

Justice Committee

Oral evidence: [Section 28 - Pre-Recorded Cross Examination](#), HC 1280

Tuesday 9 September 2025

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

Questions 1 - 73

Witnesses

[I](#): Chris Hartley, Deputy Chief Crown Prosecutor for Yorkshire and Humberside, Crown Prosecution Service; Kama Melly KC, Chair of the RASSO Committee, Criminal Bar Association; Professor Cheryl Thomas KC, Professor of Judicial Studies, University College London; Professor Katrin Hohl OBE, Professor of Criminology & Criminal Justice, City St George's University of London, and Independent Adviser on Criminal Justice Responses to Sexual Violence at HM Government; and Baroness Newlove of Warrington, The Victims' Commissioner for England and Wales.

[II](#): Alex Davies-Jones MP, Parliamentary Under-Secretary of State for Victims, Ministry of Justice; Alex Wilks, Deputy Director (Access to Justice Analysis) and Chief Economist, Ministry of Justice; and Amy Randall, Victims Policy Director, Ministry of Justice.

Written evidence from witnesses:

[Alex Davies-Jones MP](#) (1)

[Alex Davies-Jones MP](#) (2)

[Professor Katrin Hohl OBE](#)

[Professor Cheryl Thomas KC](#)

Examination of witnesses

Witnesses: Chris Hartley, Kama Melly KC, Professor Cheryl Thomas KC, Professor Katrin Hohl OBE and Baroness Newlove of Warrington.

[This evidence was taken by video-conference]

Q1 **Chair:** Good afternoon. Welcome to this afternoon's session of the Justice Committee. My name is Andy Slaughter. I am the MP for Hammersmith and Chiswick and the Chair of the Committee. I will ask our witnesses to introduce themselves in a moment, but first I will ask, as we normally do, the members of the Committee to give their declarations of interest, starting with Linsey Farnsworth.

Linsey Farnsworth: Good afternoon. My name is Linsey Farnsworth. I am the Member of Parliament for Amber Valley. My interests are as declared on the register, but of relevance to today, I was a Crown prosecutor, although I do not think Chris Hartley and myself ever crossed paths at that time.

Warinder Juss: Good afternoon. I am Warinder Juss. I am MP for Wolverhampton West. I am a member of various APPGs and I am also an executive council member of the GMB trade union. I have other interests registered on my member's register.

Pam Cox: Good afternoon. I am Pam Cox, MP for Colchester, and my interests are declared on the register but I would draw attention to the fact that I chair the APPG on penal affairs.

Chair: I am Andy Slaughter. I am a non-practising barrister. I am a member of the Unite and GMB trade unions and a patron of the Law Centre in Hammersmith and the Upper Room, which is a criminal justice charity.

Josh Babarinde: I am Josh Babarinde, Member of Parliament for Eastbourne. I am also a Senior Visiting Fellow in the Law Department at the LSE and all my other interests you can check out in the register.

Dr Neil Shastri-Hurst: I am Neil Shastri-Hurst. I am the Member of Parliament for Solihull West and Shirley, and my interests are as recorded in the register.

Sir Ashley Fox: I am Ashley Fox, the Member for Bridgewater, and my interests are as on the register.

Q2 **Chair:** Thank you very much. This afternoon's session is on the use of pre-recorded cross-examination under section 28 of the Youth Justice and Criminal Evidence Act 1999. It is actually completing an inquiry that our predecessor Committee undertook prior to the last general election and, as a consequence of today's session, we have the Minister responsible coming to give us evidence in an hour, but first we have a distinguished panel. I am just going to ask the panel if they would very briefly introduce themselves, perhaps starting with Professor Hohl.



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Professor Hohl: Hello, I am Katrin Hohl. I am Professor of Criminology and Criminal Justice at City St George's in London, and I am also the independent adviser to the Government on criminal justice responses to sexual violence.

Kama Melly: A barrister since 1997, I chair the Criminal Bar Association's Rape and Serious Sexual Offences Committee. This area of work has been my specialism for a number of years and I was part of the original Ministry of Justice pilot and working group for the original roll-out of section 28.

Chris Hartley: Chris Hartley, Deputy Chief Crown Prosecutor with the Crown Prosecution Service. I am based in Yorkshire and Humberside, where Leeds was one of the early pilots for section 28, and I am the national lead for section 28.

Baroness Newlove: I am Baroness Newlove. I am the Victims' Commissioner for England and Wales.

Professor Thomas: Hello, I am Cheryl Thomas. I am Professor of Judicial Studies at University College in London, and I am the Director of the Judicial Institute and the UCL Jury Project, where we do very detailed research with juries at court, including on section 28.

Q3 **Chair:** Thank you very much. The first question, which I will take, is for anyone to answer but I will ask Baroness Newlove perhaps to have the first go. It is simply this: what are the potential benefits and disadvantages of victims and witnesses having access to section 28?

Baroness Newlove: I think the positive for section 28 actually does give the victims confidence, and that is the main thing within our criminal justice system to feel they do have the confidence. To a slight degree, it does relax them. It does highlight a lot of challenges that they face in the justice system but, for me, it is about the engagement in section 28.

When I watched the pilot in Liverpool with Judge Aubrey, it was a really relaxing atmosphere for the victim and that must be first and foremost the way to go forward, not the way to go backward.

Q4 **Chair:** Thank you. Would anyone like to add to that? Perhaps focus on the disadvantages as much as the advantages.

Kama Melly: I wouldn't mind coming in there. There are undoubtedly a number of positive aspects for some witnesses for section 28, but in terms of focusing on the disadvantages, the first thing I would like to mention is that perhaps our understanding of the impact of trauma, or the original roll-out of section 28, was not fully understood. I think there was a thinking that if a victim, a witness, a complainant, could give their evidence and have that recorded, that was almost the end of the traumatic process in terms of their engagement with the criminal justice system.



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From my dealings with witnesses, I would say that isn't correct. They are and remain acutely involved in the criminal process until there is a verdict at the end of the case. They still are engaged with police, they are still aware that there is an ongoing trial, and the perpetrator may or may not be found guilty. There are occasions, of course, when we have to re-engage with witnesses about their evidence or matters that have come up. We need to appreciate at the outset that perhaps the case is not over for that person just because they have recorded their evidence.

There are other perhaps unintended consequences of section 28 and I will let others speak as regards the overall conviction rate impact on cases, but we also see—bearing in mind that we have to analyse section 28 against the very significant and indeed growing backlog in the criminal justice system—that where there are cases, perhaps where we have a pre-recorded piece of evidence, that might go further to the back of the queue. We are aware that, of course, some trials are now listed into 2029.

There can be some unintended consequences in that actually having that pre-recording, that security, means that the case, in fact, goes back and is not dealt with very promptly at all. Sorry, I just wanted to mention those things.

Q5 Chair: But even if, as you say, the witness is still engaged in the case, the most traumatic and the most relevant—in terms of the trial proceeding—part has taken place, has it not, which is the examination-in-chief and the cross-examination?

Kama Melly: One would imagine that would feel like the case, and I entirely understand why that is asked, but in my dealings with witnesses, particularly those in the long-running historical cases where there might be multiple trials, the fact that there are still police officers, that they know that there is a risk that they might be recalled, that those people are still on trial, they do not know whether they will be convicted or not, means that what they cannot do is feel that that part of the trauma is over.

Professor Hohl: The benefits are at various stages. For some victims, the thought of even reporting and engaging in a police investigation is unthinkable, because there is this possibility that you have to face your abuser or your perpetrator in court and have this cross-examination, which is widely considered a really difficult thing to do. So the availability of section 28 is hugely important for the question of access to justice.

Yes, there is the element of mitigating the impact of the justice process on a person who has already decided to give it a go, but there is this access to justice for some of the most vulnerable and some of the most intimidated people, so the availability is huge. There is an element of procedural fairness here and the purpose is access to enable that. Then there is the second element for people already in the process. It may not remove all the ways in which the process can be traumatic and re-



traumatising for victims and survivors, but it can take out this particular element where this particular element is an obstacle to either giving any evidence at all or giving your best evidence.

That is probably the main benefit when you look at the disadvantages. The ones we appear to see arising I think is because section 28 is sometimes portrayed as being able to solve some other problems that no special measure ever can. Section 28 is a special measure for giving evidence. It cannot alleviate the backlog, it cannot remove all the ways in which the process is impacting, so when we ask too much of section 28, of course, it will disappoint, but when we look very specifically and clearly at what it is set out to do in law, what its purpose is, there is clear emerging evidence from victim-survivor testimony, from the Ministry of Justice process evaluation and from the sector that it is serving in that way.

Chair: Thank you. I will move on to questions from Linsey Farnsworth.

Q6 Linsey Farnsworth: We have just heard that one of the practical challenges is that sometimes the cases where there is pre-recorded cross-examination go to the bottom of the list in the court backlog. Are there any other practical challenges to implementing section 28, particularly practical challenges during trials? What is the situation now, because that was certainly something that came up in the last Committee's inquiry? Is that still the case and what are those challenges?

Chris Hartley: Some of the practical challenges were initially around the technology that was in place. At the time it was a Vodafone contract that was rather clunky. It did not allow for pausing and starting, and it would run out after a certain length of time if the section 28 was not concluded. That has now changed and it is now called pre-recorded evidence. It is a much better system and we think that is working.

There are still issues around the quality of the initial video evidence that is to be played in terms of the technology, the lines of questioning, perhaps; equally, in terms of the court technology, because not all courts are as equipped as some of what they call the DAVE courts, the digital audio video evidence courts. Leeds has, I think, three of them. They make quite a significant difference in terms of the impact for the jury in viewing the victim or the witness giving their section 28 evidence. That can make a huge difference. Kama may be able to say more about that, not just in relation to section 28 but any electronic material to be presented. The DAVE courts are excellent for that.

Kama Melly: Yes, there have been big improvements, I think, where we have had some of the specialist courts with the better playback facility. If we are going to give significant evidence by way of a screen, the very least we can do for witnesses is ensure that the recording and the playback on the equipment is as good as it can be. We do not have that across all our courts.



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There are other practical issues, not least because you will have seen the decrease in the number of barristers who undertake this work and who remain within the criminal justice system. The courts have to facilitate far more of allowing barristers to come out of rape trials to deal with the section 28 cross-examination. That, of course, has listing complications. It then sometimes keeps juries waiting and increasing trials. It will increase the length of that trial because you are letting barristers go.

There is lots of regional differences in how courts list for section 28 hearings, so some of them will just have them at 9 o'clock, 9.30 in the morning. That, of course, makes for a much longer court day, which I might come on to slightly in terms of the overall preparation of the work, but it means you are trying to facilitate barristers coming in and out of rape trials to go and deal with cross-examination or re-examination for another case. That not only has significant logistical difficulties in making it happen, it also means that it is never ideal to be dealing with dynamic evidence while you have an existing trial going on in your mind, with an overview of that material. You are coming out of a trial for an hour or so, having to have a complete overview of your disclosure or your witnesses, the exhibit, if you are going to do fairness to that victim's evidence, whichever side of the case you are on.

There are all those practical difficulties. It is not the case that a judge can just say, "You are double booked, return it" because there is not another barrister to give that case to. The justice system has to accommodate then barristers coming in and out. Some courts have tried to accommodate it by saying, "Right, we do all our section 28s Friday afternoon and that should allow you to get to them," but, of course, barristers do not just work in one court centre, so that does not work. Some assistance, I think, in having and ironing out those regional differences might facilitate that movement between 28 and trials more easily.

I also wanted to mention that additional burden for the Bar, adding no doubt to our reducing numbers of people who want to do that work. You want to do the very best for your client or for the prosecution, and if you are coming out of one trial having an overview of hundreds, if not thousands, of pages of material, you often don't feel as though sometimes you are doing your very best work where you cannot be as engaged and involved in every document and piece of material. That pressure is behind some of the criminal Bar's slight resistance to section 28 being used in an increasing number of cases rather than being retained for the most vulnerable or intimidated witnesses.

Q7 Linsey Farnsworth: That leads me to two very different questions but both arising out of what you have just said. The first is whether those challenges with cases across court and limitations on number of barristers is having an impact negatively on the court backlog, which we know is a big problem in any event. The other is that you mentioned the quality of the cross-examination and not necessarily having all the papers in mind



at that time because you are obviously dipping in and out of two different cases. I have been in trials where there has been unused material much later down the line disclosed, for example. How do you deal with that if there is further material that comes to light that has not played a part of the cross-examination? How does that work within the section 28 arena?

Chris Hartley: I will just mention numbers, because I cannot speak obviously for the Criminal Bar Association in terms of defence availability. Certainly, in terms of the RASSO panel, which we use to instruct counsel, we have managed to increase that quite significantly. It is up 47% in terms of numbers. We have 993 now on the panel; that is compared to May 2024. We are doing quite a lot to increase the panel, but obviously there is two sides in terms of defence availability and prosecution availability.

Kama Melly: The number on the panel, of course, has increased, which is great, but that does not necessarily mean that everybody on that panel is available for a significant amount of RASSO work. That is part of the difficulty. Some people on there will only, of course, undertake a few cases or one or two cases a year, and we are still seeing significant numbers of sexual offences trials adjourned on the day that they were due to begin. If I am correct in the statistics I have been given, I think it is 128 during 2025 already.

That is ongoing, but to answer your question, a number of routes. The last thing we normally want to do is to have to recall a witness, but if new material has arisen the alternative is essentially the jury hear about that new material, if it is relevant and admissible, without the witness being able to answer it. That is not a step, with my prosecutor's hat on, that I take very easily. If there is significant material that is late disclosure that needs to be before the jury, I will ask or will have a conversation with the witness and ascertain their views about being recalled, either on a section 28 stand-alone, or perhaps via a remote centre linking in to deal with a very specific point of evidence. I will have that discussion very rarely, and occasionally we have had to do that.

Other times we have allowed that evidence in, perhaps if it is not so significant, not undermining of credibility, and dealt with the evidence in some other way. Those are the practical solutions that we have had to do.

Chris Hartley: It is also the situation that the landscape has changed since section 28 was initially considered with how quickly the section 28 would take place after the PTPH, plea and trial preparation hearing. Normally, it was expected it was going to be within probably six or eight weeks and now potentially, if it is not a custody case, it could be a year and the trial probably is another year after that. In terms of stage dates, so the dates by which the prosecution and defence should be trial ready with service of material and defence case statements, that normally should be taking place within weeks of the plea and trial preparation hearing. In terms of service of the evidence, making sure that it is all



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there and the disclosure is there for the preparation for the questioning, that should all be done in advance.

Kama Melly: Yes, and during the pilot scheme, in the very first few years of the pilot, we tried to do all disclosure before charge. When the case came to court, everything had been done on the case. If we do that, of course, it just pushes the delay on that side of it, but it meant that that perhaps accounts for why we could move, not just because of the backlog, the growing number of cases, but the case was trial ready at an early hearing during the pilot, partly because there were fewer cases that we were dealing with, so more resources could be put into them. Now, of course, the number has gone up significantly. Cases just come through the process and we are still dealing with those disclosure matters post the initial hearings.

Q8 **Pam Cox:** If I could bring us back to the principles at stake here, taking full account of the practicalities and the challenges that you have mentioned, the principle of section 28 is around ensuring that victims, complainants and witnesses give their best evidence. It is an access to justice question. I would like to ask Chris how effectively the CPS and the police are working together to ensure that all those groups have access to the right special measures for them.

Chris Hartley: I think it has improved considerably since I last gave evidence. I know at that time there was some judicial concern around too many applications or on not enough information. We have worked closely with the police, at national, local and individual case level, to try to make sure that those questions around what are the concerns, do they understand what the differences are, the practical differences in terms of each of the special measures and how they potentially can work together. Normally, it is about having a suite of measures, not just talking about having section 28 on its own. Then understanding what their concerns are and why a measure such as section 28 is right for them so that we understand and communicate it.

Some of what we have done is, for example, we have looked at the MG2, the witness needs form, which the police create, to make sure that that gives instructions to the police in terms of what the different measures are, so that they know what the different measures are, and to have actually a mandatory section where we do need to know what the victim's views are so that can assist us in making a good quality application.

Then we have things like early advice, which we do now on a significant number of our RASSO cases. That early engagement with the officer, again, as part of it, not just an evidential consideration, but also to consider what is our victim-witness strategy in this case, just to make sure that our applications have the right level of information, certainly from the leads that I speak to monthly. We have a meeting of the leads and the vast majority of applications are now being accepted.

Q9 **Pam Cox:** Just to recap, in your experience this has improved over time



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and that is encouraging to hear.

Chris Hartley: Yes.

- Q10 **Pam Cox:** Baroness Newlove and Professor Hohl, how is this working for victims and witnesses themselves from that perspective? How far do you feel that they are now more fully informed about the decisions around special measures that are right for them?

Baroness Newlove: The victims are well informed about section 28 and they are very comfortable. They are very nervous as well. The presumption when you look at the research is that they are not nervous. Well, they are nervous in any environment. First and foremost is they give the evidence in a comfortable environment for them. What is missing here is the presumption that they are not comfortable.

I went to the pilots in Liverpool Crown Court with Judge Aubrey. It was very relaxing and it was a very young child. Judge Aubrey was really relaxed with the child as well and that meant a lot to the little girl because the charge was rape by a 16 year-old. I thought he had a special bonding with the child to relax her. He took a tape recording machine so he was not accused of anything but it worked well. I think we should step back and listen to the victims who really want this section 28.

As we are talking about section 28 here, a lot of these victims haven't a clue what section 28 means. They just listen out to how comfortable that room is, how comfortable it is for them to talk, how comfortable that they can get that evidence out, and they can relax. But they also know they may be asked to go back to court and I think it is paramount that we can get confidence in victims to come forward.

- Q11 **Pam Cox:** Thank you very much, Baroness Newlove. I will invite Professor Hohl to come in on the question of the extent to which people feel informed about engaging with the process.

Professor Hohl: The more recent information I draw on is anecdotal, but a couple of years ago the Operation Soteria survivor survey—which was more aimed at the experience of the police but invariably survivors who progressed further in the justice system would comment more widely—found there is real variability, not just in whether the information is provided to them, but whether it is provided at the point in time and in a manner where a victim-survivor is able to make an informed decision.

I know from more recent evidence that the variability is huge. There is also an issue that what a victim-survivor needs might be dynamic, and especially when we are looking at a case that takes so many years, needs change. Sometimes this conversation is had very early on by officers, for example, because if you are going to do a section 28 there is a sense that you have to also have done an ABE, so video record the police evidence, otherwise this will not be available. I know from Kama there are some workarounds of reading out statements, but largely—and Chris alluded to it—they go together. You can imagine somebody might have just



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reported, they might not have slept for two days, they might be in quite the state, and the police often want to get this interview recorded quite early on. They might discuss court, which might be years away and is at a time when maybe the victim-survivor cannot take that information in well. It is definitely something where we need to think about whether that is revisited. Needs change over time.

While it is encouraging to hear that there has been some progress, and I do think that matches up with some of the evidence around the implementation of Soteria, my concern is that this is still very dependent on the officer you get, on how close the working relationship between the police and the CPS is at the time, and their understanding.

I have also heard that some officers are beginning to worry that section 28 is making things worse for victim-survivors, because they see the section 28 hearing rescheduled multiple times and then there is the anecdotal evidence about the actual trial being pushed back because the case is now considered less urgent. They then feel like they are letting this victim down. They have worked so hard to keep them engaged in the process. They feel they have promised them in some way that there is this way of making it less traumatic, and they can't always then provide it because the court does not allow for it with the reschedules.

I do not think we are in a place where we can say victim-survivors are always getting the right information delivered in a way to help them make the decision at the right points in time.

Pam Cox: That is very helpful, thank you.

Q12 Josh Babarinde: Thank you so much for your answers so far. I would love to ask a little bit about how and to what extent victims and witnesses are informed about some of the evidence around the use of section 28 and special measures more generally. I know from my own experience; I was a victim in a Crown Court trial and had all sorts of special measures offered. I declined each and every one of them because I was panicked, basically, about the impact it might have on the success of the case, which is the most important thing, but there was no information about that.

Can you tell us a little bit about what the system is expected to advise victims and witnesses of at the moment and to what extent do you feel we should be up front with victims and witnesses about some of the drawbacks of the measures, too?

Chris Hartley: The starting position is that first conversation between a police officer and the victim. It depends how well that conversation is and what they are understanding. Many of the officers are dedicated to the units dealing with these offences and should have a good understanding, but we appreciate that it needs a quality conversation.

To support outward facing for victims and witnesses, the criminal justice partners have got together to create four very short videos that seek to



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explain the different special measures and using practitioners including police officers, prosecutors, a judge, so that there is something fairly straightforward that people can see to give an understanding of what that measure is and what the process is. Certainly, we have updated our guidance on the special measures, both from a non-RASSO and a RASSO perspective. In fairness, one of them has had over 400,000 views and another one over 500,000 views. So the information is getting out there, but I appreciate that it needs to be more.

There is a lot that we need to do, I think, on a more local level, through the ISVAs, the support groups, in terms of explaining. I know from my area that one of them in South Yorkshire had a victims' day where we brought together all the relevant practitioners, because part of it is about everyone understanding what each other's role is. When it comes to explaining, you are not just explaining about your role but if questions get asked you are able to talk about what the victim's journey is and to help. Those are some of the things we have been doing.

Kama Melly: We have to be absolutely frank with witnesses. We do not want to approach that in a way that sounds or feels as though it is designed to put them off, but we certainly should not be keeping information back, I think. My personal preference, when I am the prosecutor, is to try to have an early meeting with the victim, the complainant, myself. I think I reach the best understanding when I, in fact, do not say, "Right, we have these four special measures" and I explain them all. I start with, "What are your concerns? What worries you? What is the thing that, if there is something, you feel worried about?" and then explain the special measures and try to find an approach that is designed and bespoke, really, for that individual.

These are in cases where they are slightly longer, there is more resources, and it is possible to do that. In your average one-defendant, one-complainant, five-day case, I do not think there is time in most diaries to allow all that early stage meeting. I think the practice across the country is very different in terms of what judges want. Some judges concerned about some of the research and the conviction rate insist that victims, complainants, are told and sign a statement that they understand there might be a lower conviction rate, and only then will they allow section 28. Others want full statements explaining why it is and other judges, if there is an application, they satisfy section 16 or section 17 and it is granted. There are a lot of regional differences, I think.

Professor Hohl: You are driving that conviction rate, the impact of special measures at conviction rate. The difficulty here is that this is not a clinical set-up where you add a screen, this takes this much likelihood of a conviction down, you take this away or you add it, it changes. It does not work like that. These are population level of all the cases that have gone through. It will utterly depend on the case. If you cannot get your words out because you are absolutely frozen, if you are giving live



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evidence, in your case the conviction rate chances are going to be impacted completely differently to someone else's setting.

I do not think there is even a way we could, in an honest and reliable way, advise how this particular person in their particular case, how their conviction rate—and we do not know which judge they are in front of, which jury. The whole concept does not work.

The other thing, which we have very good evidence on, is that for most victim-survivors what gives them a sense of justice is if they felt it was a fair trial, that the evidence was heard, that they were understood, that they were able to participate properly. There are survivors who had a conviction and they do not feel justice has been done because the process did not feel like justice. Conversely, there are victim-survivors whose case did not even end up in a charge, but who felt the justice system did right by them.

I think the conviction rate is fundamentally the wrong measure to discuss within this context, but if we are discussing it we are not helping survivors by giving them percentages that have actually no predictive ability for their individual case. I wish we could but we cannot. We wish we could take this uncertainty away and give people, "Do this, not that." It needs to be about the individual contextual case.

Q13 Josh Babarinde: I know that Professor Thomas has spoken a fair bit in various research and in the media about this. Do you want to share your take with the Committee?

Professor Thomas: Thank you. Yes, I was asked to do research about the extent to which different special measures may affect the jury's willingness to convict in different cases. Just for a bit of background for everyone, the UCL Jury Project has been working co-operatively with the Ministry of Justice for over a decade. They share the case data with us and we are able to look at every single verdict that every jury in every court in the country has reached over the last 17 years. They very helpfully have shared with us that data in relation to all section 28 cases.

Going back to one of the points about principles with the Youth Justice and Criminal Evidence Act, the principles that were key here were obviously to enable vulnerable and intimidated witnesses to actually give evidence. That was one of the key objectives. Another of the stated key objectives of that Act was to increase convictions. That is why I was asked to conduct the research to see the extent to which that Act was actually achieving its principles.

With all the research that we did, we found a very worrying trend, which was that juries were consistently less likely to convict across all the offences that they were presented with when section 28 was used. Now, there are many ways of doing analysis of this, but our approach is to look at each individual verdict that a jury returns. That is the way juries reach their decisions. They do not reach a decision on a whole case or an



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individual defendant, they have to return a verdict on every single charge.

That appears to be some evidence of concern in relation to section 28. Of course, there are some witnesses for whom that will be irrelevant. The only way they can give their evidence is by a special measure. One of the things that came out of this was the importance of providing witnesses with as much information as possible for them to make an informed choice about which special measure, if any, they feel is appropriate for them in the case.

Q14 Warinder Juss: Following on from what Professor Thomas has said, how do you think that the success of 28 is judged at the moment and how do you think the success should be judged?

Professor Hohl: There are different perspectives from different places, so from the perspective for victim-survivors as captured through the sector it is essential for the access to justice. On the conviction rate point, the Ministry of Justice has published an evaluation using the exact same dataset with a very transparent and clear methodology that has been peer reviewed—the whole report is peer reviewed—and statistical significance tested. They used control variables, they accounted for how the dataset is structured, and they did not find a negative impact on conviction rates.

From that point of view, it probably would have to be seen as a success in having the principle available. It is the practical implementation where I think across groups even victim-survivors would say it is not a success yet because there are so many practical issues in how it is being delivered. A real gap is the success in the delivery.

Kama Melly: Similar. You cannot look through the lens only of a conviction rate, whatever the statistics say. There is no doubt that some victims would not have been able to give their account without this as a tool, but we have to look at understanding the impact it has on the criminal justice system as a whole, on the efficacy of how the system runs. We have to understand the impact of that process on the witness. Of course, these cannot be the leading parts of it, but we also do have to look at the impact on the professionals working with the scheme because, ultimately, if we do not have sufficient professionals within it, then it will not work as a system.

Sadly, we are seeing some of the impact impacting negatively I think on members of the Bar. I am not saying that is the driving force but we would be wrong to be not looking at that as well.

Chris Hartley: From our perspective, it is difficult given the competing data or outcomes to make a decision. Certainly, from a local perspective, from Leeds, we do not see anecdotally a difference between use of section 28 and not in terms of outcomes, but I think what it does show is there is further work that needs to be done. It needs to be a lot more



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comprehensive. It needs to get the buy-in of all players in the criminal justice sphere and the victim's voice. As has been said at the very start, the case would not happen unless the victim was able to feel that they could come forward and give evidence. Therefore, their views of whether section 28 has helped them with their journey in having a voice and seeking justice, whether it be a conviction or not, but to have their voice heard I think has to be a big part of it.

- Q15 Pam Cox:** Very quickly, I am not hearing anybody say this should not continue. I am hearing methodological differences, and as a former social scientist I appreciate that. I am hearing implementation and practicality pressure. I am not hearing anybody say this should not continue. Would that be a fair assessment?

Kama Melly: Yes, I think that is a fair assessment. Particularly when you look at such witnesses who are eligible under section 17, which relates to children, there is strong support, particularly in terms of young children, of the absolute need to be able to pre-record that evidence, hopefully within months of that traumatic incident. There are more concerns about the efficacy of how it works for adult victims who do not have specific communication or vulnerability needs.

Baroness Newlove: I would just add, Chair, if we consider the amount of years it has taken to bring a section 28 to court with the thorough evidence—I am trying to think of her name and I know her, she is a friend of mine; that is terrible. The fact is that it has thoroughly been looked at and worked through the courts, and then to get it into court was such an exciting time. Now for victims to get used to section 28 is, for me, the best way of looking forward to it. Because if it makes victims comfortable and it makes victims more easy to answer questions, for me it helps their emotional state as well. We are talking about it and it is not that easy.

I would just like to add that my children gave evidence down a TV and they are traumatised to this day because of the way that they were treated in the room. I am going to champion section 28, along with all victims, because I need victims to feel comfortable within our system.

- Q16 Dr Neil Shastri-Hurst:** Could you set out your assessments of the MOJ's own research on section 28? Perhaps we can start with Professor Thomas on that front.

Professor Thomas: Thank you. There are always a variety of ways of looking at statistics. I would just set out the contrast between the way that the UCL Jury Project looks at jury conviction rates and the way that the Ministry of Justice did its evaluation.

As I just explained, we look at every single verdict that a jury has returned across every court in England and Wales, and we also look at that by offence. We have done a huge amount of work over two decades looking at what factors are most likely to affect jury conviction rates. The



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clear finding from that is that offence is the most relevant factor to whether a jury will convict or not.

The Ministry of Justice took a very different approach with its evaluation of section 28. It did not look at every jury verdict in section 28 cases. It uses what it refers to as a principal offence approach. So it looks at a case, it says, "There must be a principal offence charged in this case. We will look at what the jury decides on that principal offence". There is some logic to that if you are looking at whether there is any conviction that emerges from any case. The problem is that most cases have multiple charges. Juries have to return multiple verdicts. Quite often those multiple charges have exactly the same seriousness to them. My example to you is, you have a case where there are 10 charges of rape. The jury returns one guilty verdict and nine acquittals. The Ministry of Justice only counted the one conviction and did not count any of the nine acquittals. In effect, its approach, which is an interesting one to look at whether any conviction emerges in a case, did undercount jury acquittals using section 28.

We looked at every single jury verdict. That was over 11,000 verdicts using section 28. It only looked at 2,000 cases so it had excluded over 80% of the jury verdicts using section 28 in that period. I would say that I would prefer to rely upon every single decision that a jury made and not to categorise cases in that way.

Professor Hohl: In the next panel you will have the perfect person to ask about this. As an independent academic, from reading the report no verdict was discounted. The problem is that section 28, whether it was used or not, is only recorded at the case level. In practice, obviously in the courtroom you would be able to see which charge had it and which did not, but in this dataset, the same dataset used by Professor Thomas as per the Ministry of Justice, you cannot.

It will say next to it, but basically looking at every individual charge means you are artificially inflating and potentially giving weight to massive outliers. Some cases have a huge amount of charges in. The reason I believe the Ministry of Justice—and it has been very transparent over its decision making—had to go this way is because there is no other way of doing it. The lowest level of analysis is the case and we also need to take into account that each individual verdict is not independent of one another. Charges and verdicts are clustered in cases. They share the same jury, the same defendant, the same witness. If we treat each one as if it was a separate data point, we are massively inflating.

From a statistical point of view, the more advisable route is to pay careful attention to the level at which this data is recorded and careful attention to unit of analysis. I think in an ideal world we would do each verdict, but the data is not recorded in that way. If we do that, we must use a multilevel approach, otherwise we are not producing reliable findings. You have the second panel you can put this question to about the MOJ report.



Professor Thomas: I will just interject there and say that it is not correct that you cannot tell from individual verdicts whether section 28 was used or not. That is not correct. We were using the same dataset.

Chair: We have read quite a lot on this already. I am not sure we are going to get to the bottom of this now, but at least you have had the opportunity to air your views on that. Linsey, we have covered some of your ground, but did you want to pick up some of it?

Q17 **Linsey Farnsworth:** Yes, I think we have really covered the whole of question 8, haven't we? I will move on to my second question, which is looking to the future in terms of what we can learn. We have had research from the MOJ and from Professor Thomas. What research, if any, do the witnesses think should now be embarked upon within the section 28 arena? Would that include speaking to jurors? We know we cannot at the moment because of the Contempt of Court Act, but would that be useful or would that not be something that you would be looking at going forward?

Professor Hohl: First of all, this is about witnesses giving evidence, so obviously we must talk to the witnesses. The MOJ process evaluation has looked at that, but only in a very small way. I think any discussion of this must consider the victim voice. Their experiences need to be looked at.

In terms of the statistics, we do not yet know how it impacts ineffective trials and reschedules. Anecdotally, we think it does but that has not been covered. The MOJ evaluation looks at the overall number of days it has taken to conclude the case and finds no impact, but it did not actually look at how many false starts. I think that needs to be looked at.

Further analysis, ideally, preferably of data post the initial pilot, because that coincided with the pandemic impact, it coincided with the Bar strike, and it coincided with all the problems, well documented, of the roll-out of technology. So fresher data, seeing it now embedded, look at that and then make that dataset open, which it is through Data First but it is not particularly well known that other people can look at this and more academics across the country are replicating this.

In a scientific world we never want one study to be the be-all and end-all. We rely on replication and independent verification to arrive at a strong evidence base. At the moment, at the very best, we have a preliminary evidence base, nowhere close to a level where we could advise victims on the impact, because the maturity of this research is just not there. We need many more people working on it, many studies. That is just how it works in academia. We never ever take one study, even if it was apparently faultless, as the be-all and end-all.

Chris Hartley: I was just going to add that I think we need to look at anything that impacts in terms of affecting outcome, because there will be some things that we can influence and do something about and we need to learn from that. We need to be able to distinguish between



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section 16 and section 17. I do not think it is particularly clear; I think assumptions are made. There is the interplay with other special measures and how that impacts. Potentially, it is not just the voice of the victim, but also perhaps some of their—such as the ISVAs, who are observing what is happening, because they may also pick up some nuances in terms of how it is working for the victim.

You also have that national consistency and regional difference that you ought to be able to pick up there as to the applications, what are being refused, what the reasons are, because I think one of the things that does come out from our leads is there is regional difference between section 16 and section 17's approach, but even within section 16 and section 17 there are differences.

Professor Thomas: Yes, I think there is some fundamental research that would be very helpful in relation to the effectiveness of the Youth Justice and Criminal Evidence Act. We are seeing, across other fields not in the justice field, that there are known psychological differences between the way in which individuals perceive others if they are live and in person—as three of my colleagues are—or if you are online—as two of us are—or if you are pre-recorded. That evidence does tend to point to there being less empathy and more difficulty in judging credibility when the individual is not live or in person.

In relation to the Act itself, these are important things to explore in the criminal justice field, in the courtroom field. That is really important in order to try to understand if there are some better technologies that can be used in order for witnesses to be able to tell their story and convey their evidence as best they can.

Kama Melly: I would just like to be able to understand more detail from the data that is available, which I think is really what you were saying, Professor. It is not enough just to know it was a section 16, but how old the child in question was would be helpful and informative to understand it. I pick up on the comfortableness, which is very important in making a witness at ease, to be able to open the Pandora's box of trauma and give us that account. Sometimes we give them that ease through the use of a remote centre, sometimes they have that on a section 28 and sometimes they have it on live evidence and vice versa.

Again, that comfort might have been given on a live link, but by being in a properly resourced centre as opposed to, I am afraid, quite an unpleasant room within a Crown Court. If we are going to make sense and this is going to inform us of our future understanding, we need to know what the data represents in those cases. I want to be able to see and understand it case by case and count by count.

Chris Hartley: There is a point that has been made by professionals. That is around the victim going back to the place where they gave their first account to give their cross-examination, and potentially that is a more comfortable environment because it is an environment they know



and they felt supported there rather than, for example, going to a court building. That is not to say that is not a comfortable environment, it is equipped, but it is something that certainly ISVAs have picked up on.

Professor Hohl: Maybe to add for the Committee, it might be interesting to look at the Lighthouse in Camden if you haven't already. They support child victims throughout the process but they have a specific room that enables giving live evidence, but also doing the pre-recording. They have a fantastic set-up with trained psychologists, with officers present who know how it works. The way they work with barristers is exemplary. I think it is a hugely underused model of excellence, which we have right here in London, but sadly it is the only one in the UK. Other countries have many more of these set-ups.

Q18 **Linsey Farnsworth:** Is there any data around how evidence being given in that setting compares with other settings in other regions?

Professor Hohl: It is so small, it would be a tiny number of cases, but in other countries this model is called the Barnahus model. It is much more common in Scandinavian countries, in Germany and other countries. It is widely used. It is for child victims in this instance.

Kama Melly: It would be instantly calming and feeling supported the moment you would walk in there.

Professor Hohl: Yes, it is really well done. It is so well set up and I think it would serve the needs of victims very well. Some of the evidence we heard today is these practical issues barristers face that may also make judges reluctant, they do need to be looked at as well. There has to be some proper research into how we can get to a stage where the case is trial ready when it gets there and you do not have this many false starts, starts and stops, delays and late disclosures. This is, I think, where we are all saying it falls down. Nobody here has questioned the principle, it has all been about the fact of how do you make this work in a justice system that is so overwhelmed, that is so outdated that it is practically defunct? How can you possibly make this work?

This might be where some of the attention could be as well, maybe in the wider sense of how you enable access to justice when the system you are trying to give access to is barely functioning at this stage.

Kama Melly: If you are going to take the opportunity to look at the Lighthouse Centre, which is an extraordinary resource, if you haven't, I would ask you also to look at where the vast majority of complainants are going to give evidence from, which is a live link or a police station with rips in the sofa and part of the ceiling coming down. How difficult and how supported is a witness really going to feel where that is the criminal justice system that they are giving evidence from, I am afraid?

Chris Hartley: I would just add that while there are a lot of remote sites, in terms of sites that are currently approved for section 28 there were



three central pilot sites, of which the Lighthouse was one in relation to children. There is the Leeds SARC and there is one, I think, in County Durham. It is minimal at the minute because it is obviously in a testing phase around being able to remotely do section 28.

Q19 **Chair:** I will bring this session to a close. It is a shame; we could have gone a lot longer. I will give one last opportunity to anybody who wishes—you do not have to—to answer the question as to what your one recommendation would be for the Government to improve the use of section 28. Bear in mind that the Minister is in the room so will hear this as she waits to give evidence. I heard you say earlier on that you thought a standardised approach from courts around the country might be something that we should pick up from this. Is there anything else that we should take away from your evidence in relation to improvements?

Chris Hartley: I would mention the Law Commission's suggestion that victims of sexual offences are entitled rather than eligible in terms of delivering national consistency.

Professor Hohl: I would support that.

Baroness Newlove: I would support that as well.

Kama Melly: If there are other practical things we could very briefly mention, we still do not have parity of fees for defence and prosecution for section 28, which is not sustainable and is not right. We do not have automatic transcripts of what is said on the section 28, bearing in mind we are coming back to this trial a year or two later. You get access to the recording quickly, immediately. A year later, when the trial comes around, you cannot then access it. You have to go back through the process, so if another barrister is dealing with a case, we cannot pass on access to that. They have to go back to the court. There are a lot of clunky parts still of the system, but the lack of transcript is a real issue on the ground.

Perhaps to finish with, I think that if you asked the average person, an adult reporting a sexual offence, if they would opt for section 28 or they could just have their trial within six months, a huge amount of the proportion of witnesses who opt for one special measure would just take that.

Chair: Point taken. Thank you very much, everyone. Thank you to all our witnesses for attending this afternoon. I will suspend the meeting for two minutes for the panels to change over. Again, thank you very much. It has been very useful.

Examination of witnesses

Alex Davies-Jones MP, Alex Wilks and Amy Randall.



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Q20 Chair: Welcome back to this afternoon's Justice Select Committee, where for our second panel on section 28 today we are delighted to be joined by the Minister, Alex Davies-Jones, and her officials. May I begin by asking them to introduce themselves?

Amy Randall: I am Amy Randall. I am the Director of Victims Policy at the Ministry of Justice.

Alex Wilks: Alex Wilks, Deputy Director for Access to Justice Analysis and Chief Economist.

Q21 Chair: Thank you very much. Having heard from a panel of experts, or other experts, if I can put it that way, on the use of pre-recorded cross-examination under section 28 of the Youth Justice and Criminal Evidence Act 1999, we will now put some questions to you on that subject. I will begin by asking for some factual background. How many times has section 28 been used since the national roll-out to intimidated witnesses was completed in September 2022?

Alex Davies-Jones: We do have the data on that, Chair. Since 2022, since the overall roll-out happened, the number of witnesses that have accessed it are around 8,609. For adult rape cases, it is just under 20% of all those cases now are using section 28. That is one of many several measures, as Committee members will be aware, that victims and witnesses are able to access.

Amy Randall: The Committee will see that we have published some additional data this morning on that so that you can have it in front of you.

Q22 Chair: What proportion of applications to use section 28 are refused?

Amy Randall: We do not collect that data, so we do not know, other than based on anecdote from either the CPS or from victims' groups that we hear from, but we do not currently collect data on it.

Q23 Chair: Do you think you should? I am thinking about the evidence that we heard earlier from Ms Melly about how different judges in different courts have different practices in dealing with that. It sounds like in some cases the application almost makes itself and in others they want quite a rigorous process. Do you not think it would be sensible to monitor that?

Amy Randall: It is definitely something that we are considering how we approach in the Ministry of Justice. It is less clear to us how we would collect the data on it, but that does not mean that we do not need to understand it better. As I say, at the moment the information we have is based on anecdote, but it is fair to say that it is increasingly being raised with us and we need to work out how we are going to get a better handle on that. There is not an obvious data fix to it, but we do need to understand it better.

Q24 Chair: Have the Government rolled out the use of section 28 to intimidated witnesses where the offence relates to domestic abuse?



Alex Davies-Jones: No, not currently, Chair. If the witness is an intimidated witness or a vulnerable witness, as per the categories currently set out under the criteria, they are eligible, but it is not currently given to all domestic abuse victims.

Q25 **Chair:** Will that change?

Alex Davies-Jones: No, we have no current scope to expand the criteria from which victims are eligible to use section 28 or other special measures. We are keen, as you will have heard, to make sure that the existing cohort is able to access the measures in the best possible way, via the best digital audio and video equipment available, and that they have an understanding of how best it is being used. Currently, we do not have any plans to expand the scope or to reduce the amount of scope.

Q26 **Chair:** That is a capacity and resource issue, is it?

Alex Davies-Jones: Not so much resource or capacity, it is more that we want to understand how best it is being used currently and make sure that we get it to the right place for existing cohorts of victims rather than expanding it or reducing it.

Chair: Thank you very much. We have some questions from Linsey Farnsworth.

Q27 **Linsey Farnsworth:** Minister, the Committee has heard concerns about section 28, including the impact that it has on the court system, which we know is under a lot of pressure already and is stretched already. What would you say in relation to section 28 and the impact that it has on the court system, on the backlog and so on?

Alex Davies-Jones: Our impact evaluation on section 28 has shown some real benefits to victims. Rape Crisis England and Wales has said that having access to section 28 has meant a victim being engaged in the criminal justice process and choosing to stay and seek a criminal prosecution or not. That speaks volumes, especially when we know the current rate of victims, their attrition rate, and seeing the case through.

We have heard concerns from practitioners around the impact that it is having. However, it is important to tell the Committee that our peer-reviewed impact evaluation showed that by using section 28 for the specific cohort of victims that are eligible, it brought forward the time in which they would give evidence by five months. The evidence showed a nominal increase in the time that it would take to get to court by about a month. Our independent evaluation showed that it does not have a detrimental impact on the length of time that those cases take to get to courts. However, we know that those cases that are going to court are taking far too long regardless, and that is why we have commissioned Sir Brian Leveson to do that huge review into the court system to look at how best we bring that backlog down.



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We are working with the judiciary on how we can fast-track rape cases through the system, while respecting the fact that listing is an independent judicial function. We are awaiting Sir Brian's second part of that review, specifically on efficiency, to look at how we can make cases that are currently going through the courts more efficient in the long term. My priority is to ensure that when victims do get to court, that they do get to court and they stay engaged in the criminal justice system, that they are able to give their evidence to the best of their ability and that we are able to make the whole process as easy and as comforting as it possibly can be for them.

Q28 Linsey Farnsworth: Will the Leveson review look at section 28 specifically?

Alex Davies-Jones: Yes, it will be looking at special measures as part of the efficacy.

Q29 Linsey Farnsworth: How might some of the practical challenges be tackled for section 28 going forward? For example, in the first session we heard about difficulties with shortage of barristers, particularly on the defence—the CPS has increased its numbers, but defence barristers are in short supply—and the practical difficulties that that has when they are having to come out of other trials, often similar sorts of trials, to do a section 28 hearing. Have you thought about how those practical issues might be addressed?

Alex Davies-Jones: Yes, absolutely. You mentioned the CPS. We have been working closely with the Office of the Solicitor General and the CPS specifically on this, and there is now a payment available to these barristers, an extra £1,000 if they take part in the pre-trial evidence hearings, to make that more attractive for them to be able to take part in the process. We are working across the system with the CBA, and others, other stakeholders, on exactly how we can improve the system.

Q30 Linsey Farnsworth: One of the witnesses mentioned the disparity of payments for barristers, depending on whether they are doing prosecution or defence work for section 28, so I hope that that is looked at as well.

Minister, in your letter to the Committee on 7 March, you committed to keeping the operation of section 28 under review. Could you tell us what you mean by "under review"?

Alex Davies-Jones: It is listening, primarily, to those on the ground operating this day to day, whether that be victims directly, the sector, the CPS, the judiciary, HMCTS, all our represented stakeholders here. It is important that we make sure that we have the best technological equipment, as I have already said, so that this evidence can be heard in the best possible way in all our courtrooms. We have currently rolled out DAVE, which is our digital audio-video evolution, to 85 Crown courtrooms and there is current scope to expand that to a further 65 Crown courtrooms in England and Wales to ensure that we have the best



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possible technology available to hear that evidence. There is work going on, as I said, with the previous Solicitor General. I am hoping to pick this up with the new one following the reshuffle. I am working with the CPS around guidance and information given to victims about what types of special measures are available to them. Yes, all this is continually being kept under review.

Q31 Linsey Farnsworth: Are there any plans to change the rules on speaking to jurors about whether they felt that that had an impact on their decision making?

Alex Davies-Jones: I heard this come up in the previous evidence session. It is not something we have currently, no, but you will be aware of the Leveson review, as I have already said, in terms of how we improve the backlog in our Crown Courts, specifically for those who are victims of specific cases that we know are taking far too long to get to court, like RASSO cases. Nothing is off the table in terms of looking at how we can improve that for those victims.

Q32 Warinder Juss: How do you judge the success of section 28?

Alex Davies-Jones: I judge the success of section 28 by having more victims and survivors engaged in the process not wanting to drop out of the criminal justice system. If it means the difference between a vulnerable witness wanting to stay engaged and wanting to give their evidence than them pulling out altogether, to me that is a success. That is a success. It is entirely up to the victim and survivor themselves as to whether or not they believe that this special measure, one of many that is available, is the right one for them. I heard the evidence session before mine and I have heard from victims and the sector directly about the need for better communication in that field and that is something we are working on. We need to make sure, as I have said, that the technology does not fail us, that it is the best that it can possibly be to give the evidence the best hearing that it can possibly have. Ultimately, if it ensures that victims and survivors are maintaining within the criminal justice process, to me that is a success.

Q33 Warinder Juss: There should be no difference, should there, between conviction rates where somebody gives evidence under section 28 and in the normal way?

Alex Davies-Jones: That is correct and I am confident to say that our impact evaluation that was independently peer-reviewed showed that there was no difference in those conviction rates, and we stand by that.

Q34 Chair: You heard the witnesses earlier, and I think you are familiar with the debate. It was interesting to hear it in the flesh, or partly in the flesh, partly virtually, from Professor Hohl and Professor Thomas. How do you account for that difference between, essentially, the Ministry's findings and those of Professor Thomas?



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Alex Davies-Jones: I have immense respect for Professor Thomas. She has done lots of brilliant work for us across the criminal justice system looking at this. However, the reviews and both evaluations are not comparable. They were done quite differently with different methodology. Looking at the actual facts here, it is probably best I bring in Alex, who is our data man, who has all this at his fingertips, to explain in more detail to you.

Alex Wilks: There are a few differences in terms of methodology. As was touched on in the session before, the underpinning data is the same data across both sets of analysis. It was covered in the previous session, the difference between the level at which we look at the data. We look at the data at a case level; Professor Thomas looked at the data at a charge level. We did that for a couple of reasons because of the nature of the way that cases are conducted, but also largely because section 28 is recorded at a case level and we were unable to attribute section 28 to individual charges. Therefore, we felt that in trying to do so we would have had to have made some assumptions and potentially introduced bias into our analysis. We felt that that limitation on the analysis would not be worth it for the extra insights that we would gain, so we chose not to go down that route.

We are not exactly sure on the approach that Professor Thomas took to achieve that. She said that she was able to do that. We are not sure how she managed to do that and it has not been published, so we cannot comment on that particular fact.

We also generated a counterfactual. The reason why our evaluation was limited to a particular time period was because we used the time at which section 28 was being rolled out and we compared courts where section 28 was not enforced to those where it was, and controlled for other factors. That gave us a counterfactual against which we could compare our results. Those are the reasons why we are showing different results.

Q35 **Chair:** Do you not think, given that your evidence or your research has been challenged, you should do some more work on it?. I take the point that perhaps not the only or even the primary reason for having section 28 is about conviction rates. There are other reasons that we have heard about today, but surely you have a curiosity about that.

Amy Randall: We certainly do and I do not think we are dismissive at all about the importance of the conviction rate question. As the Minister has said and as Alex has said, we stand behind our evaluation. It is independently peer-reviewed. If we had more information from Professor Thomas that showed her working, we could engage more in that discussion. At the moment we feel that that is limited, given the amount of information that we have had from her. If there was more information to digest from her, we would certainly do it and engage in that debate.

Alex Davies-Jones: Can I just add there that, as Alex has outlined, we were fortunate to benefit from the fact that section 28 had not been



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rolled out everywhere, to have that control and test subject to be able to do that comparison. Now that section 28 has been rolled out to all 28 Crown Courts, we no longer have that difference to be able to compare on exactly how it is working and where it is available and where it is not, so it does limit us now in evaluation.

Q36 Pam Cox: Without prolonging that discussion too long, I am a little concerned to hear you say that you think Professor Thomas's workings have not been shared. This is, as I understand it, also a peer-reviewed study conducted by a very respected organisation. Is it the case that her methodology is not in the public domain? I would be surprised if that was the case.

Alex Wilks: Not that we are aware of. We are aware that she wrote to this Committee and gave some high-level results. We are not aware that she subsequently published how she got to those, exactly.

Pam Cox: It would be worth finding that out definitively, I think.

Q37 Sir Ashley Fox: Professor Thomas seemed to suggest that when you did a study, if you had one conviction out of five or six or seven charges, you counted that as a positive, whereas when she did her analysis she looked at each and every charge, which suggests that perhaps not the aim but the effect of your methodology is to show a much higher success rate for convictions, because you might have five charges and one is a conviction. You count that as one-plus, whereas she would count that as 20%-plus. Would you accept that that is the effect of the methodology that you have adopted?

Alex Wilks: That is one of the limitations of what we have done. Conversely, the way of doing it the other way round, you potentially overstate the negative impact by counting multiple charges that have been dismissed. There are methodological choices to make there. We stand behind ours. It is standard practice within the Ministry of Justice, when we are reporting on conviction rates, to do it this way because of the way that cases manifest themselves.

Q38 Linsey Farnsworth: Can I ask a very quick question? Apologies, I have not looked at the methodology, so this might be a silly question. If you have five charges and there are four acquittals and one conviction, so you have five different victims but the conviction was somebody who had not given evidence by section 28 and the others had, would that form part of your results as a positive or would that not be counted?

Alex Wilks: I am going to say yes, and I will check and let you know if it is different to that, but, yes, that is the case. We are looking at cases where section 28 is applied and cases where there is a successful conviction.

Q39 Linsey Farnsworth: Would you accept, then, that that is a flaw in the methodology?



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Alex Wilks: With any methodology you take, there are strengths and weaknesses to it. When we have written up our analysis and had it peer-reviewed, we have been quite open about the strengths and weaknesses of the approach that is taken. We think that this is the best way to do it, taking account of all the various factors at play, but, yes, there are weaknesses to what we have done, as is always the case with any analysis of this nature.

Q40 **Pam Cox:** How, given the discussion around section 28, will the MOJ be moving forward with it?

Alex Davies-Jones: As I have already outlined, we have no plans to expand the scope of eligibility nor plans to reduce eligibility for it at the present. We want to make sure that we get how it is currently operating right and effective for victims and for the whole criminal justice process. We want to get it right and we want to get it working and we want to get it communicated that it is available. I am really keen that we work together with the police and the CPS on communicating what is available to victims as part of a swathe of special measures, and that we make sure that it is the victim's informed choice as to what they choose to have.

The Committee will be aware of our commitment to introduce independent legal advisers as part of our manifesto commitments. It is hoped that we will be bringing that in shortly and they will then also be, specifically for those adult rape victims, that extra support around what is available. You heard in the previous session around how ISVAs can be vital in ensuring that victims know what is available to them. We recently published guidance on how ISVAs and IDVAs are practised in England and Wales. That has been well received across the sector and across all stakeholders in their roles. I will be consulting on a new victims code very soon. It is my absolute priority to ensure that victims know their rights and that the rights that are available under the victims code are fit for purpose and that they know what is available. Then it is about how we evaluate that as well. Boosting the powers of the Victims Commissioner under the Victims and Courts Bill that is currently progressing through Parliament, giving them the power to make sure that the victims code is being enforced and it is being operated to properly. There is some accountability there for the agencies available for ensuring that the victims code is being operated appropriately as well. All this forms part of that.

Q41 **Pam Cox:** You will be aware that the public have a great concern around sexual offences prosecutions and the rates of prosecution, all these questions. The Law Commission has recently looked at this and has come up with recommendations on the presentation of evidence in sexual offence prosecutions. Would you comment on some of their recent recommendations?

Alex Davies-Jones: Yes, it has indeed looked at this and I have had quite a lot of engagement with the Law Commission, with the sector and



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with Professor Katrin Hohl, who was your previous witness on this specifically on the bad character evidence. I have also had quite a lot of representation from parliamentarians on this issue. We are closely reviewing the Law Commission findings and, as part of Sir Brian Leveson's review as well into the courts process, looking at how we can best support victims and survivors who are going through this. We hope to bring forward more information soon.

- Q42 **Pam Cox:** On the specific question of the Law Commission's recommendation that complainants in sexual offence cases should be entitled to the use of standard measures to assist with giving evidence, would you agree with that?

Alex Davies-Jones: This is something that we are currently looking at. However, there may be many reasons why the judge in question chooses not to apply the special measures and it is important that the judge has the discretion there in each specific case. We of course have made sure that vulnerable witnesses and those who are intimidated are eligible for these special measures, but ultimately this is a decision for the judge in each specific case and at present I think that that is still the best appropriate solution.

- Q43 **Pam Cox:** A final one from me in this section. Should witnesses be able to make use of section 28 without having previously given an admissible achieving best evidence interview?

Alex Davies-Jones: I think that if section 28 is the best way of giving evidence for that vulnerable or intimidated witness, we should be looking at how best to keep them engaged in the criminal justice system. If it means the difference between them giving their evidence and it getting to court rather than them pulling out of the system altogether, we should be looking at every possible way of making sure that these cases progress.

Chair: Thank you very much. We will ask a few slightly wider questions about violence against women and girls.

- Q44 **Josh Babarinde:** Welcome, thanks for coming. I would like to ask a bit about the VAWG strategy that the Government are working on, an incredible mission to halve violence against women and girls over the next decade. Where are things at with the strategy?

Alex Davies-Jones: It is a very ambitious target. As you said, it is a huge undertaking and one that we are not doing lightly. We have delayed the strategy and we are working across government to get it to the right place to publish as soon as possible. The spending review was recently conducted, as you will be aware. Now each Department is going through spending allocations. We want to make sure that the strategy is fully funded, it is realistic and it is deliverable. We do not want to produce anything that is not going to hit the mark, while also bearing in mind that this is a 10-year strategy. We are still working on this, working in collaboration with our victims advisory board, with the sector and with



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victims and survivors themselves to ensure that we get this right. We will not be rushing this. We want to make sure that it is right, and I will happily engage with all colleagues on this and ensure that they also have input into it.

- Q45 **Josh Babarinde:** You gave a sense of when it was originally going to be published, based on the work that you thought it was going to take when originally setting the ambition. In light of the ambition being so big and wanting to get it right, what is the next ballpark for when you intend to publish it?

Alex Davies-Jones: I want to publish it as soon as possible, but we want to get it right. We do not want to have to revise it or it not being received well by women and girls, the country, the sector. It has to be right. I do not want to say that this is our one chance, but it is a strategy that will outline the direction of Government policy for the next 10 years, so it is important that every single Government Department has had a chance to properly feed into this because it is not just an MOJ or a Home Office issue to solve. This is a whole Government strategy, as well as looking at the devolved nations and involving them, while recognising that we currently only have jurisdiction for the criminal justice system in England and Wales. There are many other issues that impact violence against women and girls that are UK-wide, so it is about ensuring that we get this right. I want to publish it as soon as possible, but we want to get it right.

- Q46 **Josh Babarinde:** Is it as soon as possible before Christmas?

Alex Davies-Jones: It is as soon as possible.

- Q47 **Josh Babarinde:** I will move on to the next question on the sentencing Bill, whose second reading is next week, and VAWG-related issues in relation to the Bill. How will the Bill's proposal for a presumption to suspend short custodial sentences of 12 months or less work in relation to VAWG offences?

Alex Davies-Jones: The Bill does have a presumption to suspend short sentences. However, it is important to note here that in his review of the sentencing review it was outlined that presumption against short sentences does not necessarily mean for all cases. There will be judicial discretion here. In cases of domestic abuse or stalking, for example, where that victim has been under sustained pressure and a short sentence actually is in the best interests of the victim and survivor, they can still be imposed and they will be.

Amy Randall: Similarly, breach of a protective order as well.

Alex Davies-Jones: Yes, so a DAPO or a non-molestation order, for example, if there is a breach of that protective order, a short custodial sentence can still be imposed.

- Q48 **Josh Babarinde:** One of the things in the Bill, section 56A on finding of



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domestic abuse, creating a specific identifier—that I have campaigned a lot for and I am very grateful that you have done lots of work on working with the sector as well—can help with that identification piece. However, something that is not in that Bill is specific provisions around the powers that the Government have in relation to that identifier. For example, the Bill does not seem to directly equip the Government with the power to exclude certain offences from the presumption against short sentences, or it does not make a specific provision to exclude people who are found to be domestic abusers, from an early release scheme, say. Is that because that can be done via an SI, is that because it does not need statutory underpinning or is that because it is missing?

Alex Davies-Jones: No, it does not need primary legislation to do that.

Q49 **Josh Babarinde:** So that will come in as an SI afterwards or it is done in that?

Alex Davies-Jones: Or depending on how you were using that flag, that marker, it could just be through guidance to probation officers or to the prison service in terms of how they apply that. So it will vary, but it is not a primary legislative thing, in our view.

Q50 **Josh Babarinde:** Section 56A will in and of itself allow the exclusions that you have spoken about if the Government so wanted?

Amy Randall: The exclusions that the Minister has talked about in terms of the presumption against short sentences is a judicial discretion, but with a clear position on breach of protective orders and the fact that short sentences can provide respite in domestic abuse cases. When we are looking at the marker overall and we are talking about the management of offenders, that is something that we do not think requires primary legislation.

Q51 **Josh Babarinde:** Moving on, we have had an announcement recently on new restriction zones, which is welcomed by lots of the sector as a move that will better protect victims and survivors. Those protection zones and the restriction zones and the enforcement of them rely on a decent electronic tagging regime and it is no secret that Serco has utterly failed in many respects on this. How do the Government expect to be able to cope with this additional increase in their reliance on that system, when the contract is still not quite right?

Alex Davies-Jones: Hopefully the Committee will be aware that we have increased probation funding by up to £700 million as a result of the sentencing review and the spending review, to recognise the fact that we will need more probation officers, better equipment, better training, better guidance on exactly how we can keep the public safe and ensure that any plans we bring forward will be robust and properly resourced. Tagging and electronic monitoring is a very important part of this.

I and the Prisons Minister in the other place are continuing to have important conversations on the policy specifically. We met with officials



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earlier today looking at this and how we will be taking this forward. The Prisons Minister in the other place is also continuing to hold Serco to account to its obligations under the contract. He is a businessman in a previous life and he is ensuring that Serco is being held to task for any operational failures. I am pleased to say that things have improved in terms of current tagging arrangements. To reassure the member, because I know this is an interest of his, domestic abusers and those under DAPOL—domestic abuse protection on licence—are being prioritised for tagging on release of prison to ensure to recognise that risk, and all current offenders are risk assessed to ensure that if they should be tagged, they will be tagged.

Q52 Josh Babarinde: That is good news. I have a final question. I have been out with Serco and joined it on a tagging shift. I pay tribute to Gemma, who I went out with, who was fantastic, but there were some structural issues that seemed to have persisted for quite some time that Serco has not addressed. At what point will the Government say that we need to radically review our use of this company to manage this contract and stop potentially polishing a turd?

Alex Davies-Jones: He will know that this is a contract we inherited from the previous Government and it would not be appropriate for me to comment on contract arrangements with a private contractor. However, I can reassure him that his comments will be passed on to the Prisons Minister and the new Lord Chancellor, who is now in place, to look at exactly how we move forward.

Q53 Pam Cox: Broadly on the VAWG strategy, just to recap again what the MOJ is doing to push that joined-up approach with other Departments, are there some concrete examples where you have joined-up working?

Alex Davies-Jones: Yes, the Minister for Safeguarding and Violence Against Women and Girls in the Home Office and I have been having many trilateral meetings across government with every single Government Department involved in this. I can assure the Honourable Member that the majority of Government Departments are involved—we are even trying to get DESNZ somehow involved in the VAWG strategy, for want of trying—to ensure that we have joined-up approaches, for example, with the DHSC, looking at how GPs and health practitioners can spot the first signs of abuse. We know that for many victims and survivors a health practitioner is the first person to whom they will disclose this abuse is taking place. It is about how they can best then signpost those victims or how they disclose that to the relevant authorities and how they can best support that victim and survivor.

The VAWG strategy is very focused on prevention first and foremost. It is looking at how we can prevent this from taking place in the first place, as well as showing support for victims and survivors who are currently going through the criminal justice process, as well as changing society and society's views on violence against women and girls. We are working with DCMS, for example, on how we can work with media partners and social



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media on how it is viewed, working with the DHSC and the Department for Education and schools on their curriculum and working with children in schools on consent, for example.

All this is taking place and no stone is being left unturned in terms of how we can best support victims and survivors; MHCLG on housing and refuge availability, for example. All this is being considered and taken into the strategy.

Q54 Pam Cox: On the housing question, I have dealt with victims of sexual abuse who have found it very difficult to get a guarantor when they want to enter the private rental market, having left a family home, because they cannot provide easy evidence of their financial security. Is that something that is being considered?

Alex Davies-Jones: It is. The Minister for Safeguarding and I met with the previous Economic Secretary to the Treasury on this, looking at how we look at cohabitation rights reform as well, which the Member will know was in our manifesto, looking at how we can boost cohabitation rights looking forward. That is something that we are considering and is in the VAWG strategy. Economic abuse is something specifically that we have been working on with the brilliant charity Surviving Economic Abuse to make sure that it is a member of the advisory board feeding into this as well.

Q55 Chair: I have a couple more questions on this. The last end-to-end Rape Review update was published in February 2024. Will you continue to provide updates and are there any commitments for the last review that are outstanding?

Alex Davies-Jones: It is important to recognise the work of the end-to-end Rape Review from the previous Government. It is brilliant work in terms of recognising the issue of rape cases. Operation Soteria, as was outlined by the previous witness in their session, did some great things in bringing to the forefront the police response in how they deal with certain crimes. We are now getting on with embedding that work across government and across the other agencies, working, as I have said, with the CPS, working with the judiciary, working with the sector on how we best support that, and ensuring that we build on that work specifically. Again, it is part of our strategy that we will be publishing in due course.

Q56 Chair: Do you have a general message for victims and survivors? As a result of some of the measures in the sentencing Bill, some justice circumstances that the criminal justice system finds itself in, people who would have been in prison will now be out of prison. Obviously, there are exemptions for serious sexual offences, but nevertheless, whether it is recall, whether it is remand and custody time limits or whether it is the progression model of sentencing, victims will be worried, will they not, that whatever the use of tagging, whatever the use of restriction zones, they could be put at risk? What is your answer to victims who pose that question?



Alex Davies-Jones: I would say that the worst thing of all that we could do for victims and survivors would be running out of prison places. It would be having a criminal justice system that is not sustainable and fit for purpose. The Committee will know that this Government inherited an entire criminal justice system in crisis, prisons on the brink of collapse, courts unable to cope with the ever-increasing volume of cases coming through the system, and victims and survivors unable to access support services that they vitally need to keep them engaged in the criminal justice system and enable them to rebuild and recover their lives after their trauma. What we need to do is put every single aspect of that right.

We came into office 15 months ago now and conducted a once-in-a-generation review of our sentencing. That is now under way with the public Second Reading of the sentencing Bill next week to make sure that we never run out of prison places. We have also embarked on the biggest prison-building programme since the Victorian era, because I want to reassure victims and survivors and the public that there will always be a prison place available for someone who needs it to keep the public safe and as a form of punishment.

We have also conducted that big review into our courts—Sir Brian Leveson’s review, which we will be responding to shortly—to look at how we ensure that our court system is fit for purpose and that we bring those cases through the system. My part in the criminal justice journey as the Minister for Victims is to ensure that we keep victims and survivors engaged in that process so that they do not want to give up, they feel heard, they feel listened to and they feel supported. That is the work that I am trying to do across every single aspect of the system, because without victims and survivors, Chair, we would not have a criminal justice system.

Q57 **Dr Neil Shastri-Hurst:** Can I come in on that question? I think that we all agree, Minister, that victims should be at the centre of any effective criminal justice system. This Committee in the previous Parliament found that there was a lack of confidence in the term “life sentence”, because by virtue of some misreporting or the sense that people were being released from prison during that, there was a misunderstanding of the term. One of the recommendations of that Committee was that the term “life sentence” should be reviewed. Do you agree that it undermines trust and confidence in victims when they hear that those who have been given a life sentence are released, and would you consider reviewing that term?

Alex Davies-Jones: Transparency in sentencing is something that came out of the sentencing review quite loudly and it is something that I have heard from victims and survivors. I have had the privilege—privilege or deep sadness—to meet with far too many victims and survivors in this role. They have told me directly that they believe that there should be better transparency around exactly what and how long a sentence is, because it is not necessarily the reality, once a judge hands that sentence



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down, exactly how long that person will serve in prison. Transparency around sentencing is definitely something that we are looking at and will be part of ensuring that openness.

The hon. Member may be aware that the Law Commission is currently doing a huge review into the law of homicide specifically. This is something that victims have asked the Law Commission to take into consideration when it is conducting its review. It is worth putting on record that a life sentence does mean that it could be life; it is at the discretion in prison. A whole-life order is exactly that, that the individual, the perpetrator, will serve their whole life in prison. I agree that it is important that we are as transparent as possible on exactly what sentences are.

Q58 Sir Ashley Fox: Minister, what evidence do you have that the changes that you are making with regard to the early release of offenders at one third or one half of their sentence is supported by victims and their representatives? What engagement have you had with victims and their views on this policy?

Alex Davies-Jones: I welcome that question, Sir Ashley. There was a victims' representative on the sentencing review panel looking at this specifically. I personally met with many victims and survivors directly to discuss the sentencing Bill and the review in detail. I meet regularly with the Victims' Commissioner for England and Wales, the Victims' Commissioner for London, the Domestic Abuse Commissioner. I have met with Dame Vera Baird in her new role as interim Chair of the CCRC and in her previous role. I have a lot of respect for Dame Vera. She was a previous Victims' Commissioner as well and I have met with her to discuss this. The Minister for Safeguarding and I met with the Chair of the sentencing review to discuss his findings and to put victims' voices at the heart of it and the previous Sentencing Minister, before he was moved from Government. I met with many victims and survivors to discuss the findings of the sentencing review. I do have a full list of those meetings that are available on the government website.

Q59 Sir Ashley Fox: I am not doubting that you have held a lot of meetings. I was asking whether victims supported the policy.

Alex Davies-Jones: I think that victims want a criminal justice system that they can believe in. Ultimately, that means ensuring that there is always a prison place available for a perpetrator of violence. If we do not look at a different way of looking at sentencing, that is just not sustainable. As I have said, we also need to build more prison places and that is exactly what this Government are doing. It is also about reassuring victims and survivors that once the new progression model comes into force there will be adequate probation in place. As I said, £700 million to boost that resource to ensure that probation will be adequately funded to protect the public, to ensure that electronic monitoring is in place.



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There will be exemptions from the scheme, as I have said, for certain offenders. Governors will also have their discretion to extend that model of sentencing. All this has been taken into consideration but ultimately, of course, we wish we were never in this position in the first place. Now this gives us an opportunity to fundamentally look at the sentencing framework under the sentencing review to ensure that we never get to a position again where we are forced to make decisions because of the previous Government's inadequacies.

Sir Ashley Fox: I asked for evidence that victims support your policy and you have not replied to that question.

Alex Davies-Jones: You would have to ask them directly.

Sir Ashley Fox: I am drawn to the conclusion that you did not have evidence that they supported this policy.

Alex Davies-Jones: You would have to ask them directly.

Q60 **Sir Ashley Fox:** Okay. *The Daily Telegraph* reports that up to 43,000 criminals a year will avoid jail if most 12-month sentences are scrapped. Do you recognise that figure? Has your Department done any analysis of how many criminals will not go to prison as a result of suspending almost all sentences of fewer than 12 months?

Alex Davies-Jones: All the impact assessments have been done as part of the sentencing Bill and will have been published as part of the Bill disclosure. I am sure that the Member will be able to ask the Sentencing Minister about this at Second Reading next week.

Q61 **Linsey Farnsworth:** On the subject of the Sentencing Bill, some of the measures in the sentencing Bill are based on a model in Texas that has had some results in relation to reoffending rates and in relation to the crime rate overall. Could you tell us a bit about that and what you are hoping for as an outcome from the sentencing Bill in this country and how that fits in with the Government's overall strategy?

Alex Davies-Jones: As I have already stated, the first and foremost principle of this Government is to ensure that there will always be a prison place available for those who need it, to keep the public safe. We recognise that prison is necessary. It can be a punishment, it can be a source of rehabilitation, and it is necessary that the prison service has the operational space to be able to conduct that work as well. Currently, as I am sure the Committee will be aware, our prisons are making better criminals and not better citizens. That is contributing to the cycle of reoffending and the high rates of reoffending that we are seeing. What we need to do is to break that cycle if we are to reduce the levels of crime in this country, to ultimately reduce the numbers of victims that I have, that we have, and we can keep our streets safe. That is part of this Government's plan for change and our Safer Streets mission and that is exactly what we are doing.



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Q62 Linsey Farnsworth: I think that in Texas they saw a reduction in recidivism as a result of the measures that they brought in, and in the overall crime rate. I am sure that you are hoping, but are you expecting that to be a similar outcome in this country?

Alex Davies-Jones: That is the goal, absolutely, in terms of reducing the levels of crime overall, reducing the numbers of victims and to boost confidence across the criminal justice system. As I have said, one of the biggest aims is that we make better citizens and not better criminals. It is about how we break that cycle of offending through positive requirements. Maybe the Committee will be aware that the DAPOs that we have recently been piloting, the domestic abuse protection orders, for the first time ever have positive requirements attached to them, which is perpetrator programmes, so that we can address the source of offending, whether that be drug and alcohol abuse, anger management, mental health support, all this, if we are to truly stop the behaviour in the first place.

Q63 Warinder Juss: Minister, you said that the VAWG strategy is focusing on prevention. If we were able to achieve that, perhaps we would not need so many prison places. Can you give a general overview as to how you think that we can achieve prevention?

Alex Davies-Jones: I touched on it in my previous answer on looking at targeting the issues of offending, how we can change behaviour, how we can change as a society. That is on us all to work with, whether that is education, better healthcare, better support in the community, all this on reducing the levels of violence against women and girls. Ultimately, I want fewer dead women. We know that the femicide rate in this country is far too high. These are not just stats and figures and numbers, these are women and girls, sadly, who are dying at the hands of men in our country every single week and that number needs to be reduced. The levels of domestic abuse are intolerable. The levels of sexual harassment and sexual violence are intolerable, and all this needs tackling and bringing down. As I have said, this will not be done just by a criminal justice solution on its own. It has to take a whole government and a whole society approach, and that is what the VAWG strategy is focused on.

Q64 Chair: In the very few minutes that we have left, if you will allow, I will touch on one or two other topics that both you and we have been dealing with separately, but as we are all here I will raise them today.

The first is Hillsborough law. There was a very well-attended debate here last week at Westminster Hall. You made the welcome announcement that the Hillsborough law would include a legal duty of candour, with criminal sanctions for those who do not comply, and measures to rebalance the inquest and inquiry processes. Could you give any more detail about what those measures will entail and will they include parity of legal representation for victims and bereaved families?



Alex Davies-Jones: I will frustrate you, Chair, and the Committee by saying that I am not at liberty to disclose any further information. Hopefully, the Committee will be aware of the remarks that I made in the Westminster Hall debate last week on the need to ensure that this is a families-first approach towards the legislation and the Bill that we are working on as a Government. Any Bill must meet the needs and the victims' requests and the families' requests of what justifies being called a Hillsborough law. We are working with them collaboratively and very positively to ensure that, when we do introduce a Bill, it will be fitting of the legacy that they deserve. However, I am not able to disclose any further details yet, but as soon as that Bill is published I will happily speak to Committee members. On the parity point, he and I both stood on a manifesto that committed to that parity and any Hillsborough law will have to have parity at its heart.

Q65 **Chair:** That is very helpful. If you cannot tell us more about the what, can you tell us when you expect the Bill to be introduced? Will it be soon after the conference recess?

Alex Davies-Jones: It will be when the families and the campaigners and the Government are content that it meets the test of being a fit and proper Hillsborough law.

Q66 **Chair:** You will also be aware that we had our pre-appointment hearing for the position of standing advocate last week and unanimously approved the candidate, Cindy Butts. We are not sure whether she has now been appointed. You might be able to clear that up. The one cloud on what was otherwise a very bright horizon there was the time it had taken to do that, since sometime last year, and some lack of clarity, particularly around the budget and the resources of the office. We have written to the Lord Chancellor and copied you in. You may want to think about that and respond, but is there anything you can say about that now?

Alex Davies-Jones: Yes. I am thrilled that the Committee has endorsed Cindy Butts to be the first ever independent public advocate. She truly is an incredible, remarkable woman who I believe will serve the public and the country very well in the role. We will be formally, hopefully, appointing her imminently, is the answer. Now that we have received your endorsement, the plan is to formally appoint her imminently.

I recognise that this campaign took far too long. It was unacceptable, sadly, the process, and we will be—we are, in fact, not we will be—reviewing exactly why that happened and making sure that it does not affect public appointments going forward, because it did take far too long. I have met with Cindy directly and discussed this with her as well, about how long this took, and listened to her concerns directly. I want to reassure the Committee that we will be feeding that back in MOJ internally and across government more broadly, on how this will not be repeated on public appointments.



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Q67 **Chair:** We know that you have just appointed a new Victims' Commissioner.

Alex Davies-Jones: We have indeed.

Chair: That seems like a very good appointment. We were not involved in that appointment, and we are puzzling slightly. We are not looking to expand our empire, but we are dealing with the head of the Legal Services Board, we are dealing with the Judicial Appointments Commission Chair, and there does not seem to be any great logic. We had to apply to be involved in the CCRC appointment. Do you think that you should have a look at some of these appointments to see whether there should be some standardisation as to who are involved?

Alex Davies-Jones: I will certainly take that away, Chair. I am as puzzled as you as to why you were not involved in that appointment process. Hopefully, you will feel that the candidate who we have chosen is the right fit, but I will definitely take that away as to why you were not involved in that to look at how we standardise that approach with public appointments.

Q68 **Chair:** Finally from me, we have the appointment of Dame Vera Baird, as you mentioned, to the CCRC. She is undertaking a review of its operation. Do you have in your mind what you want that review to achieve, and when do you expect to see it reported?

Alex Davies-Jones: Yes, I have had positive meetings with Dame Vera in her new role looking at this. It is very important, given the nature of this review, that she does this wholly independently. I want a no-holds-barred, warts-and-all review of the CCRC, as did the previous Lord Chancellor, and I am sure that this Lord Chancellor will also want that. I have not fed in any views. I want this to be purely on her own merit as an independent Chair. We anticipate that it will be concluded in March next year. It is important that Dame Vera has the time and capacity to be able to thoroughly review the processes, but I have been very clear with her that nothing is off the table. Nothing is off the table in terms of her review. I want a proper review of the whole process.

Q69 **Pam Cox:** This is a bit of a wildcard question but since we have you here, the European Convention on Human Rights provides a framework for the protection of victims' rights. Our own victims code was drawn up in 2004 with pretty close reference to the Convention and adapted for British needs. Can you confirm that the ECHR will continue to underpin our approach to victims' rights?

Alex Davies-Jones: We are a member of the ECHR, we will continue to be a member of the ECHR, and that applies here in our country. We will be consulting on a new victims code in due course to make sure that it is fit for purpose in the modern era. As you have said, it has been quite a while since that was updated. I particularly have an interest in how it applies to child victims at the moment. I want to make sure that it is appropriate there, but I am also keen to hear views on how the victims



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code operates across England and Wales, from all cohorts of victims. I will be keen to engage with the Committee when we launch that consultation.

Pam Cox: Of course, the ECHR was drawn up largely by British lawyers or to a large extent, so it is informed. It is interesting that you are still just as committed to it.

Chair: I can see Ashley indicating. I cannot see anybody else who wishes to ask. Last question to you, Ashley.

Q70 **Sir Ashley Fox:** Minister, I think I am right in saying that you are also responsible for the probate service.

Alex Davies-Jones: I am indeed, at present. I have not heard anything different yet, Sir Ashley.

Q71 **Sir Ashley Fox:** Excellent. The covid pandemic caused significant delays in the probate service, largely returned to normal except for the number of complex cases taking more than a year. That backlog has doubled and is not getting better. What steps are you taking to resolve this issue of complex cases?

Alex Davies-Jones: I have had positive meetings with the probate service on this, looking at complex cases. The head of the probate service has put in place brilliant review mechanisms and has improved the system. On complex cases it is still quite slow and we recognise that. We are looking and working together to see how best we can speed this up, while recognising that complex cases do take time. It is difficult, there can be lots of information to gather and it can be very time consuming. However, there has been improved training and support for the probate service and under phase 2 of this Government I will commit to looking again and working with it on how we best improve that service for all users.

Q72 **Sir Ashley Fox:** From 2027 the Chancellor is going to include pensions within taxable estate. That will create an extra layer of complexity in probate applications. The estate will have to get in touch with every single pension company that an individual might have a relationship with. What contingency planning is your Department undertaking to cope with this change?

Alex Davies-Jones: I will be continuing to work with the probate service and officials to ensure that we provide the best efficient and user-friendly service that we possibly can.

Q73 **Sir Ashley Fox:** Have you done any modelling as to what the 2027 changes will cause?

Alex Davies-Jones: I will happily write to you on that. I am happy to come back to you.

Chair: Thank you very much. That concludes our business today.



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Minister, thank you and to your officials for attending. Thank you for staying beyond your time and for answering across a wide range of topics. With that, I will bring the Committee session to an end.