courts, prisons, probation and police, so we can never look at just getting down the Crown court backlog in isolation. There is a lot of other work that we are doing but, as I said at the start, there is a lot of work that we are doing not just waiting for that. For example, we expect that the work to extend magistrates' sentencing powers and things like that will save, in a steady state, about 2,000 sitting days.

There are things that we can do already, pre the report that we are doing. We are constantly looking—Nick and Daniel might want to comment on the work we are doing essentially to improve efficiency and productivity in the courts. At the end of the day, you have the demand coming in, you have the capacity to deal with it, and you then have the rate at which you can deal with it within that capacity.

- Q26 **Andy Slaughter:** I would have thought that you would put it that way around—that you would look at what are clearly the problems in the system as it is. That might be the fact that, rather than having one in five courts not sitting on any one day, you have this peculiar situation where you have Nightingale courts still running, presumably because you have contracted to hire the accommodation and set up the staffing there.

My Committee was at Snaresbrook just before Christmas and, according to the courts there, five out of 20 were not sitting. I think that is typical across the country. Why are you not looking at that? Why are you not looking at recorder sitting days? Why are you not looking at, as you say,



HOUSE OF COMMONS

inefficiencies like the Serco contract, which sometimes does not deliver prisoners to court until late afternoon? Should these not be the priorities in sorting things out and getting the backlog down now, rather than something that might take two or three years to take effect?

Dame Antonia Romeo: I do not think we are disagreeing, are we? I am saying there is a lot that we are doing at the moment. In fact, I started, in response to Sir Geoffrey's question at the beginning, by setting out the things we are doing on physical capacity, on judicial capacity and on inefficiency now, which we talked about. Nick and Daniel will want to say more.

Because you started with the question, "What about the Leveson review? Aren't you putting too much on that?", I then mentioned that, to say that I thought it was going to be important. Obviously, we cannot wait for new, big reforms. We have to do our own number of things now, and that is what we are focused on. We lose something like 0.2%—Dan will be able to talk about what we actually lose through taking courts out of use for maintenance. It is an incredibly small number, because of the excellent work of court staff in moving things around. I should say that we have an excellent partnership with the independent judiciary in doing that, and I am very grateful for all the work that it does.

The final thing to say, and then I will hand over to Nick and Dan, is that in thinking about the throughput and our ability to respond to it, it is absolutely essential that we do all these things together. Money is going to help. We invested a significant amount of money in court maintenance last year and this year, and we need to continue to do that to improve the estate, and we recognise that. Again, as this Committee of all Committees will recognise, we can only work with the money that we have. It is taxpayers' money, at the end of the day, and we have to make sure that we are getting value for money.

Q27 Andy Slaughter: That is very much what it sounds like, because most of the things that I—and now you—have mentioned cost money. For some of them, I would have thought that it would be more efficient to use all the courts at Snaresbrook, because the judges can share the work out between themselves and you can take account of cracked trials and things of that nature, and then have a Nightingale court working up the road. There could be three efficiencies that do not cost money, but overall they do. If you are going to increase the number of sitting days and try to ensure that more recorders, defence barristers and CPS barristers are available to conduct the trials to really get into the backlog, it is going to cost money, isn't it? Whereas you may think that the Leveson review will save you money, because you will not be having trials in the Crown court any more.

Dame Antonia Romeo: I think what I am saying is that we do the most that we can with the money we have. We have got the money that we are given, and we try to run that as efficiently as possible and in a way that provides as much value for money as possible. Dan will say more about the balance with Nightingale courts, which are obviously much more



HOUSE OF COMMONS

expensive than the main estate, which is why we have managed to close so many of them and switch back into the main physical estate.

We must recognise that the money we have is limited. There is a very tight fiscal context, and I cannot hope for a magic money tree; I have to go with the money that I have been given. Major reforms will therefore be essential, because you can work only within the money that you have, and sometimes you need major reform as well to help you and to maximise what you can deliver within that money. If I may, Chair, I will bring in Nick.

Chair: Briefly, because we need to make a bit of progress.

Nick Goodwin: It is worth saying a little about court capacity. Crown court capacity at the moment was a constraint in covid, but the physical capacity of the courtrooms is not a constraint now. We have 502 Crown courts now operating, so we are not constrained by the physical buildings at the moment. They are not the best buildings in the world—everyone knows that—but we are not losing much capacity because of maintenance work.

We lose roughly 2% of our Crown court capacity each year because of planned or unplanned maintenance, but Daniel's team are incredibly skilful at moving cases around the estate so that we lose only 0.2% of our allocated sitting days. Last year, we lost only about 570 sitting days because of estate issues. The physical estate, while not perfect, is actually adequate for the sitting days we have.

As Antonia says, there are financial constraints in terms of how hard you can sit the courts, but they have been sitting very hot. In June last year, they disposed of more than 10,500 cases, which is an incredibly high amount by recent standards—I think it is the highest amount since 2017. Clearly we would like to do more, but even if you were to do somewhat more, the demand coming into the system is still outstripping the capacity of the system.

Q28 **Andy Slaughter:** I do not want to outstay my welcome, Chair, but I have one final point. Did you say a moment ago that the number of criminal barristers is increasing now? Our figures have shown that it has been going steadily down over time, as, indeed, has the number of defence solicitors. Yes, there has been some uplift in fees, but, certainly judging from the mood of the criminal Bar, there is still a great deal of anxiety about and a lack of willingness to go into criminal law to start with as a pupil or in the first few years, but then to drift away. Do you not still have a crisis there in recruitment? What are you going to do about that?

Dame Antonia Romeo: As Sir Geoffrey said that the Committee welcomes figures, I can confirm that there are 3,615 any-crime barristers in 2023-24 compared with 3,429 in 2020-21. In terms of self-declared full practice, which is working more than 80% on criminal, the number in 2023-24 was 2,726, which was an increase on 2,424 in 2020-21. The

number is going up. We must not be complacent, but there are green shoots.

Andy Slaughter: It is still down over time. It is still down on 10 years ago.

Dame Antonia Romeo: There is a lengthy trend, which comes back to Mr Betts's question. There is no silver bullet: we will not be able to solve all these problems at once, so we are trying to reverse long-term trends. We are seeing some early signs, but I am very well aware that I may be back in front of the Committee on this exact topic in a year. I do not want to over-promise.

Andy Slaughter: It goes back to your point that everything is linked. Unless all the elements are there, the trial does not happen, does it?

Dame Antonia Romeo: That is exactly right.

Q29 **Chair:** I will come back in on one really important matter that the Chair of the Justice Committee has mentioned, which is the fundamental alteration of the system that you set Sir Brian Leveson up to do. The Secretary of State for Justice announced this on 12 December to look into the possibility of establishing intermediate courts. This was looked at by Lord Justice Auld as long ago as 2001, so all the work has been done. As the Chairman of the Justice Committee says, you have set up Sir Brian Leveson to look at this. He is probably going to take a year to report. Then you will have to consult on it, and then you may or may not have to introduce these by primary legislation. Why do you not just get on and do it?

Dame Antonia Romeo: The Committee will not expect me to comment on policy decisions, but in terms of timing, essentially there are two parts to the review. The first part is some of the policy things. Because a lot of these things have been considered before, I think Sir Brian intends to produce his report in the spring this year. Then the efficiency part of it, which will partly include looking back at the 2015 report on efficiency, will be in the autumn. Everything we can get on and do, particularly on the efficiency side, we will. Disposal rates are higher now than they were pre-pandemic. There are lots of reasons for that, not least the more complex case mix and so on, but we are trying to look at where we can improve efficiency. We are not going to wait for the report to do that. Sorry—I should have said that disposal rates are lower now.

Q30 **Chair:** I get that. You can do all these other things that we have discussed and will discuss in the Committee this morning, but the plain fact of the matter is that the total number of cases going before the Crown court is increasing, the complexity is increasing, and the number of days to hear them is increasing. You have a fundamental problem, let alone all these other side ameliorations that you might do.

It looks as though you are going to have to do something fairly radical, like introducing intermediate courts. Again, the Chairman of the Justice Committee was driving at this. Too often, the Government have reviews



HOUSE OF COMMONS

and the reviews do not consider what resources need to go with them. Can we be absolutely sure that if Sir Brian Leveson did, for example, recommend introducing intermediate courts, there would necessarily be the money to follow that recommendation if it were accepted by Government?

Dame Antonia Romeo: Nobody will want to ensure that we have the resource required to do what is asked of us more than the principal accounting officer in the Ministry of Justice. Can I be sure that we will get the resource? I do not want to prejudge the report, nor indeed what allocation I will get in the next spending review.

Q31 **Chair:** I prefaced the question very carefully. I asked: if the Government were to accept the recommendation, would the resource follow to do it?

Dame Antonia Romeo: My strong advice would be that we should not accept taking on any recommendations without the resource to deliver.

Q32 **Chair:** Thank you. We now come on, as predicted, to the whole issue of the Criminal Justice Board and why it was suspended between July 2021 and July 2023.

Dame Antonia Romeo: The Criminal Justice Board, which has been going for a long time, is chaired by the Secretary of State for Justice and Lord Chancellor. It is really a matter for the Secretary of State how they most want to engage with partners. It is envisaged to bring together the partners in the criminal justice system to set the strategic direction. Some Secretaries of State have wanted it to meet more often than others, some have found it more useful as a forum, and others have wanted to engage more bilaterally. I think the Secretary of the State at the time preferred engaging bilaterally to bringing together those partners in the form of the CJB. When those things do happen, there is obviously other governance in place. I do not want to constantly refer to the criminal justice action group, but that was a group of senior officials with partners in the police, the CPS and so on, which was set up to bring an official level to look at the governance that we can join up across the system.

Q33 **Chair:** Let's cut to the chase. If you look at figure 6 on page 28, you can see how the Criminal Justice Board is made up. It is not only chaired by the Lord Chancellor and Secretary of State for Justice, but includes such very important people as the senior presiding judge and the president of the King's Bench Division, whereas the criminal justice action group that you chaired does not have any of those senior representatives. This was at the point when the whole system was getting into crisis. Why did the Criminal Justice Board not sit continuously during that period?

Dame Antonia Romeo: The decision of the Secretary of State at the time was not to convene the Criminal Justice Board, of which he was the chair.

Chair: That is a perfectly straightforward answer. Thank you very much. That is all we need.

Dame Antonia Romeo: May I just make a comment on attendance on CJAG? As you rightly say, the judiciary are not on it. We did invite them to



HOUSE OF COMMONS

attend, and indeed the SPJ at the time attended the first one, but then quite reasonably felt it was a very executive group, because it was made up of officials, so felt it would not be appropriate. The head of the Judicial Office has for the past six months been attending the criminal justice action group, so we do try to join up with the judiciary. I accept it is not at the same level.

Chair: I hear that answer, but then things did start to improve when the Criminal Justice Board reconvened.

Q34 **Mr Betts:** I want briefly to follow up on Nesil Caliskan's questions earlier about the extra £477 million that you were given in the 2021 spending review. Was it all spent on reducing the backlog? If not, how much was spent?

Dame Antonia Romeo: It is quite hard to talk about exactly what goes on reducing the backlog, because to some extent, all money spent on the Crown court is focused on getting cases through the Crown court and that is focused on reducing the backlog. If the question is, "Was all the money spent on the Crown court?", the answer is no. The £477 million referred to was capital and resource, by the way. As I have already set out, it included money for prison bills and the running of those prisons. It was money for legal aid. It was money for the probation caseload as well. Nick can talk about what money, during that period, was spent on the Crown court in particular, if that would be helpful.

Q35 **Mr Betts:** Yes, it would, but in the end, the £477 million as a total figure was there to get the backlog down essentially, was it not? That was the focus of it.

Dame Antonia Romeo: It was actually for CJS recovery; it was not just focused on the backlog.

Mr Betts: But the backlog was an absolutely crucial part of that.

Dame Antonia Romeo: It was a crucial part of it, but not the only part.

Q36 **Mr Betts:** Okay. If it is not the only part, do we know how much of the £447 million was actually spent on dealing with the backlog?

Nick Goodwin: I can talk about the courts part of it. Of that £477 million, about £42 million was focused on the courts. We had another £65 million for covid recovery generally, and we put that money together. Some of the £65 million covered jurisdictions other than the Crown court. In relation to the Crown court specifically, the money was spent on additional sitting days. That is in part in response to the 20,000 police question that you asked before. Some £23 million was spent on greater activity in the Crown court. During covid and subsequently, one of the main tools we have had at our disposal to get cases through more quickly is the use of video. That was critical in covid. We spent quite a lot of money—£18 million in total, of that £107 million—on video in the Crown court. We also invested in the Nightingale courts. They are less needed now. They are expensive, but we spent £28 million—



HOUSE OF COMMONS

Q37 Nesil Caliskan: Is the £78 million spend on the Nightingale courts part of the £100 million-odd that you referred to, or is it a different amount as part of the £477 million? Is it in addition to the one-hundred-and-something million that you are referring to now, Nick?

Nick Goodwin: The figure that I am citing is from that pot of the £65 million covid recovery and £42 million additional spending—sorry, can I come back to you? It is quite complicated.

Chair: I will tell you what, Mr Goodwin; we are going to have a five-minute break as soon as Mr Betts has finished his section. I would be very happy for you to clarify your answer after the break, if you want to think about that question.

Q38 Mr Betts: So we have a clear breakdown of what the £477 million was spent on and what it achieved. In the end, if it was supposed to deal with the backlog, it didn't, did it?

Dame Antonia Romeo: It depends on what the counterfactual is, of course. It was aimed at CJS recovery. What it achieved was getting the courts back up and running and getting video hearings rolled out. It paid for some Nightingales. Those are the things that it achieved. Had they not been done or paid for, the backlog would have been even worse than the additional 7,000 approximate cases that went on to the caseload.

Daniel Flury: It allowed the Crown court to sit at its maximum capacity for the last three years.

Mr Betts: Okay, so it did something, but not as much as would have been needed to tackle the fundamental problem.

Daniel Flury: I think sitting at maximum capacity is, to a certain extent, the best we can do, really, and that money allowed for that.

Dame Antonia Romeo: It did not prevent the backlog from going up to the extent it did. But to Dan's point, it did as much as it could.

Rachel Gilmour: On that point—

Chair: Very briefly, because I am going to suspend.

Q39 Rachel Gilmour: It will be really brief. What you are saying—that the Crown court sat at maximum capacity for three years—sounds good. But if it sat at maximum capacity for three years and the backlog is still going up, that tells us that maximum capacity is not sufficient to deal with the combination of factors you have referenced. One could argue that what is fundamentally wrong is not the money, but the very essence of how we run our Crown court system in this country, alongside the need to increase police officers and the lack of prison places. What we are talking about here is not money. We have just got to the bottom of it: it is not good enough, because maximum capacity is not reducing the backlog.

Daniel Flury: We accept that. That is why we looked at things like increasing magistrate sentencing powers, which we hope will take some of



HOUSE OF COMMONS

the heat off the Crown court, and Leveson and all the things we are doing in the interim between now and Leveson reporting that will bear down on inefficiency in the Crown court to try to further maximise the capacity we have available to us now.

Rachel Gilmour: That is Sir Brian Leveson's starting point—it's broke; it ain't working.

Daniel Flury: The fact of the matter is that even sitting at maximum capacity is not enough to arrest the caseload. The stats speak for themselves.

Rachel Gilmour: That is what I have just said.

Chair: It was worth waiting for Rachel Gilmour's question. This is a good point for us to take our five-minute break. It is now 10.56 am. Please try to be back by 11.01 am.

Sitting suspended.

On resuming—

Chair: Welcome back to our session on Crown court backlogs. We are broadcasting again, as everybody will be glad to know. I turn to Anna Dixon.

Q40 **Anna Dixon:** Thank you, Chair, and good morning, witnesses. I would like to pick up on the issue of how long people are waiting. We understand that the average time from the case going to magistrates right through to completion at Crown court has gone up from 158 days to 279 days. Since the Committee's last Report on the subject, back in 2021, the number of people waiting a year or more has risen to over 18,000. Behind those numbers there are victims, but also witnesses and defendants, all of whom are waiting. We know the impact, both on people's wellbeing and on justice outcomes.

I will start with justice outcomes. What evidence can you share with the Committee about the impact of such long waits on justice outcomes?

Jerome Glass: The first thing to say is that clearly that is not a desirable state of affairs. We completely accept that timeliness has got much worse across all crime types. It is a particular concern with respect to sex cases, which often take the longest—both adult rape and child rape cases. They are incredibly complex cases and they require a lot of disclosure of evidence and so on, but they are the most serious cases in terms of timeliness.

We know that the Victims Commissioner has recently conducted a survey of the impact on victims. The thing we particularly want to track is victim attrition through the system: are people pulling out of cases because it is taking so long? That is exactly what she is going to look at. I think she is publishing the results of that study next month.

Q41 **Anna Dixon:** So you do not currently have any data on that?



HOUSE OF COMMONS

Jerome Glass: We do have data. Broadly speaking, victim attrition has increased. For some cases, such as adult rape cases, it is particularly high. I think in the year to June 2024, 59% of victims were dropping out pre-charge; that has gone up significantly. Can I go on to the things we have tried to do about it?

Anna Dixon: Yes, please. I will come back to some of the specifics.

Jerome Glass: There is good evidence that support through the system, particularly from independent sexual violence advisers and independent domestic violence advisers, helps to reduce attrition. We have invested £41 million in ensuring that there are additional sexual violence and domestic violence advisers. We have tried to protect victims funding as much as we can. Victims funding has increased substantially over the past decade or so, and we have tried to protect that funding with respect to violence against women and girls. There are things that we are trying to do, but the overall position is not one that we think is desirable at all.

Q42 **Anna Dixon:** No. I want to come on specifically to violence against women and girls. You have raised it yourself, but we have received evidence from the Rape and Sexual Abuse Counselling Centre, which makes it very clear that short-notice cancellations and postponements, often on the same day, are making the situation even more difficult. Not only are there extremely long waits in distressing circumstances, which are having a profound impact on victims who are waiting, but it is also very difficult for those who are supposed to be there to support victims and prepare them for trial, only to find out on the same day that they are not being listed.

You have said some of the things that you are doing, but what more can you do to specifically reduce the very long waits in this category of crime? As a victim, it is incredibly distressing to live with the fact that your perpetrator is potentially continuing to perpetrate these crimes against other women, and you may find it difficult to get on with your own life in the interim. What more can you do in general to stop the short-notice cancellations and postponements, which add to the distress of victims?

Jerome Glass: Daniel or Nick may want to pick up on some of those things with respect to listing. Listing is for the independent judiciary. We are incredibly supportive of all the measures that they are putting in place. To refer to one measure in particular, they launched an initiative in Bristol whereby they identified four courts out of 10 that will focus specifically on violence against women and girls and on adult rape. That appears to be making a bit of a difference overall. The previous senior presiding judge was very focused on long-term cases, so he put out a practice direction with respect to cases that have been in the system for two years or more. There are a number of initiatives that we are putting in place. The nature and size of the backlog and the timeliness mean that it is not a particularly desirable situation. I do not know whether Nick or Dan wants to talk about listing.



HOUSE OF COMMONS

Daniel Flury: I was going to make the same point as Jerome about the senior presiding judge's initiative whereby rape cases over two years were, effectively, prioritised last year and listed. That exercise has now concluded.

On the point about cases being stood out on the day: yes, of course it is terrible for all involved. The situation that the resident judge and the listing officer face is that by law they have to prioritise custody cases. That sometimes involves some very difficult decisions as to what cases should be stood out. I fully accept that it is traumatising for all involved, but the volume of custody cases in the system and the need, by law, to prioritise those custody cases are part of what is driving this.

- Q43 **Anna Dixon:** Can I probe you on that? Is there any data to show how many of those cancellations or deferrals relate to people who have given video evidence? I ask because there is some suggestion that in these cases, very vulnerable victims are giving video evidence because of their vulnerability, but from the point of view of the courts, they are seen to be easy ones to defer. You were just saying that priority is given to those in custody. Is there any other evidence of different types of cases being more likely to be delayed?

Daniel Flury: There is a criminal practice direction—based on a case, *R v. Barker*—that states that cases involving vulnerable or child witnesses should be routinely prioritised. I cannot speak for every judge in the land, but I would certainly like to think that those cases are not seen as easy ones to stand out and that they are getting the priority they deserve.

Jerome Glass: Part of the rationale for introducing the section 28 measure, which was about pre-recorded cross-examination, was specifically to enable bringing forward the date of cross-examination. That was one of the intentions behind the measure.

- Q44 **Chair:** Let me come in on the answers that Mr Glass and Mr Flury have given. First, I have taken an interest in these serious sexual cases, both in this Committee and through questions in Parliament, and a 54% attrition rate is shocking. You say that the figure is going up. As Ms Dixon says, for people who have gone through a horrendous ordeal to see their cases postponed for two or three years is a pretty poor state of affairs. No wonder so many drop out: they simply cannot face going through the whole court system. What more can be done?

Jerome Glass: A lot of that attrition is pre-court. There are lots of court measures that we are putting in place, but it is a whole system. Part of the work that we were doing under what was then the rape review, whereby we set targets with respect to increasing referrals from the police to the CPS, increasing charges by the CPS and increasing receipts into court, was particularly to look across the whole system. As I say, there are measures that we have been taking with respect to courts, to section 28 and to the work that the judiciary are doing, but it is really important that we view this as a whole criminal justice system thing, not just a courts thing.

- Q45 **Chair:** I am coming on to that point, but I just want to ask Mr Flury a



question. Some of the things that we are talking about are really very simple. Your Department, through the judiciary, ought to be able to take a very severe attitude to things like the Prison Service not getting suspects to court on the day they are supposed to be there, or the barrister not turning up or not getting the case prepared on time. Those are intolerable things in a criminal justice system that is already severely delayed. What more can your Department do on to correct those relatively simple things?

Daniel Flury: The Committee may be aware of the Crown court improvement group, which is led by the senior presiding judge and which brings together all components of the criminal justice system: the prison escort-, custody services, police, the Bar and so on. That is the forum in which they discuss these bread-and-butter efficiency issues: why the van has not turned up, why people are not ready when they said they were going to be, and so on. That needs to translate to local level as well. I know that resident judges in all Crown courts routinely meet chief Crown prosecutors and their local Bar to tackle these issues at first hand.

The system is certainly not deaf to these issues, which, if I am honest, have been around for some time but which need constant tackling. The initial Leveson review sought to do some of that, which eventually turned into the principles of better case management. I am hoping that the subsequent Leveson review will further endorse and enhance some of those principles to improve efficiency.

Q46 **Anna Dixon:** Like the Chair, I want to probe you on that shocking figure for victim attrition. I hear you saying that that is a wider issue and not just a specific one, but clearly for victims of sexual violence against women and girls or of rape, the idea of waiting for a year, two years or more even to have the opportunity to have their case heard will be extremely off-putting to people who fear speaking up or even fear taking their perpetrators to court.

Perhaps you could just comment in general, Dame Antonia, on what is being done specifically to tackle long waits and to support victims. What more can be done to ensure that women—I am sorry; I should say victims in general—are getting their opportunity for justice?

Dame Antonia Romeo: Yes, of course, and I know that Jerome wants to come back in. The first thing to say is that you are absolutely right that every number in the backlog is a victim. We never forget that what we are talking about is people and real-world impacts. We are doing a huge amount of work on this.

Listing is a judicial function, and we are working closely with the judiciary. As Dan has set out, we have been very supportive of judicial initiatives to focus on that, such as the previous senior presiding judge's direction that all RASSO cases over two years old should be listed by summer 2024. Those are things that will and do make a difference. We do not control changes in listing, but we work within other initiatives such as the ones that Jerome has set out.

I would say two other things. One thing that we know affects victim attrition is victims being supported. That is why we have maintained investment in independent sexual violence advisers and independent domestic violence advisers. Having that support during the process of waiting, which is obviously unsatisfactory but is none the less part of the system at the moment, is really important.

The other thing that we are very focused on is transparency. We do publish this data. We have the criminal justice delivery dashboards, which the Chair has mentioned, where we look at a number of these things at a local level, including victim attrition, because the first step is to shine a light—

Chair: We will come on to technology in a little while.

Dame Antonia Romeo: Okay. I will stop there.

Chair: This is an incredibly important subject, but I am afraid we have to move on.

Q47 ¹**Rebecca Paul:** Thank you to the witnesses for being here today. We have talked a little bit about victims, but now I want to focus on those who are accused, and specifically on those who are on remand and in custody. From the Report, we can see that the remand population reached about 16,000 by the end of 2023, which is the highest level in 50 years. Two thirds of those are awaiting trial. I have to say, I am pretty new to this—it is the first time that I have really looked at this in any detail—and I was horrified to realise that there are people who have not been found guilty of anything but are spending years in prison and may even come out at the other end being found innocent.

First, before we get into that, can you talk a little bit about the interaction of the prison population and how that impacts what you are trying to do? I obviously understand that it is affecting the processes. If you could lay that out for us, I think that would be really helpful, because that will give us greater context about my big concern.

Dame Antonia Romeo: Thank you for the question. You are absolutely right. The criminal justice system is a whole system, and a very complex system, and there is a close interplay between the outstanding caseload and what is happening in the Crown court and the prison population. The way this most obviously presents is via the remand population. As of September 2024, the remand population is now 17,600, and that is now 20% of the prison population; that is up from 9,602 in September 2019, which was then 11% of the prison population.

Why this matters, apart from a number of other reasons to do with remand—you have already mentioned some of the issues. Some people are on remand awaiting sentencing; some people are on remand awaiting trial. You have already noted some of the issues around that. One of the

¹ [Letter from the Chief Executive at HM Courts and Tribunals Service relating to the Crown Courts Backlog oral evidence session held on 09 January 2025, 22 January 2025](#)



HOUSE OF COMMONS

important matters is how we run the prison population. We can hold certain prisoners in certain types of accommodation. Prisoners on remand can only be held in certain types of establishment, so having a much higher proportion of the prison population on remand makes it harder to manage prison capacity issues and to manage that prison population.

There are a number of reasons why this matters. If you like, I can talk a little bit more about all the things we are doing—like the bail information service—but one of the key things is that the sooner we can get the backlog down, the more we can get the remand population down. As you have seen, there is a direct correlation, as you would expect, between the number of cases in the backlog where there is a defendant, in many cases, awaiting trial and the remand population, because some proportion of those defendants awaiting trial will be held on remand. So the whole thing is linked. People often talk about a tension in the system between what is happening in the courts and what is happening in the prisons. This is an example of, essentially, everything leaning in the same direction: the more we can get the Crown court backlog down, the better we will be able to manage the prison population.

Most recently, this Government have created the headroom, through policy decisions on the prison population, to allow us to extend magistrates' sentencing powers, which we think will help to bring down the Crown court backlog, but you have to have the headroom to do that, so the whole thing works together. If you build the headroom somewhere, you can make a change in the Crown court backlog, which then helps you overall to manage the prison population better, and that is good for the whole system.

Q48 Rebecca Paul: Thank you for that. It would be good for you to talk to us about all the different things that you are looking to do on this. What is the custody limit at the moment for a defendant on remand?

Dame Antonia Romeo: The custody time limit?

Nick Goodwin: Six months is the custody time limit. To keep someone in jail beyond that requires a judge to make a determination that that is required. It is for that reason that those cases are prioritised. It is incredibly rare for someone not to have a trial and to be in jail for years. There is a reference to that in the NAO Report on page 48.

Chair: Paragraph 3.4 on page 48.

Nick Goodwin: Now the Ministry, in answer to parliamentary questions, has clarified that the data is not fantastic on this, but we looked very hard, when that information came out, to see whether that was the case, and we found it is extremely rare. The cases of that sort, where people are still in jail without a trial, tend to be where they have, for example, already been convicted of one offence but there are other proceedings waiting to happen. They tend to be very, very complicated cases. So I think you are getting the wrong impression if you thought that that was a very common occurrence, but the data isn't there to absolutely—



HOUSE OF COMMONS

Q49 Chair: Mr Goodwin, I wonder whether you are underplaying this slightly. Paragraph 3.4 says that “32% of the remand population” were being held beyond the custody time limit, but “5% of the remand population” had been on remand for more than two years. Any system that can hold someone on remand for two years who might be completely innocent—there has got to be something seriously wrong, hasn’t there?

Rebecca Paul: That works out as 770 people. That is 770 people who have families, who have potentially lost their livelihoods as a result of this. There is the whole human impact.

Chair: Did you manage to hear that? Basically, what Rebecca Paul was saying is that that is 770 people whose lives, and those of their families, have been put on hold for two years or more and they might be totally innocent.

Nick Goodwin: There has been subsequent clarification through the parliamentary questions. I do, though, take the point. Whether there are 770 people now, I could not tell you with confidence, but the law is structured so that those who are on remand do get a hearing within six months. It is a judicial decision on the facts of the case whether it is extended or not, so that is the protection in law. Whether it is 770 at this point, I cannot comment. Clearly any delay is regrettable.

Q50 Chair: It is such a serious matter. Would it be possible for you to get us an up-to-date figure—the best figure your Department thinks it is—because it is such a serious matter? Then, we would like a little note on what can be done to prioritise those over-two-year cases, because that is absolutely shocking.

Rebecca Paul: I completely support the Chair on that. It would be good to have a breakdown of the cases that are over two years—in fact, I would say over six months, to be honest. You have set out that it is quite rare and there are other factors going on, but if we could see the data behind that it might give us some reassurance, or certainly highlight any groups where we have a real concern.

Chair: Dame Antonia Romeo, could we have a note on that? It would be really helpful.

Dame Antonia Romeo: Yes, certainly. Just to come back on Ms Paul’s question about some of the things we are doing, some of this is about what is happening in the court, but some of it is what we are doing with the remand population. Just to remind the Committee, we have implemented a dedicated and very proactive bail information service in all courts and reception prisons. We are currently recruiting, and we have recruited, a number of officers for that. This is to make remand prisoners aware of how bail works, because in some cases they might be eligible for bail.

We are also increasing community accommodation service provision. Essentially, sometimes it is hard to get bail because of a homelessness problem, so the more we have a community accommodation service out in



HOUSE OF COMMONS

the community, the more homelessness is reduced as a reason why people are being remanded because we have nowhere to bail them to.

- Q51 **Chair:** To follow up on Ms Paul's really important questions, you have given us the figures, which are that there were 9,000 people on remand before the pandemic and there are now, according to the latest estimates, over 18,000. That is a doubling of the number.

Dame Antonia Romeo: That is under 18,000, I think, but yes.

- Q52 **Chair:** We will not argue over an odd hundred or two. That is a doubling of the number of people on remand. The paragraph that the NAO produced for us says, in the middle of it, "In 2022, 35% of those remanded in custody awaiting trial did not ultimately receive a custodial sentence, including 13% who were acquitted entirely."

I am just wondering whether there is any way that these cases in which people have been waiting on remand, whether that is for two years or six months, could be prioritised. We have not yet got on to the pressure on the prison places system, but if you could free up some of that number on remand—as you say, it has a disproportionate effect on prisons that house a lot of these remand prisoners—it would ease some of the pressure in the prison system considerably.

Dame Antonia Romeo: Yes, absolutely. We have spent quite a lot of time discussing this. Again, listing is a judicial function. The fact of the custody time limit means, as Nick said, that you cannot stay in prison beyond your custody time limit without a judge having made that decision—Nick will correct me if I am wrong on any of this—and therefore they are prioritised to that extent.

Obviously, as per Ms Dixon's question, we are also encouraging the judiciary in their initiatives to prioritise RASSO cases. There is a whole raft, so yes to prioritisation, because we have to be careful not to prioritise everything. I am not saying that it is not an absolutely essential issue. We are supporting the judiciary on this.

I should also say that the reason the remand population has come up so significantly is, as I was saying previously, that you would expect it to come up significantly as the backlog, the outstanding caseload, has grown.

- Q53 **Rebecca Paul:** This is my last point. I have found this really eye-opening, I have to say. I am thinking about what it would be like if I were in a position where I were accused of something, and what might I do. I have children, I have another life.

Is there a risk, when the reality is that you could end up in prison for six months before you get to the point where you can have your day in court, that people are putting in guilty pleas in order to avoid being held in remand for such a significant amount of time? Is that something that has arisen? Do you have any concerns about the fact that this pressure could change the approach that people take to their plea?



HOUSE OF COMMONS

Dame Antonia Romeo: I would say that long waits are bad for everybody. They are bad for the defendant, bad for the victim and inefficient in the system. All the effort that we are making to reduce the timeliness problem and improve efficiency, but also to increase capacity in the court system to deal with this, is aimed at getting those waits down. Obviously everything, in a way, is conceptually possible, because you are talking about individuals making decisions. Under the last Government, there was the early guilty plea taskforce, which looked at the incentives for putting in guilty pleas. In fact, we often have the opposite problem, which is that we do not have as many guilty pleas—we have a lot of late guilty pleas, and we would obviously rather that they appeared earlier because that would also help the system. The whole guilty plea issue is quite complex, but I acknowledge the problem that you identify.

Nick Goodwin: Something else worth understanding is that not all cases in the backlog are backlogged cases. Even if the system was operating at optimum capacity, quite typically, going back pre-covid, a case would take six months to get on. In some circumstances someone might be remanded, and that is because that is the typical length of time that the trial preparation takes between prosecution and defence, and to get a trial ready even in fair weather. I do not want you to believe that that has necessarily massively changed, but as Antonia says, the more people who plead guilty—we look to be getting back to people pleading guilty at a similar rate to pre-covid, as it is quite a healthy thing for the court system.

Q54 **Chair:** I wonder what more can be done on the incentive side to encourage someone, if they are going to plead guilty, to plead guilty earlier. I am also wondering to what extent some people game the system by pleading not guilty, hoping that their victim will go away. It would speed up the system considerably if you could get more people to plead guilty earlier, would it not? What more can be done?

Jerome Glass: Yes, it would. I think we have to be very careful with incentives, because the situation we do not want to get into is precisely the one that Ms Paul was referring to, whereby people feel in some way pressured or pushed towards guilty pleas. There are any number of examples—most recently with the Post Office Horizon case, where I know that there are people who felt under pressure to plead guilty. That is very much something that we want to avoid.

That said, all things being equal, it is completely right that although the overall guilty and not guilty plea rates have not changed, the point at which people are pleading guilty has shifted, and people are pleading guilty much later.

Q55 **Andy Slaughter:** One thing that would not be seen as undue pressure would be if prosecutors could, at an early date, indicate within the sentencing guidelines what the likely sentence would be for a guilty plea at that stage. Is that happening? Of course, you are not responsible for the CPS—that might be part of the problem—but I am sure you work closely with the Attorney General's office and the CPS. Is that happening? I suspect that for quite a few defendants, if they knew that they were likely

to get a non-custodial or a short custodial sentence, they might well plead guilty earlier.

Jerome Glass: The direct answer is that it is a question for the CPS whether it is happening, but there are two things worth bringing up. First, it was very much a focus of the first Leveson review in 2015 to make sure that people were getting cases prepared quickly and were getting advice to clients at the right point. We would therefore expect Leveson to look at how the system comes together to make sure that people are getting the right advice at the right point.

One thing we are concerned about is making sure that people are getting advice early. That is why we talked earlier about criminal legal aid and, in particular, putting advice into the duty solicitor scheme. We are arresting the trend of a reduction in the number of duty solicitors. That is a positive thing in making sure that people are getting advice early on what pleading at first hearing means in terms of discounts and so forth. I cannot speak to the prosecution point, but I can speak to what we have done on the criminal legal aid front to make sure that people are getting advice early.

Q56 **Anna Dixon:** I have spoken about victims, but I also want to underline the impact of waiting on defendants. I have a constituent whose trial has had many reschedulings. It is having an impact on his family life and his contact with his son, which is obviously incredibly distressing.

To reduce disruption to family life, is there another option than blocking up prisons? You were saying that 20% of prisoners are on remand. What is being done about more remand into the community? We hear about things like community tagging. Is that something that you see as part of the solution in the relationship between the courts, the waits for trial and the prison population?

Dame Antonia Romeo: Again, sentences are a matter for the judiciary. What we can help with is making things like tags available so that alternative in-community punishments—electronic monitoring and so on—are available to the judge if they wish to sentence into the community rather than into custody, but I would not want to comment on sentencing policy.

I should also say, in the interests of time, that we will be back in front of the Committee on prison capacity within a month, and I am expecting that something like that may come up then.

Q57 **Anna Dixon:** I am conscious that there are many levers. Not all of them are within your direct influence or jurisdiction, but clearly you have a role and a responsibility to make sure that they are all working together.

My final point, which is relevant to the backlog, is about consistency and geographical variation. Bradford Crown court, where I am, has the 15th worst backlog in England and Wales. How can you ensure greater consistency in productivity, comparative wait times and numbers of delayed or cancelled sitting days? Where does geographical variation fit within your approach to addressing the backlogs?

Dame Antonia Romeo: That is an excellent question, which I will ask Dan to answer.

Daniel Flury: You are right to say that there is quite considerable geographical variation across England and Wales. A number of Crown courts, in places like Hull, Oxford and Caernarfon, are performing relatively well, whereas others, primarily in London, the midlands and the south-east, are in greater difficulty. Capacity is the principal reason, but capacity can mean multiple things. The local Bar, the judges, the building—those are the things that principally drive performance of a Crown court.

What are we doing to tackle that? There have been a number of initiatives. First, the deployment of judges is a matter for the judiciary, but I know that the judiciary bear performance variations in mind when making deployment decisions.

Secondly, we are looking at how technology can allow us to move cases around the country, from where there is little capacity to where there is more. There are limitations on what we can do in the Crown court in relation to technology, but there are opportunities to move certain types of hearing somewhere else to ensure that they can make progress. We—HMCTS and the judiciary—routinely come together to talk about how we tackle capacity challenges in certain regions and how we can move judges around. We had an initiative during covid called Judges on Tour, in which judges came down from the north-east to help out in London. We do things like that to ensure a degree of evenness across England and Wales.

Q58 **Anna Dixon:** I do not think that there was data in the NAO Report on variation. Could you follow up with the geographical variation in the backlog data?

Dame Antonia Romeo: A lot of data is available at a local level on the data delivery dashboards. We can definitely send a link to the Committee, but a lot of it is there.

Chair: That would be really helpful. Thank you.

Q59 **Oliver Ryan:** The contribution that Mr Flury has just made touches on my point. My question, Dame Antonia—perhaps with specific reference to London, the midlands and the south-east—is whether you have enough judges. My worry is that we have heard that there are not enough solicitors or barristers and that there is no capacity in the system. Demand keeps going up. There seems to be a bit of an institutional acceptance that there will always be a backlog, because you are running at full pelt and you have been running at full pelt for three years. Do you have enough judges?

Dame Antonia Romeo: I do not want to describe an institutional acceptance; it is more that running at full pelt within the available resources is what we can do, and we are constantly pursuing efficiency and looking for opportunities for improvement. We are ambitious to do that.



HOUSE OF COMMONS

Judicial capacity is not a constraint at the moment. You are absolutely right, Mr Ryan, that we have had, over periods, times when it was. I referred to the major recruitment of circuit judges and recorders. In the most recent circuit judge recruitment, we recruited 10 more circuit judges than we had vacancies for, so we are seeking to overshoot in order not to have the problem on judicial recruitment that you identify. And, as we have discussed, there is the work we are doing to ensure we have counsel and so on. It is a constant endeavour to make sure that one has all the capacity—both capacity in terms of judges and the professions and the physical capacity. At the moment, we are not reporting a lack of judges. We have another recruitment round happening at the moment, and future rounds will be subject to what we can afford to do in the SR and to decisions by the Lord Chancellor.

Oliver Ryan: That is the answer I am looking for. That is good. Do you mind if I spread out slightly on that question?

- Q60 **Chair:** As you hinted in your answer, there is a bit of a trade-off, isn't there? When you are recruiting more judges, you are reducing the number of barristers, so it is a bit of a juggling act, isn't it?

Dame Antonia Romeo: The thing is that you give yourself flexibility with, for example, the existence of recorders as a concept. By definition, the pool that you are fishing in—if I can use that analogy—is drawn from, so again it is all connected, which is why we try never to forget the other parts as well. When we are focusing on judges, we are also thinking, "What is this going to mean for the professions?" You are absolutely right, Chair.

- Q61 **Oliver Ryan:** If I can touch on a slightly broader point, you mentioned that there is no silver bullet for some of these problems. I understand that you are dealing with a capacity problem. Despite running at full pelt and doing a good job, you are just not managing to get through the backlog.

There has been a lot of mention of Leveson in everybody's answers. Leveson has come in and that is fine, but it does feel as though we are banking on that to deal with a lot of these changes. We have mentioned Leveson to deal with the bread-and-butter issues like case effectiveness and preparation, Leveson for overall capacity, Leveson for wholesale reform of the criminal justice system, Leveson for increasing capacity among solicitors and barristers—for most things. That almost leads me to say, "What was the plan, pre-Leveson?" If we are starting afresh off the back of Leveson, are we not just managing failure until that comes? I know that is a bit of an odd example for the question, but that is what it feels like to me.

Dame Antonia Romeo: It is a fair question. I think the reason we have all been focusing on Leveson is that it is the thing looking independently at big policy reform for the future, but as I started out by saying, there is a huge amount that has been happening already. When we start, as in the conversation I was having with Mr Slaughter in this session, you look at the demand coming in, the capacity and then everything you can do to



maximise that capacity, and then to get the throughput through that. That is the basic model.

In terms of maximising capacity, the physical capacity, all the work we are doing on the physical estate, all the work we are doing on maintenance to improve the estate and the relocation—actually, the Fleet Street relocation obviously is not in crime—a huge amount is happening all the time to try to improve the physical estate. Then there is what we are doing on judicial capacity: the recruitments I mentioned, but also things like judicial pay, which has been significantly increased in the last two years; the judicial pension scheme, which we looked at; and the retirement age, which we raised. There are things constantly happening to try to increase capacity at every level. Then there are the policy things we can do within our current operations—on magistrates’ sentencing powers, for example.

But overall, we constantly keep the budget under review, and the Lord Chancellor has been really clear that any additional money found should be put towards tackling this problem. When a small fluctuation in our budget emerged at the end of last year, we were able to fund an additional 2,000 sitting days, so we shall now be funding overall 108,500 sitting days for this year. We are constantly seeking to do things to tackle this problem.

Q62 Chair: My worry is that if we are not careful, if we place too much reliance on Leveson, we will be sitting here in a year or two’s time with the system having got worse, because we are still thinking about what to do with Lord Leveson’s results. I think Mr Goodwin said that Leveson will report in the spring. What sort of reassurance can you give the Committee that real urgency will be given to thinking about whether to implement his proposals? We don’t know what they will be yet, of course, but we all have to work towards improving the system. With what real urgency will you be considering his proposals and implementing them?

Dame Antonia Romeo: There are two parts to Leveson. The bit that will be reporting in the spring will be on the longer-term policy reforms, of which there are a number of things, already set out in the terms of reference, that we are considering.

Q63 Chair: Will the intermediate reports come into that?

Dame Antonia Romeo: Yes, that sort of thing. I don’t want to pre-empt the report, but it will be for Ministers to make policy decisions as to whether we pursue those proposals, and we would then seek to consult and implement as swiftly as possible. The things that will be happening later, in the autumn, will be the look at efficiency, which we also think is incredibly important, for reasons such as those described in response to Ms Dixon’s question—why do we have such a big disparity of disposal rates? How are we going to get the disposal rate back to where it was pre-pandemic?

Q64 Chair: I suppose I am saying that the efficiency things are the easier things to implement. You could be doing some of that work now. Why do you want to wait for Leveson?



HOUSE OF COMMONS

Dame Antonia Romeo: No, we are not waiting at all; in fact, we are doing it. It is only that we want to accept challenge and to acknowledge that there is always more that can be done. There is a lot of work being brilliantly led by the senior presiding judge in the Crown court improvement group, which, as Dan said, is looking at questions like “Why didn’t the van turn up?”, “How can we get more efficient here?” and “Why is this court doing things differently from that court?” All that work is happening across the system, involving HMCTS, led by the SPJ and the Crown court improvement group.

All that work is being done already. I am just saying that because Sir Brian had previously done a report, in 2015, that led to a number of recommendations on efficiency which we implemented, we also want to say, “Come back and test us that we implemented them as effectively as we might have done, and let’s do more if we can.”

Chair: Right. We have got all that on record, and we shall see how it all pans out.

Dame Antonia Romeo: I look forward to coming back.

Chair: You’ll be back.

Dame Antonia Romeo: I know.

Chair: That’s a promise.

Q65 **Nesil Caliskan:** I welcome the commitment around the everyday improvements. These are just things that should happen well. A well-run organisation—any organisation—does the business-as-usual stuff well. It lays the foundations for trust and confidence that there can be any fundamental change in future for what will be ongoing demand, so I welcome that commitment.

I want to focus on the moneys already spent. We have spent some time looking ahead; I would like to look back. It is important that the Committee is able to probe on value for money, particularly as I think the coming months will present an opportunity for lessons to be learned so that mistakes are not made again.

The NAO Report lists some of the measures that the Department took to deal with the backlog after the 2020-21 spending review; we have spoken about some of those already, including things like the cap on sitting days, increasing the number of judges and introducing Nightingale courts, which I will focus on. However, I would argue that those things have not worked, because of the increased numbers. Basically, in my view that measure has failed. At best, it has been inadequate. My understanding from the Report is that by July 2021 there were 72 Nightingale courtrooms, at huge expense to the taxpayer, and that in some cases they were costing up to six times as much as a normal courtroom would. I think that that is in the NAO Report on page 32.

By February 2022, the Law Society was clear that it was a huge cost to the taxpayer. It had cost £34 million by that point, and by 2023 it had cost £78 million, which is a huge amount of taxpayers’ money for a system that



HOUSE OF COMMONS

is not working. The purpose of the courts was to be a temporary measure—that is the first thing I wanted to check. There has been a reduction in those courts, which is the second thing I wanted to check, and we currently have 20. Was it a temporary measure? What is the projection for those 20 closing?

Nick Goodwin: The situation has changed quite rapidly. There are still Nightingale courts in operation. In the Crown court, which we are looking at today, there are nine rooms still in operation. The reason why we have been able to wean ourselves off is that Nightingales were required while we were under covid restrictions because the physical space required for courtrooms was extremely different. We have come off most of the Nightingale courts. One of the reasons why we have been able to do that, while increasing the number of courts that are sitting to a very high level, is that we are making better use of our permanent estate and we have created more permanent estate as we have weaned ourselves off Nightingale courts. For example, if you look over the river at Southwark, we have turned the canteen there into a proper Crown court, which therefore reduces the amount of Nightingale space that we need in London. We have been very alert to the VFM concern.

Q66 **Nesil Caliskan:** But weren't Nightingale courts set up to deal with the covid situation? Why have they continued to exist for three years?

Nick Goodwin: I will give you an example within London. We are trying to get more capacity into the system generally, and we have also dealt with other shocks. Harrow Crown court is one of our biggest Crown courts in London, with eight courtrooms. We had RAAC bubbly concrete and we have had to close that court for a long period. That is part of the reason why we have kept open some of the Nightingale estate in London. So it is not as simple as saying it is just a covid measure; there have been other factors in place.

It is the same elsewhere. This is less to do with the Crown court, but in the magistrates court and civil estate up in Lancashire we have been hit by a lot of RAAC, so we have Fleetwood court open to allow us to maintain the capacity in that area. So it is not as simple as just—

Q67 **Nesil Caliskan:** So you view the Nightingale courts as temporary measures.

Nick Goodwin: Yes. A Nightingale court is a temporary court.

Q68 **Nesil Caliskan:** They are very expensive, aren't they? For example, in Croydon over the past year, almost £3 million has been spent on the Leonardo hotel. I just want to understand because, putting covid aside, there are some longer-term challenges about the existing estate. Is it really the case that the Nightingale courts are temporary measures, or should you actually be building this kind of cost into your baseline?

Nick Goodwin: We are not doing that. We are constantly reviewing whether they need to be kept on. The rule of thumb is that they are three times more expensive. They are not all three times more expensive—there are some buildings where we have a peppercorn rent; it is an old court



HOUSE OF COMMONS

and, actually, they are relatively cost-efficient to run—but certainly the ones you highlight in London were very expensive, and we have been weaning ourselves off that. They remain temporary and we review them all the time. I do not know whether Dan wants to say any more.

Daniel Flury: Once Harrow reopens, we will look again at the courts in London—the Barbican and in Croydon. To give a bit more detail on the courts that Nick mentioned, we have a court in Cirencester and a court in Chichester, both of which are on peppercorn rents. While they were initially established to support the continuation of jury trials, they are now principally used to provide capacity in the face of other estate difficulties. For example, we had to shut Guildford Crown court this year for a new roof; the court in Chichester allowed us to maintain capacity and output in the south-east.

Q69 **Nesil Caliskan:** This is the point I am making. There will always be things that arise because of the estate. I used to be a council leader in London. We had a vast estate across the borough, and we would put in capacity in our planning that assumed that some things would go wrong, and what you have described to me are things that go wrong. Is it a fair assumption that there will always be something like Nightingale courts, which come at a premium cost to the taxpayer, given that things will always go wrong with the estate?

Daniel Flury: We are always looking. I will give you another example. We are opening a new Crown court next week in Redditch, in the west midlands. That has not been badged as a Nightingale; we have taken an existing court and made some adaptations to allow us to increase capacity in the midlands. I agree with you about capacity and flexibility, but I do not agree that it comes at exorbitant cost. For the Nightingale sites in Chichester and Cirencester, we are talking tens of thousands for the cost, so we do have a degree of flexibility.

Q70 **Nesil Caliskan:** So overall—I am not making a value judgment here; I am just asking the question—the £78 million spent on the Nightingale courts was value for money?

Nick Goodwin: We could not have had jury trials during covid had we not had Nightingale courts.

Q71 **Nesil Caliskan:** A slightly different question: is it still value for money? Did the Department do everything possible to make sure of that, as money was spent to deliver those courts? This is critical, because money is not always the solution, as we have heard, but everyone has to live within their means. Every official has to ensure value for money, and the purpose of this Committee is to probe and say, “You were given £477 million. If you had been given £600 million, would you have spent the £600 million, or would you have said, ‘Actually, we’re going to try to deliver more value for money and spend less than that?’”

Nick Goodwin: We have consistently looked at the value for money of keeping the Nightingales on. We have done that by looking at the requirement in each area; we have done it in consultation with the local



HOUSE OF COMMONS

judiciary. We have sought to make sure that we can sit on our allocated sitting days, because if we want to get through the Crown court backlog, we need to get through family and civil cases. Where we would not have been able to do that, absent Nightingale, we have looked to see what alternatives there are. The Southwark canteen and Telford are really good examples of where we converted temporary estate to permanent estate. Only where there is no other option of sitting, those sitting days will be maintained—

Q72 Nesil Caliskan: I guess what I am asking is: are you happy with the approach and the formula that you take when you are commissioning this additional capacity? Fundamentally, it has not worked, has it? There is still a backlog, and you are commissioning them, so while there might be value for money, it is fair to ask: if you were given more money, would we still have a backlog?

Dame Antonia Romeo: It is not quite right to say that it has not worked because there is still a backlog. In a world of constrained resources, backlogs can exist. That does not mean that the way you have spent the money has worked. The question is: what is the counterfactual?

Just to reassure you, Ms Caliskan, all accounting officers have to review spend against four tests in “Managing Public Money”. One of those tests is value for money. For Nick to do the Nightingales, and indeed to make a business case to the Treasury for them in the initial sense, we have to test ourselves against value for money, propriety, regularity and feasibility. As accounting officer for HMCTS, Nick will do that, and then I will look at it as the principal accounting officer. By definition, the judgment has been made to spend this money—

Nesil Caliskan: With all due respect, that is what I am asking you and what I am probing—

Dame Antonia Romeo: Which is why I am replying.

Nesil Caliskan: And that is: is that judgment correct, given that we still have a backlog?

Dame Antonia Romeo: Again, I am conscious of time, but what is very difficult in making these value for money judgments is: what is the value? To Nick’s point, we could not have kept the Crown court system going through covid without Nightingales. The value judgment there was that we could keep the system going, and we kept it running, by spending that money on Nightingales. That was the judgment—

Nesil Caliskan: You can’t have that blank cheque, though.

Dame Antonia Romeo: You could disagree with the judgment, and that is—

Q73 Chair: I think I want to round this off, because we have a little bit to go yet, but to just sum up Ms Caliskan’s questions, paragraph 2.7 on page 32 shows that the average courtroom cost in your own estate is £280,000 per year per place, whereas the Nightingales have ranged up to £1.6 million,



HOUSE OF COMMONS

so they have been very expensive. That, I presume, is why you are running them down now, Mr Goodwin.

Just to round this off with a more general question about where we have got to, paragraph 3.6 on page 50 says: "In 2022, the MoJ estimated that 50% of Crown Court courtrooms were at risk of closure at any time." You have mentioned the Southwark major project. Paragraph 2.8 mentions others—two "super courtrooms", one of which is in Manchester. There must be a balance between maintenance of your existing courts and these major projects. Are you constrained by resources either in doing the major projects or in maintaining your existing court estate, bearing it in mind that the NAO reckons that the backlog is about £1 billion?

Nick Goodwin: We do have a maintenance backlog. We have spoken about it at the Justice Committee. The Lady Chief Justice has spoken about it. It is a significant maintenance backlog.

We have been awarded better settlements over recent years. The last settlement we had for the maintenance backlog was £220 million, spread over two years. That was incredibly important, because having two years is so much more powerful in its ability to achieve value for money than a one-year cycle. That was a big improvement, but we still have a maintenance backlog and we still have a big risk with our courts, because they do go wrong even without covid or RAAC.

What I was projecting before was the fact that because we have a little bit of capacity around the system at a national level, we are incredibly adept at moving cases so that we do not lose sitting days. When we look at our objectives, the aim is to sit on the days that we are allocated, because there are costs to us, legal aid costs and costs on the prosecution—it is extremely expensive to win a Crown court trial. If we lose those days, it is difficult, so we do everything we can to move them.

We have significant and big new projects coming. Of course, I would like lots more new projects, because most of our Crown court estate in particular is Victorian: they are huge, expensive buildings with very few courtrooms in them. and they are expensive to run. But we have some good projects coming. We have a particularly good one coming in the City of London; this is going to be a big flagship court.

So yes, we have some good investment coming, but there is a big backlog of maintenance—there are no two ways about it—and it requires a lot of management to get what we can out of the system at the moment.

Chair: Just for the record, Mr Flury, we are delighted to have a court in Cirencester. We are offering it to you for a peppercorn; please keep using it for as long as you wish.

Q74 **Oliver Ryan:** And Burnley. I just want to ask this quickly: do you know how many cases were dealt with through the Nightingale courts programme? Do you have a number for that?

Nick Goodwin: I do not have the number off the top of my head. Can I just give you a bit of context?

Chair: You can send us the number in a note.

Oliver Ryan: Yes, you can send us a note afterwards. That is fine.

Nick Goodwin: A lot of Nightingale courts were not what you would think of as a typical court. Quite a lot of what was different in most Nightingale courts was that they did not have custody suites, so they were hearing some trials where you had a defendant for whom a custody suite was not needed. They were hearing quite a lot of proceedings ancillary to the main criminal trial. I am saying that to give you context. They are quite different, and therefore the mathematics of adding up how many trials they heard will be slightly different from what you would expect.

Oliver Ryan: I understand that. A note would be great.

Chair: Just let us have a note.

Oliver Ryan: It is probably just a quick calculation. If you had not had the Nightingale courts, how many more cases would you have had to deal with through the current system? That would be helpful to know.

Q75 **Peter Fortune:** I have been looking at some of the data on this. The infrastructure failings within the courts really are an issue, are they not? If we look at the data today, we see that 103 out of the 516 Crown court courtrooms are not sitting—that is about 20%—and Nottingham has just closed for the day because of health and safety, so this is an ongoing issue that you are having to deal with, is it not? That just puts a lot of it in context, in terms of how we are dealing with this.

I know we have talked about this today, but just to provide a benchmark quickly, can you set out what impact the increase in police numbers has had on the Crown court backlog? I know we have touched on it, but I just want us to reset the benchmark.

Dame Antonia Romeo: Obviously they are one factor of many, but they are a really significant factor. As you will know, the total number of police officers in March 2022 was 140,000, and in March 2024 it was 148,000, so these are really significant additional numbers.

One of the key questions is about not just the number of police, but the fact that at the beginning they have to be trained up. We are finding now that more police are trained, and it depends on what they are focusing on. If they are focusing on areas where there is either a lot of throughput or really difficult and complex cases, those are all things that could have a significant impact on the system. That is one of the reasons why receipts have gone up so much, as is set out in the Report.

Q76 **Peter Fortune:** I guess people would consider it axiomatic that if you get more police officers, you will get more cases going through the court. I do not want to stand on Clive's toes, but when you have these new police officers coming in, what kind of cases are you expecting them to deliver to

the Crown court?

Dame Antonia Romeo: That is a crucial question. We are trying to model receipts into the courts so that we can do all the preparation, set up the capacity and so on, and what the police will spend their time on—what the case mix is going to be—is one of the crucial assumptions. We agree with the Home Office about what those assumptions will be, because we are heavily reliant on the output of our modelling. We agree those inputs, which is what they would be, with the Home Office each time when we are running the model.

Q77 **Peter Fortune:** I have been busy looking at the increase in police officers, then looking at the trials and convictions. If you look at something like murder convictions, the numbers of police officers and the numbers of cases, which have gone up, do not really pull through to an increase in convictions. I am picking one area as an example.

Jerome Glass: ²I know. It is, mercifully, quite a low number. It is interesting that if you look at violence cases overall, for example, there has been a dramatic shift. In fact, I would say that it has been the most pronounced shift over the last 10 years in terms of receipts into the Crown court. In 2016, for example, there were 5,000 receipts per quarter against an overall number of 30,000-ish, whereas in 2024 the number was 10,000 against an overall 30,000-ish. It has doubled. That is a massive shift in terms of where the police are and what is coming into the system.

Sex and violence cases are now a much bigger proportion of receipts than they were 10 years ago. That flows through into the backlog, because those cases understandably take longer: they are more complex and require more hearing time. That is why when we say that the backlog is getting harder, that is what we mean in practice.

Q78 **Mr Betts:** Now for an easy question: what will the backlog be in 12 months' time?

Dame Antonia Romeo: I do not think it would be right to predict. We talked about this earlier—

Mr Betts: You have done it in the past. We have been talking about predictions and why they were not met right the way through this sitting.

Dame Antonia Romeo: We do not publish projections. As I have said, I expect that it will be higher than it is now, looking at the rate of receipts and the rate of disposals.

Q79 **Mr Betts:** But you have had projections in the past, haven't you? The ambition was to get it down to 53,000, which was not achieved, so that must have been based on a projection.

Dame Antonia Romeo: But we do not publish projections of the figures. We had an ambition that was set in October '21 to get it down below

² [Letter from Nick Goodwin, Chief Executive, HM Courts & Tribunals Service, re: Reducing the backlog in the Crown Court, dated 22nd January 2025](#)



HOUSE OF COMMONS

53,000, but we do not publish projections of what we think the Crown court is—

Mr Betts: An ambition is not plucked out of thin air, is it? It is based on some model.

Dame Antonia Romeo: Of course.

Mr Betts: So your modelling now would indicate what your ambition is for 12 months' time.

Dame Antonia Romeo: Our model indicates that, absent significant additional policy changes or changes to the system, the number will be higher than it is now.

Q80 **Mr Betts:** What are the constraints, then? The reason why the 53,000 ambition was not hit, as I understand it, was that there were fewer disposals; it was not about the number of cases coming in.

Dame Antonia Romeo: No, receipts have gone up significantly. Demand has increased dramatically from the police and from the fact that there was an additional—

Q81 **Mr Betts:** So receipts are coming in. Is your modelling showing that that is the problem area?

Dame Antonia Romeo: Demand is going to continue to grow and outstrip our ability to deal with that demand.

Mr Betts: So your projection about your capacity to deal with it is pretty firm. You do not have any—

Dame Antonia Romeo: Again, it is all about disposal rates. If the Lady Chief Justice were here, she would say that judges spend a lot of time on other things as well as case disposal. The point is that, at current disposal rates, we will not keep pace with the increase in receipts, which is why the backlog is growing. As discussed, there are a load of things that we can seek to do, including on efficiency, to improve that position.

Q82 **Mr Betts:** On the 53,000, you modelled previously that the receipts in '23-24 were actually less than the receipts in your planning assumptions in 2021.

Dame Antonia Romeo: Can you repeat that?

Mr Betts: Yes. I understand that your planning assumptions in 2021 led to the forecast for the 53,000. The receipts that you actually had in '23-24 were less than your initial planning assumptions, which led to the forecast that you did not hit.

Dame Antonia Romeo: Receipts have outstripped even what we predicted they would be. Is that your point? I suppose it would be helpful to know what the question is.

Mr Betts: No. They were less than you were forecasting that they would

be in 2021.

Dame Antonia Romeo: That may or may not—

Mr Betts: It is quite important, isn't it? It may or may not be true—

Dame Antonia Romeo: In 2021, receipts were 95,512. That would have been post covid, so it would be unsurprising that, coming out of covid, predictions of receipts as we were recovering the courts were obviously harder, but projections are projections. To the point that Mr Fortune was making, we seek to project or predict what receipts will be based on how the police might spend their time, the numbers of police and other things. Those are not necessarily guaranteed to be spot on. We seek to improve them, which is why we work with the Home Office on what the assumptions are and what the police are spending their time on.

Jerome Glass: Part of the complication, as I alluded to, is not just the number of receipts, but, as the permanent secretary said, what those receipts are. That flows through into something that we have talked about, which is the disposal rate—the number of cases dealt with per sitting day. If you like, it is a loose way of thinking about productivity. Because the mix is harder, each sitting day is buying you fewer disposals or fewer trials, so that has also changed. That has shifted from pre-covid to now. If we could return to pre-covid levels in the disposal rate, we would be seeing much more inroads being made into the backlog.

Nick Goodwin: To give a bit of colour to what Jerome is saying, we have much more complicated and heavy cases coming through the system now, and they are much more likely to proceed to trial. If a case proceeds to trial, it takes 10 times the time of a case that does not proceed. What we now have is a lot more trial cases.

Q83 **Nesil Caliskan:** So, fundamentally, the way you do things is broken. You are saying that even if there were not an increase in the number of cases coming through, you would still see an increase in the backlog because of the nature of the cases, which are complicated and take longer.

Dame Antonia Romeo: I am not sure that that necessarily means what we are doing is broken—you may have to repeat the beginning of your point. The point we are making is that two things are happening here, one of which is the number of receipts. Mr Betts, I have now understood your point; you are referring to the point on page 26. I will return to your point, Ms Caliskan.

As you will see, post covid it was harder to make forecasts accurate. We did not know—we were planning for what we thought receipts would be. We were coming out of the pandemic and making predictions about police numbers and what the police were going to be focusing their time on. As you will see, it is getting more accurate. I will not say that it is always perfect; it is not. We try to improve it to make the forecasts as accurate as possible, because we have to deliver against those.

Q84 **Chair:** I am going to draw this bit of the sitting to a close. I want to ask



HOUSE OF COMMONS

one or two questions about technology and the common platform. I will give the last question to the Chairman of the Justice Committee.

Unless you want to answer these questions now, Dame Antonia, I am very happy to let you send me a note on them, because they are pretty straightforward technical questions about data and about why the processing and coding issues with the common platform were not identified before the new system was rolled out. Why did it take so long for the issue to be identified and rectified? What more are you doing to ensure the accuracy of the Crown court data and how long will it take to implement? What confidence do you have in the reliability of the common platform, and what confidence you have in the accuracy of the caseload data in other parts of the criminal justice system? I am very happy for you to give us a note if you do not want to answer those questions now.

Dame Antonia Romeo: If it is helpful, we could comment on the common platform now. Perhaps I could comment on the actual data on the Crown court backlog, and then I will hand over to Nick and Dan to talk about the common platform.

As you will know, we identified an issue caused by three factors that meant that we paused publication of the backlog data from June to December. That was as a result of case records affected by human error, technical systems issues and data coding issues. We did two things. Once that was identified, we operationally checked that the numbers were being inputted and how they were—Nick may want to say something more about that. But I also commissioned, on behalf of the Lord Chancellor, an external review, which has determined that we can have a significant level of confidence in the Crown court data. When an issue like this arises, you want to check and do an audit. We have done that audit, so—in response to your final question—we can now be confident in that data.

The other thing that we have done, which Nick might want to talk about, is that Nick took the opportunity of that period to align the data through the One Crown programme, which meant that we had a bit of an issue with multiple data series capturing the same thing between management data and official statistics. That has now been brought together and is aligned. That gives us another reason to be confident in the quality of the data. Nick, do you want to talk about the common platform?

Nick Goodwin: You can have confidence in the data. The amount of checking that we have done on it, having not discovered what we expected, is really extensive. You can have confidence in the data.

The common platform has vastly improved over the last few years. That is partly down to the efforts of Daniel and others. It is now a good and stable system. It allows us to pull a lot more data off it and will become more and more valuable as it goes on. It is a much more stable system.

The common platform is being used by all the Crown courts, but we took a decision to bring the common platform together with the other critical Crown court system, known as DCS, which is how people access the actual information in the court. We took that decision largely because we wanted



HOUSE OF COMMONS

to make sure that we were not introducing a new risk into the Crown court of a brand-new IT system that fundamentally changed different ways of working at a time of fragility when we wanted as much throughput as possible. That has proved really successful. We will now build on that and make sure that we have a really good IT system in the Crown court. We have made good strides.

Q85 Chair: To round this up, can we be assured that you are not resting on your laurels with this technological stuff? I imagine that there is a lot more that could be done through better use of digital and AI in listings, case preparation and so on. Can we be assured that there is somebody in the department working under you who is considering these matters?

Nick Goodwin: You can certainly be reassured of that. We have made a big leap forward in our digitalisation of the courts. It now lays a foundation for a lot more potential, including very measured, careful AI. We are looking at it very hard.

Chair: Dame Antonia, we were always very critical in this Committee, but you are to be commended for finding the problems with this data, because it was a lot of work to put it right. It sounds as though you have now got on top of that, so well done.

I will give the final question to the Chairman of the Justice Committee, Andy Slaughter.

Andy Slaughter: Thank you for your indulgence and your hospitality. I shall come again if asked.

Chair: There may be an opportunity before too long.

Q86 Andy Slaughter: I know. In deference to the Committee being figure-based, I will ask for two figures. First, what is the latest listing date you currently have in the Crown court? I heard yesterday about a bail case—a fraud case—being listed in 2028. Is that right? Are you listing in 2028, or even beyond that?

Secondly, you have mentioned several times that one of the inefficiencies was the deliveries of prisoners to court. What is the cut-off time by which Serco has to deliver prisoners? I have heard that it is 4 pm—the end rather than the start of the court day—before there is any penalty.

Dame Antonia Romeo: I am going to ask Dan to deal with the first of those and probably the second, but it is certainly not 4 pm.

Daniel Flury: The answer to the first is that it depends. If you wanted a bail trial in Hull Crown court—

Andy Slaughter: What is the latest date, then?

Daniel Flury: If you wanted a bail trial in Hull Crown court, you could get one in August of this year. There are trials being listed into 2028, but there are sometimes—usually—reasons behind that. For example, they are waiting for a preceding trial to conclude to allow another trial to start. But there are trials being listed into 2028.



HOUSE OF COMMONS

Andy Slaughter: And when does Serco get a penalty if it does not deliver a prisoner?

Dame Antonia Romeo: It's 11, isn't it?

Daniel Flury: I would like to come back on that. I want to say 12 noon, but I would like to check and establish that, if I could.

Dame Antonia Romeo: There will be an MOU; there will be an SLA and then there will doubtless be a penalty time, but we can come back to you on that.

Chair: Let us have a note.

Dame Antonia Romeo: Shall I bring the answer when I am next in front of the Committee, or do you want us to write?

Chair: It would be good if we could round up all the issues that we want a note on today, because we have to produce a Report on this hearing rather than waiting for the next one. Otherwise, we will get a serious backlog in this Committee, which I am very anxious to avoid.

Dame Antonia Romeo: Quite right.

Jerome Glass: Chair, may I provide one figure that you asked for earlier? You asked for a number on civil legal aid—in particular, how much the additional spend of 10% on housing and immigration was. I can tell you that, in steady state, that will be £20 million a year.

Chair: Thank you. That is very helpful.

Dame Antonia, may I thank you and your team? There has been a lot of interest in this Committee's hearing today. You have answered our questions. It has been a long session, so we are very grateful. We look forward to hearing from you soon on prison capacity.

An uncorrected transcript of this hearing will be published on the Committee's website in the coming days. The Committee will consider the evidence provided and will of course produce its normal Report with recommendations, which you will no doubt consider. Thank you very much.

Dame Antonia Romeo: Thank you for having us.