

Justice Committee

Oral evidence: [The work of the Ministry of Justice](#),
HC 1267

Tuesday 23 March 2021

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Members present: Robert Neill (Chair); Rob Butler; Janet Daby; James Daly; Ms Sarah Dines; Maria Eagle; Kenny MacAskill; Dr Kieran Mullan; Andy Slaughter.

Questions 1 - 83

Witnesses

I: Antonia Romeo, Permanent Secretary, Ministry of Justice; James McEwen, Interim Chief Financial Officer, Ministry of Justice; Kevin Sadler, Chief Executive, HM Courts and Tribunals Service; and Jo Farrar, Chief Executive Officer, HM Prison and Probation Service.



Examination of witnesses

Witnesses: Antonia Romeo, James McEwen, Kevin Sadler and Jo Farrar.

Chair: Good afternoon. Welcome to this session of the Justice Committee on the work of the Ministry of Justice with senior officials from the Ministry. Welcome, in particular, to our guests. I will ask them each in turn to tell us a little bit about what they do in a moment.

First, as people will know, Members have to make their declarations of interest at each meeting. I am a non-practising barrister. I will go through the other members of the Committee whom I can see.

Rob Butler: Prior to my election, I was a non-executive director of HM Prison and Probation Service and a magistrate member of the Sentencing Council. Good afternoon.

Maria Eagle: Chair, I am a non-practising solicitor.

James Daly: Thank you, Chair. I am a practising solicitor and partner in a firm of solicitors.

Q1 **Chair:** I suspect that in the course of the afternoon a couple of other Members will join us. Mr Slaughter is a non-practising barrister and Sarah Dines is also a barrister, but she has not practised since her election to Parliament.

If we can now move to our witnesses, Antonia Romeo is permanent secretary to the Ministry of Justice. It is good to see you again, Permanent Secretary.

Antonia Romeo: Thank you very much, Chair.

Chair: Welcome back to the Ministry, I suppose, because it is a second time around for you.

Antonia Romeo: Thank you.

Chair: James McEwen is the interim chief financial officer.

James McEwen: Good afternoon.

Chair: It is good to see you.

Kevin Sadler, I think, is the interim chief exec of HMCTS. Is that still right, Kevin?

Kevin Sadler: That is right. Good afternoon.

Chair: It is good to see you again. Jo Farrar is the chief executive of HM Prison and Probation Service. Am I right in thinking you are also now second permanent secretary at the Ministry of Justice?

Jo Farrar: That is right, Sir Bob.

Q2 **Chair:** Congratulations, Jo. Perhaps we can return to some of those things in a moment.



HOUSE OF COMMONS

Ms Romeo, can I start? From your point of view as the administrative head of the Ministry, I would like you to give us an overview of what your top priorities are. You are the permanent secretary. You are the accounting officer. What are the top priorities? What are the principal objectives that you have set yourself?

Antonia Romeo: First, thank you very much, Sir Bob; it is good to be here. I have just marked two months in post. If I may, Chair, I thought it would be appropriate today, on a national day of reflection, to pay tribute to the Ministry of Justice staff, our agencies and all our partners for the work that they have done to keep the justice system moving during the pandemic. In particular, throughout the community, we have lost a number of colleagues and partners in the past year. I would like to recognise those MOJ group colleagues who have tragically died through the pandemic. I know the whole Department today is remembering them, as are we all.

Thank you for the opportunity to say a little bit about my priorities. I am focusing on three main priorities. The first is recovery of our services. Our staff have done a fantastic job in keeping the justice system going, as I have mentioned, but we have to continue to keep containing in our establishments any outbreaks connected with the pandemic. We must continue to improve safety, security and wellbeing within our prisons so that we can build back safer and learn the lessons from the pandemic. We want to bring our services back to normal and reduce outstanding case loads in the courts, working across the CJS and in civil, family and tribunals as well. That is my first major cluster of priorities.

The second priority is to focus on programme delivery. I want to make sure that we have the right structures and governance in place to scrutinise and challenge the delivery of our programmes. I am making some changes in governance to better equip us to do this. I have a particular focus on our major programmes, some of which I am sure we will come to, such as HMCTS reform, the prison build and prison estate programme, and probation unification, but there are a number of others, as you know, on the GMPP.

The third priority is capability and resourcing. This is about ensuring that we have built our future capability to deliver what we are going to need to do—our very challenging programmes. We are looking particularly at our data and analytical capability. We have some excellent capability already, but do we have the capacity to deliver what is going to come? We will further focus on project management and commercial management.

On resourcing, we will be looking at ensuring that our resources are rightly aligned to deliver the Lord Chancellor's strategy. We are doing this through our allocations process for this year, for the SR that will come this year and also an operating model review, which I am happy to say a bit about, looking at how we structure the organisation as well as our relationship with our ALBs and agencies. Finally, there are our people, so



HOUSE OF COMMONS

capability but also wellbeing, particularly as we start the process to return to the office and, indeed, our Places for Growth agenda.

Q3 Chair: Thank you very much. Can you tell me what are the governance changes that you propose to make in this new process?

Antonia Romeo: This is still very much in flight. I am happy to share my current thinking with the Committee. I have been looking at how we ensure that we have a clear line of sight from delivery of our programmes to the right level of challenge and assurance, which often needs to be done not within the programme but outside the programme. We have to work closely with the IPA, the Infrastructure Projects Authority, the Cabinet Office, with the Treasury and others.

I am also keen to make sure that we always deliver those programmes directly related to the Lord Chancellor's vision for the Department and that Ministers have the right oversight. I intend to establish a sub-board to the departmental board, which will be a delivery board specifically to focus on performance and delivery. You will see in our annual report and accounts that we talk about a financial management committee. That committee is becoming financial management, performance and risk, to include an additional focus on risk and performance. There are some other small changes to our nominations committee, which is going to turn itself more into a nominations and governance committee in line with a UK corporate governance code.

Overall, we are making some additional changes to ensure that we have a really clear line, as I say, between the delivery of the programmes and the scrutiny of those programmes, and then we are able to make changes quickly. There may be more changes to come.

Q4 Chair: As to your delivery sub-board, are you doing this within the Department or with the heads of the various agencies, for example, which are part of the broader family?

Antonia Romeo: I will be chairing it, but alongside our lead non-executive. One of the intentions is to bring in our non-executives to play an even more enhanced role in challenge and scrutiny to our programme delivery. This model has been very successful on the probation unification programme, where there was a probation challenge group—I think it is called—with one of our board non-executives playing a major role in that. I am planning to elevate that across all of our work. Also, we will be doing particular holding to account with the heads of the agencies, with the SROs of the relevant programmes.

Q5 Chair: How are the changes to the operational model that you were talking about linked to it?

Antonia Romeo: I mentioned that partly because you referred to the first change in that step, which is the appointment of Jo Farrar as second permanent secretary. This was partly about the focus on delivery in the Department. You mentioned, Chair, that I have returned to the



HOUSE OF COMMONS

Department after six years away. It is interesting seeing the changes in the focus, particularly at the top level. I want to make sure that we have the bandwidth to deliver what we need to deliver.

One of the things that it made sense to do was to align and bring closer together our delivery on four of our agencies, namely, the Legal Aid Agency, CICA and OPG, as well as Jo maintaining her role as CEO of HMPPS. We are also looking through an operating model review at the work on both the relationship between HQ and our agencies, but also whether we have the bandwidth and how we are organised in the centre itself. We are doing a lot on commercial, projects, digital transformation and reform. There is a huge amount of policy work that we do. There is a lot of crucial risk management and commercial capability. I want to check that we have those organised in the right way. That is something that I am working on closely with Jo and the executive committee.

Q6 Chair: Perhaps you can help me, and Dr Farrar can come in as well, by telling me what Dr Farrar is doing now as second permanent secretary that she was not doing before? What is different? What is the additional role, and how does that impact upon her role as Chief Exec of HMPPS?

Antonia Romeo: I will let Jo answer that. Jo, do you want to comment?

Jo Farrar: Of course. Immediately, I have taken over responsibility for the Legal Aid Agency, for the Criminal Injuries Compensation Authority and for the Office of the Public Guardian. That is an addition to my workload. As the permanent secretary said, we are looking at the operating model, which will help us to clarify exactly what I will do going forward as second permanent secretary, what our whole executive team will be doing and how we will manage our senior people across the organisation.

I keep the responsibility for CEO of HMPPS. I am delighted to do that. I believe we are taking the organisation forward and will want to be absolutely committed to continuing to do that. I also have a strong team in HMPPS, including two directors general, who are equally able to run large parts of the service and are doing so. As we move out of the Covid-19 situation, which I have been heavily involved in, and as we bring probation together, there will be scope to do things a little differently but still have the complete focus that we have had previously.

Q7 Chair: You have a major prison-building programme coming along. You have, as you say, a reunited system with probation. So you have two major pieces of work going on. How are you going to have the time to devote yourself effectively to heading that up and, at the same time, taking on these additional demands?

Jo Farrar: We do have some major programmes. As the permanent secretary said, we are looking at governance of those programmes across the organisation. I very much see things such as our prison build programme a cross-MoJ effort. I believe it enhances my role to be the



HOUSE OF COMMONS

second permanent secretary and to be able to look across the piece at things such as prison buildings. We also have a number of other major programmes. I am confident that the SROs we have in place are able to deliver those programmes, but I am going to be making sure that we have capacity in the right places to continue to deliver at pace some of the changes that we need to do.

Q8 Chair: In any event, you will be spending less time on prisons and probation.

Jo Farrar: I hope to be spending less time on Covid-19, which has taken up a huge amount of my time during the past year, which I believe will give me some additional capacity. As I say, we have a really strong team in HMPPS and across the MOJ. Part of the operating model review will be to make sure that we have the right senior capacity to be able to take forward all of these programmes. We are looking at quite a short timescale for completing that, probably over the next six weeks. After that, we will be able to let you have a bit more detail.

Q9 Chair: One of our concerns as a Committee in the past has been whether or not HMPPS has an adequate sense of purpose and direction from the centre. It seemed to me that your appointment as chief executive was intended to give that. This seems to me, on the face of it, a dilution potentially of that, or a risk of such dilution. How is that to be achieved?

Jo Farrar: I see it as an enhancement because it gives me a bigger role across the Ministry of Justice. It brings HMPPS right into the heart of the Ministry of Justice, and it makes sure it has the attention it deserves. Before I came, if you remember, there was one DG leading HMPPS. That has been significantly enhanced. We now have a chief executive plus two directors general. Having that extra capacity has allowed me to set a really strong direction as chief executive. As I said, I have a good senior leadership team, including two directors general, who are very able to take forward prisons and probation. Together, we will make sure that the direction is as focused as it has always been.

Antonia Romeo: Could I add something on that, Chair?

Chair: By all means, Ms Romeo.

Antonia Romeo: Obviously, it is not unusual for an organisation of this size, which is one of the largest Departments in Whitehall, to have a second permanent secretary. You are right to identify that what is less usual is to have that person also be the chief executive of one of our biggest agencies, but that is part of the design. What we are looking to do is to ensure join-up. We recognise that neither within the Department nor, indeed, across the whole of the criminal justice system, for example, can we stand alone.

I am keen to ensure that we are working across the Department. Jo already mentioned the prison build programme. This is the estates team and it is HMPPS. Part of the purpose of this is to have somebody above



the excellent chief executives of the three other agencies, also the second permanent secretary, because it builds in that join-up.

I want to let the Committee know that I have asked the other two directors general in HMPPS to join the executive committee, which was not previously the case. That brings an additional join-up. When the executive committee meet, as we do weekly—in fact, we met this morning—and Kevin, as chief executive of HMCTS is also present, we ensure that every important decision taken at the top of the organisation is made by those leading our biggest agencies as well as those leading HQ. That is part of what I know the Lord Chancellor wants the vision for the Department to be and I want to ensure that we are delivering for him a joined-up, seamless provision of services focused on a world-class justice system.

Q10 Chair: I understand that. Prisons and probation are, perhaps, the biggest chunk of the Department's spend and the biggest focus of attention. The Office of Public Guardian and the Legal Aid Agency are both very important, but not, from Dr Farrar's point of view, the most obvious fit to align with prisons, are they? It is a bit counterintuitive to deal with something that is pretty much at the other end of the Department's range of activities. Is there a reason for that?

Antonia Romeo: It is partly that Jo has done a fantastic job as chief executive of HMPPS. These are very well-led organisations already. They were sitting alongside our functional CFO group, as we call it. James is here today as our interim CFO. It is partly about ensuring that that group has the freedom and bandwidth to focus on the support it is going to need to give the rest of the organisation for the significant transformation in change, be it digital, commercial and finance that we are overseeing as a Department. It was partly about that. Jo, obviously, has a great deal of expertise in delivery. These are smaller agencies but not agencies without risk, as you well know. Therefore, I thought it would be a good and sensible approach to bring them together. You are right that they are not necessarily exactly adjacent in the system that we run, but to me that is part of the benefit because it ensures even more join-up.

Q11 Chair: Okay. In terms of the specifics, you think the new approach will aid delivery, so it is central to it. What are the specific gains you think you can get to deliver from this? What is the bandwidth?

Antonia Romeo: Jo might want to comment on what she sees so far, bearing in mind that she is only on working day five.

Chair: Absolutely.

Antonia Romeo: In terms of the gains in the agencies, those agencies are going very well. The Legal Aid Agency is not without challenge in what we are trying to deliver and sustainability of the sector. I know you have before the Committee tomorrow the chief executive of the Legal Aid Agency, and Lord Wolfson, who is one of our Ministers. Likewise with the OPG, which is going through a process of reform, digitisation and so on, I



HOUSE OF COMMONS

consider that someone with Jo's delivery expertise is going to be a support. The chief executives of these agencies lead them very effectively, so it is not about needing additional layers, but more about the additional expertise that someone with Jo's expertise of delivery can bring, which is important.

Q12 **Chair:** Dr Farrar, does this change at all the position of the autonomy of HMPPS? You are the second permanent secretary but also the chief executive of the organisation. Does its autonomous role change at all?

Jo Farrar: No. That is something we are thinking about carefully as part of our operating model review. The agency has certain functions, as do the other agencies that are being taken on. We need to make sure that they retain their independence but that they are also a key part of the MOJ family. That is something we will be working through.

Just to add to what the permanent secretary has said, it gives me a good opportunity to work with the permanent secretary to look across the justice system at a range of reviews. I am very much looking forward to that opportunity in my new role.

Q13 **Chair:** I am sure we all wish you well in it. We are just interested to understand from both of you the rationale.

I assume, finally, Ms Romeo, you remain the sole accounting officer.

Antonia Romeo: The principal accounting officer. The chief executives are still—

Q14 **Chair:** That is not changing.

Antonia Romeo: Yes.

Chair: The individual agencies have theirs. It is, as you say, not unknown in other Departments, but it is new to the Ministry of Justice, is it not? So we are interested to see how that develops. Thank you very much for that. Maria Eagle?

Q15 **Maria Eagle:** Thank you, Chair. Following on from that, a question strikes me. It is good to see you, Ms Romeo.

Antonia Romeo: Likewise.

Maria Eagle: What has been the impetus behind these changes? Is it a new broom coming in and wants to do things differently, or is it as a consequence of lessons learnt from, say, the last time you tried to provide extra prison places, which did not work out so well?

Antonia Romeo: I have certainly tried not to do the new broom. A new broom coming in doing change for the sake of change is to be avoided. I, obviously, spent a lot of time talking to the Lord Chancellor about his view of the Department and what we should focus on. I suppose it is observations returning and noting where the senior bandwidth had moved to. Fifty per cent. of the DG cadre was based in HMPPS, which is



HOUSE OF COMMONS

an incredibly important agency, but that is quite a lot of weight in one agency compared to all the rest of the Department and the rest of the group.

We have focused on a number of things. We have a massive number of programmes. We have the third biggest group of programmes on the central Government major projects portfolio. Delivery excellence is how we are going to ensure confidence in the justice system and confidence in the quality and capability of the Department. I wanted to make sure that that was an area of major focus for us.

As to my other priorities, recovery is very much obvious, in a way. It is the key thing we all have to do as we come through and out of the pandemic. On capability, I wanted to make sure that, as well as designing the Department for what we need to do now, we are also building for the future. That is partly about looking for the future capability that we are going to need and ensuring that, in the financial allocations process this year and the next SR, we are thinking about how we are leading into that capability as well as just delivering today.

Q16 Maria Eagle: Thank you. Moving on to some of the effects of Covid-19 for the group as a whole, which has been very difficult, you had £466 million in the MOJ supplementary estimate for Covid-19 for this financial year. Does that cover all the Covid-related costs that have been incurred?

Antonia Romeo: Yes. That is the money we got for Covid in the reserve claim. That is resource and capital. It is inevitably true that there will be some functional work happening in the Department that is pivoted to support the fact that we are in a pandemic. For example, our estates team, who were running the regular estate, will have been more focused on ensuring safety and security through the pandemic, or our finance team will have been worrying about what we are doing with our suppliers. I do not think it represents all of the effort in the Department that has gone into the pandemic, but it was the new money that we sought and received with the supplementary estimates.

The other thing to say is that there were some areas—things like staff travel, for example—where we did not hit what we had budgeted for, which we were then able to deploy into some of the additional work. As to the £466 million, I think it was period 7 that we made the estimate of what money we would need. Bear in mind, our business is always very uncertain in making forecasts, as you well know, Ms Eagle, from your time in the Department, but it is even more uncertain now. We sought that money and that is what we received. It does not probably reflect the true cost of everything that we spent in supporting ourselves through the pandemic.

As a final point, running our services as we do during the pandemic became more expensive, which is why we needed more money, but we also had to do things in a completely different way. So almost everything we were doing was pandemic related in terms of delivery of our services.



Q17 **Maria Eagle:** Did you get what you asked for, or did the Treasury pare you back and you have had to put up with a smaller sum?

Antonia Romeo: I might ask James to comment, because a lot of this work predated me, but I think we got what we asked for. What we asked for was money for recovery—in courts, prisons, probation and operational issues. It also compensated us for the net loss of income. In addition to the £466 million that you mentioned, we also received some money from other Departments. For example, from DHSC we received a £30 million resource for medical-grade PPE and so on. In fact, the total that we received was £519 million, including those transfers from other Departments. James might want to comment on whether there was an earlier bid for more that I am not aware of.

James McEwen: The Treasury was extremely supportive, as you would expect. It gave us due scrutiny of what we were requesting. We have certainly not been left wanting in terms of the financial firepower that we thought we would need in a range of scenarios during the pandemic from late autumn through to the end of the year. It was important for us that we had confidence in whatever was coming down the track. The permanent secretary has talked about big potential swings in both the income that we received as an organisation through fees and fines but also through expenditure.

A big area of uncertainty is always legal aid spend, which has been doubly true through the pandemic. We are very grateful to our Treasury colleagues for their support and challenge at the right times, but we were not left wanting.

Q18 **Maria Eagle:** That is interesting to hear. Apart from money that you did not spend that you were expecting to spend, like travel expenses or whatever, I am assuming you have basically not had to divert resource from other budgets to cover for the costs of Covid.

Antonia Romeo: We did not divert, but that is partly because, if you were working in a prison or running a prison, then the work you were doing became about compartmentalisation, isolation and putting in place the exceptional delivery framework, for example. Money did not have to be diverted even though people may have pivoted in what they were actually doing. James, do you have anything further to add?

James McEwen: I completely agree. We took sensible steps to make sure that our expenditure aligned to the crisis of the pandemic and how we responded to that in the early days. We had to make sure that the system was stable and, where we could, start to prepare for recovery. We were not making economies to try to fund necessary Covid work. That was not the case.

Maria Eagle: Thank you very much, Chair.

Q19 **Chair:** Ms Romeo, we had a conversation only the other week at the Public Accounts Committee about tackling the courts backlog, particularly



HOUSE OF COMMONS

in the criminal courts. You expressed the view that recovery and reform, in particular the roll-out of the common platform, were essentially the same thing. Those were your words. The end date for the common platform roll-out, according to the Infrastructure and Projects Authority is 31 December 2023. You told us a little about the early adopter phases. Is the end of 2023 still the date at which we expect the common platform to be fully operational?

Antonia Romeo: I think it is happening rather sooner than that. I might ask Kevin to say something about that. There is reform as a whole and then there is the common platform bit. We are planning to roll out the common platform this year. We have rolled it out in three regions already. Kevin might want to say more.

On the point about recovery and reform, in our business a lot of what we have to do to recover will be driven by some of the productivity and efficiency things that we will deliver through reform, hence why they are the same.

The other thing is that, as we recover, we have to make sure we are staying on the strategy or improving the strategy that we were already on, rather than diverting off into a completely new direction. Kevin, is there anything to add on the common platform?

Kevin Sadler: Thanks, Antonia. You are right. The entirety of the reform programme is due to complete on 31 December 2023. The common platform is currently being rolled out at early adopter sites. We started in Derby and Chesterfield. Then we moved to Bristol and Guildford. We launched early adopter in Staffordshire this week. We expect to complete the roll-out of the first incarnation of the common platform this calendar year. On top of that, we will be adding further what the techies call “functionality” to provide more case management functionality and so on to the common platform. We will roll it out to the CPS the following year. We are on track at the moment.

Q20 **Chair:** So the full operational functionality, with everything added on, rolled out to the CPS, which is hugely important in terms of what we have talked about, is not going to be until 2022.

Kevin Sadler: That is true, but the common platform will be able to support the management of cases within the court system this year. It is additional functionality in terms of additional ability to run case management on the common platform that does not exist on legacy systems at the moment. It is extra support that enables the courts to operate more efficiently.

Q21 **Chair:** How much of an impact do you think that of itself makes into the backlog? It cannot be everything, can it?

Kevin Sadler: The common platform gives us a much more solid system on which to operate. We are operating on life-expired technology in a lot of places in HMCTS, as you know, Sir Bob. The further case management



HOUSE OF COMMONS

functionality will enable judges and staff to operate the case management functions more efficiently. We expect that to give us more capacity as a result of that into next year.

Q22 Chair: Have you done any assessment as to how much additional capacity that will give you for next year?

Kevin Sadler: There are assumptions in the business case about that. We will test out the assumptions as we go forward.

Q23 Chair: What are the assumptions?

Kevin Sadler: We expect to be able to carry out quite a lot of the case management functions, which will release judges from longer pre-trial preparation hearings and enable some of those pre-trial preparation hearings to be done online themselves. Those are the types of things. We will learn as we go. Also, there is additional staff efficiency, particularly in the magistrates courts where we will be operating a lot of the phone calls from our courts and tribunals service centres rather than individual courts, which will enable staff to be released to support the operation of the courts. Those are the kinds of things we are doing.

Q24 Chair: Can you give me any idea as to how many additional court sitting days will be made available in the Crown court, which is where the chunk of the backlog is, as a result of those efficiencies?

Kevin Sadler: I would not like to put a precise figure on it, but it will give us more capacity and enable judges to sit more on what they absolutely have to do. They will be of particular benefit to the magistrates courts, which have further challenges ahead with the 20,000 police officers as well, and will enable us to redeploy people into supporting hearings as well.

Antonia Romeo: The Lord Chancellor has been clear that he does not want sitting days to be a constraint and that we will sit a record number of sitting days.

Q25 Chair: I am interested—we are going to come back to it—as to how much of this is going to help the hard backlog in the Crown court. It is a desirable thing in itself. Nobody argues with that, but how much? Is it really going to make an impact into the backlog itself? Can anybody help me?

Kevin Sadler: I would not single out reforms, Sir Bob. Our job is to create the maximum amount of capacity in the Crown court to deal with all the cases that are coming through and the level of outstanding cases that we have at the moment. Any efficiency we can find, whether that is through better case management or whether it is better preparation of cases by prosecution and defence, will be a real premium. It is always at a premium, but we are determined to make sure that we are running everything as efficiently as possible as we move forward.



Antonia Romeo: What HMCTS has managed to do during the pandemic has been a precursor in some ways to what will come from reform. We are now running 20,000 remote hearings a week. That would have been unthinkable a year ago. That is because of the speedy roll-out of the cloud video platform. That reform itself will deliver, I think it is fair to say, a better platform, which is the Video Hearings Service. Having the cloud video platform has helped us already through the pandemic. It is going to help us recover. When we get on to the really good system of the Video Hearings Service, that will be something that will significantly help us to speed up. That should have a real impact, because if you can make those remote hearings more efficient, of course, it helps you get through the outstanding cases more quickly.

Chair: Thank you. Sarah Dines.

Q26 **Ms Dines:** Thank you, Chair, and thank you very much to the witnesses who have attended today. I have a question for Ms Romeo, initially. Having had 30 years' practice at the Bar, I have seen a lot of technological innovations, which, unfortunately, in the court system, have taken a long time to come through. Can you assist us as to what lessons can be learnt by this necessary and speedy use of technology because of the pandemic? How can we embed that to make it better without letting down court users and people who need access to justice?

Antonia Romeo: Kevin will want to comment on this. One of the things we have to do is to make sure that we learn the lessons of the pandemic and we keep doing the things that have made for a better and more efficient service, but only in so far as that is the best thing to do for those who use the service, including victims and witnesses. We are very aware of that. We are reviewing some of the things we have done, and reviewing whether it is sensible to continue them in the ways of working is a crucial part of what we are doing.

If you take a couple of the areas where we have done reform during the pandemic, probate and divorce are two areas where we have high levels of user satisfaction from the online approach. They have helped us to be most resilient in terms of getting through the case load during the pandemic. There is no doubt that those areas where we had led early on reform or we were able to bring it forward have significantly helped us.

There are some areas where we rolled out something quickly, but that is not the long-term solution. The cloud video platform is one of them. We have learnt a lot. It has helped us through this phase. We are going to need to move to the better platform and a better way of working, which is the long-term solution. The question of how quickly we do that is going to be important to ensure that we keep focus on recovery. Technology, as you well know, is not the solution to everything. The question is how we make sure that we have a much better and speedier system, that we use the really good technology that we have, which is the case management system, the common platform and the ability to do remote hearings.



The other thing I should note that happened in this period is that we made some changes within the prisons in terms of video-hearing rooms and so on, which also allowed us to move things more quickly. If we had rolled out reform separately, those two things might not have happened at the same time. Again, it comes down to the join-up of the system and everyone moving at the same time. Kevin will want to comment on some of the lessons learnt of the tech experience.

Kevin Sadler: Thanks, Antonia. The silver lining of Covid in this context has been the way in which everybody has embraced remote hearings as a way to work effectively. We have reached a position where, between May and December, 71% of all hearings had at least one participant joining remotely. There are some real positives and some converts, people who were concerned about remote hearings realising that they can deliver work effectively.

We need to take the learning from that with the judiciary who decide whether a hearing is done remotely in the interests of justice and take that forward. The Lord Chief has been very clear that he does not expect us to go back to where we were before the pandemic, particularly for case management hearings where it has proved really successful and enabled people to manage their days more effectively. One of the benefits that we always highlighted from the reform was the reductions in the claims on people's time in waiting around in courts for a very short hearing.

In some jurisdictions—for example, special educational needs—they have been really embraced and there will be no going back. Lots of the users have been really positive about that. It has not always worked. There have been the odd examples of people participating in a hearing from McDonald's because the wi-fi is very good, apparently. We have looked particularly at the Nuffield research in family justice. We are carrying out our own research into remote hearings as well to make sure that we understand how to make that most effective, particularly what support exists for vulnerable users and how we identify whether their participation in a remote hearing is suitable.

I will just add to Antonia's examples about probate and divorce, which worked well because we had new systems that enabled our own staff to work from home remotely on probate and divorce, for example. Family public law, which we are in the last third of rolling out across the country, is a really good example. It is an entirely digital system for the conduct of family public law cases. The local authority that has most embraced that in Cardiff is the local authority, which has not seen its work outstanding increase during the pandemic, which is not the case for the majority. It does enable us to operate more efficiently and to reduce the number of hearings because of digital case management in the family public law system.

Q27 **Ms Dines:** Just a quick supplementary, if I may, Chair. Ms Romeo, what



HOUSE OF COMMONS

are you going to do to make sure that the needs of lawyers, the expedition and saving in costs that remote hearings can give you do not outweigh the, perhaps, more important need for the court users to feel properly represented and to have a fair hearing? What are you going to do to ensure that, please?

Antonia Romeo: As I said, we are conducting an evaluation of the process and the remote hearings. That will include consultation with a wide range of stakeholders, including the legal profession, and we will be doing it jointly, obviously, with the judiciary, but also ensuring a focus on victims and witnesses. The Government are completely clear that the experience of victims, in particular, witnesses and users of the system is absolutely paramount. There is no question that we will be focusing very much on that. As you know, the victims code is about to come into force. The Government have said that they want to consult on a victims law Bill. So there will be very much a focus on what we are doing in the system to ensure that the experience for victims is as good, or as least bad, as possible as they go through the system.

Q28 **Ms Dines:** Chair, I have craved your indulgence a lot, but, lastly, I am concerned about the waiting list for family cases with individual parties being represented. I am hearing stories through my colleagues who are still at the Bar of horrendous waits. There has been a lot of focus on the criminal courts, but I make a plea, please, to make sure that we have just as much effort in the family division.

Antonia Romeo: Kevin might want to say something in particular on that. Already a significant effort is being put into the family division. The family courts are sitting at record levels, are they not, Kevin, in order to address the outstanding cases?

Kevin Sadler: Indeed. Just to add to that, we are on track to sit a record 115,000 sitting days in the family jurisdiction this year. Family division has been really motoring in working on recovery during the pandemic. In public law, our disposals are above pre-Covid levels and have been since mid-September. We have been disposing of 1,000 private law cases a week compared with 900 a week pre-Covid. There is still work to do and we have remaining challenges. I expect to be operating at full capacity next year as well and working as hard as possible to bring those times down.

We have some challenges because receipts have been steadily increasing, particularly in private law. It is still something that we need to continue to work on. I am really pleased with all the hard work that has gone on in the family jurisdiction and all jurisdictions. Both legal professionals and court staff have been working really hard to deal with the backlogs that arose at the beginning of the pandemic.

Ms Dines: Thank you for that answer. We must keep our eye on the ball. I have at least one constituent who has been waiting almost two years for a family hearing, which is ridiculous. Thank you very much for the work



you are doing.

Q29 Kenny MacAskill: Ms Romeo, there have been some welcome initiatives that have come about during the pandemic, despite all the blight and hardship. Much of that has been not just due to the ingenuity of staff but to the emergency funding that has become available. I am thinking in particular of the homelessness prevention. As we look forward to next year's Budget, is that initiative, for instance, going to be under threat? Are there other similar types of initiatives that came about through emergency funding that you would like to continue that maybe are threatened?

Antonia Romeo: In terms of what is threatened and what is not, we have had a one-year SR settlement. Except in those cases where we have sought the money—for example, the prison leavers' project money came from the Shared Outcomes Fund, so that is three years of funding—for everything where we got emergency funding or additional money in the SR, it is normally one year, with the exception of our capital programme for prison builds, which we might come on to. It is true to say that, therefore, we do not currently have funding for it beyond that, but that is going to be the subject of our SR21 bid.

For example, coming back to the crucial work that we have been doing on victims, the SR gave us £40 million for victims, which was £15 million for the manifesto commitment on race and sexual violence, but also an addition £25 million for victim services, including the independent advisers on sexual and domestic violence.

Last week, as you will know, the Government pledged a further £11 million to ensure that we could meet the demand or get close to meeting the demand for that crucial service. That is essentially money that we currently have for one year. It is in addition, I should say, to the £100 million annual spend on victim services, but that is something that we would seek in the SR to prioritise. We have a number of areas that we want to prioritise.

Another area is the reducing reoffending money. As you know, in January, we launched a £70 million package, the £20 million I have already referred to for the prison leavers' project, but an additional £50 million, which is looking at approved premises expansion and accommodation. That £70 million for reducing reoffending is crucial money. We think it is going to make a big difference. We will be very keen to roll that forward in the SR.

Of course on top of that, one of the other great things about that funding is that it was part of a wider package, not just to do with the Ministry of Justice but it included £80 million for DHSC and the Home Office on substance misuse, as we know, getting upstream and trying to divert, particularly before people come into our system but to stop them coming back again and again into the system. We are focused on those bits of money that we have been fortunate to get in terms of delivering



Ministers' policies, improving the lives of people, reducing reoffending in particular and ensuring that we build that into our SR21 bid.

Q30 **Kenny MacAskill:** All of that seems premised on the SR21 bid. Would it be easier to say what would be threatened if you did not get the SR21 bid?

Antonia Romeo: The SR21 has not begun yet. It will all depend on what comes out of that.

If you look at what we got in SR20, perhaps that is a good way to start. We got a number of pots of cash. I do not know about the word "threatened", but it is true to say that in addition to our baseline—the victims money I referred to—we got £275 million for essentially downstream demand coming from the impact on our system of the additional 20,000 police. For Covid, there was £76 million for family and tribunals in particular so that we could ensure we have a speedy civil, family and tribunals system. All of that money was in addition to our baseline. All of that money we will be seeking, which we think is crucial, and we will be seeking that in the next year. This is an inevitable consequence of a multi-year SR having become a single-year SR. We are not operating on the basis that all that money will go away. Those are the conversations that we need to have with the Treasury. Has that answered your question?

Q31 **Kenny MacAskill:** I can understand the complexity. What I take out of that is that you cannot go forward in SR20. It will require to be SR20+ to be able to continue these initiatives.

Antonia Romeo: That is correct—to be able to continue them beyond the year we have been funded.

Q32 **Andy Slaughter:** Apologies for missing the declarations at the beginning. I should say I am a non-practising barrister.

Listening to your answer to Mr MacAskill, it all sounds rather hand-to-mouth at the moment and trying to find money in one pot or another. This is against a background of the MOJ having one of the worst, if not the worst, financial settlements of the past few years. I think you lost about 25% of your budget between 2010 and 2015 and since then have been unable to achieve the savings targets that have been set. Can you say any more about how you intend to manage your day-to-day investment programmes going forward at the moment, or is it just a black hole?

Antonia Romeo: It is definitely not a black hole and I do not think it is hand-to-mouth. What I was describing was the necessary consequence of a one-year SR, which is faced by all Departments. We are very pleased that the Treasury recognised that, on the capital on something like a prison build programme, you cannot operate on that basis. For perfectly understandable reasons the Treasury decided to do a one-year SR last year, but this year we are expecting it to be a multi-year SR.



You are correct. I know my predecessor has been in front of this Committee and discussed the SR process from, as you say, 2010. It should be noted that for a large period of that time, although the SR settlement proposed a significant decline in funding, in fact each year the Department had to go back to the Treasury to seek additional money, and in fact our RDEL, for example, from 2015-16 to 2019-20 increased over that period. It was not projected to increase over SR15, but as a result of what was happening in terms of the context of our business—

Q33 **Andy Slaughter:** That just shows what a parlous state you were in, does it not? With hindsight, even Government Ministers would admit that the cuts in the early part of the last decade were so severe that you had to keep going back and asking for more money, and they had to keep giving it to you.

Antonia Romeo: The point I am making is that there has been a significant reset in the Department's funding position. In particular, in 2019-20 the Treasury recognised through the supps process out of a reserve an additional £1.3 billion to put us on a sustainable footing, and then through SR19 we were given that money plus additional money.

I have come to this process late, but my understanding—and James might want to comment on this as well—is that we would have been in a position this year to manage within budget were it not for the pandemic. The additional money we have sought is because we had to completely transform large parts of our business due to the pandemic—for example, how we were operating prisons and the work we were doing in probation—and that meant that we had to go back and ask for more in supps along with the vast majority of Departments. We set a balanced budget allocation at the beginning of the year. Had that not been the case, we would have lived within our means this year. That is significantly different from the year you are describing. I do not disagree with what you have said. We are in a much stronger position now. James, do you want to add anything on that?

James McEwen: Overall, I agree with you, Permanent Secretary, about the relative position of strength. The reset in 2019-20 was a big moment for the Department. It gave us an ability to plan properly, to go beyond the hand-to-mouth experience that we had for a couple of years in the SR15 period. Both colleagues here and at the Treasury would reflect that there was a gap in understanding about the conditions of the justice system and what it was taking to keep operations running safely in the early part of the spending review. The Treasury was always there when we needed it at the supplementaries. We had tough conversations with them for reserve claims, but, as Antonia described, our funding was able to increase over this period. Our preference would not have been having to go back and use the supps as a reset every year. That is what the change in 2019-20 delivered.

We have built on that relationship with the Treasury since. We built a trusted relationship with the Treasury. We have seen on the face of



spending reviews now real-terms growth in the justice system for the first time in an awful long time. That represents just how far we have come as an organisation. This is not growth through reserves.

Q34 **Andy Slaughter:** The Achilles heel with that analysis is that, even if we have got through this year, we now have to deal with the problems created by the Covid situation next year and beyond. Everybody has to do that. To take one example, you could not give an answer to the Chair about the number of sitting days you wish to see. Can you not give us some ballpark on that? Presumably, it will be higher than it was pre-Covid if you are looking at clearing the backlog. Will you continue to make predictions of numbers of courtrooms? You started to do that before Christmas, and you stopped it when you did not meet those criteria. Thirdly, what will you do about the Nightingale courts operating now but for which the funding runs out in June? You will still need those, will you not? What are the answers to those questions on capacity in terms of Nightingales, courtrooms and sitting days?

Antonia Romeo: I would like to say a few things about that and I know Kevin will want to add something. Kevin's point on sitting days and not giving a precise number was that sitting days are funded through the concordat process, which we are currently in the process of. They are subject to an agreement between the Lord Chancellor, the Department, HMCTS and the Lord Chief Justice and the judiciary. The thing that the Lord Chancellor has been completely clear on is that sitting days will not be a constraint, and he wants us to sit a record number of sitting days. That already indicates a significant increase of the number of sitting days we will sit in order to bring down the outstanding cases. There is complete clarity on that.

On your points about capacity, we have 56 Nightingale court rooms in operation. We will meet the target, which was 60 by the end of this year. We adjusted over 290 courtrooms to be safe for jury trials and over 120 courtrooms to be safe for non-jury trial work. That is all in the criminal world. We have 653 courtrooms open across civil and family justice for face-to-face hearings.

The original strategy, as you will know, was set out in the plan back in July last year, which was how to recover the courts. That strategy is being implemented and has been implemented. There were three parts to it: increased capacity, which you have referred to; roll out the technology to support remote hearings, which we have already discussed; and recruiting more staff, which is under way—and Kevin will want to say more about that.

The plan to ensure that we have no constraint on capacity, that we were digitising and taking remote work as much as possible, and that we were recruiting the staff needed to take us through this period, is on track.

Chair: We will need to move things along a little bit because we are almost an hour into the meeting.



Q35 **Andy Slaughter:** That answer will not satisfy me. Can you clarify whether the Nightingales will continue for this year and next? What will happen to them after we come out of the Covid period post June?

Kevin Sadler: On the Nightingale courts, we are currently looking at where we can extend the leases and move them forward. We are funded up until the end of June, but we are looking to maximise our capacity for the remainder of the year, and there is more to come on that, I would say.

Can I correct something? We published targets for 250 jury trial rooms to be opened by the end of October and 290 by the end of December. We met both those targets. We expect to have 300 rooms by the end of the year plus the 60 Nightingales that Antonia mentioned. We are on track to meet all those targets and all the published objectives we have—

Q36 **Andy Slaughter:** What are the trials, though?

Kevin Sadler: In terms of the courtrooms available. I am really pleased that we managed to keep trials going during the lockdown, when other countries such as Ireland had to suspend, and their jury trials are still suspended at the moment. That is testament to all the hard work that has gone into that. We are continuing to look to increase the number of actual trials that go on. The number of trials we do depends on the complexity of the cases. We will also have 70 courtrooms adjusted to enable multi-handers to go on in the court estate by the end of March, which will enable us to run more trials. At the moment, we are having to spread some of those multi-handler cases across a number of courtrooms. By making the adjustments, it will enable us to run them in one courtroom and therefore have another courtroom available for the trial. The trial numbers will keep going up as we move forward.

Q37 **Andy Slaughter:** Given that record of under-investment over the past decade, what do you see as your particular point of vulnerability? What part of the Department has suffered most and would you like to see improvements in?

Antonia Romeo: With regard to the money that we have secured, the £4 billion, it is no secret that prison maintenance was an area where we were significantly underfunded for a number of years. We were not therefore able to catch up. We know that there is a lot of outstanding maintenance of prisons due, but the £315 million that we have been given for next year is above the £255 million estimate by the NAO, which is what we will need to invest per annum, in their estimation, over the next several years in order to get down. That is one area where we had taken significant hits.

When a Department is operating right up against its controls all the time in having to seek more money, it is always the areas where it is easiest to not invest that money, where you have a choice about whether you invest it. There are a lot of areas in the Department where we cannot choose to invest less because we are responding to demand. Areas like



maintenance is the sort of area where it is essentially discretionary. That is an example of somewhere where you could end up quickly with a backlog. Now, we have been put into a good position for next year to get ourselves ahead of this. This is where the multi-year SR21 will be so important for us because we have to continue that investment in areas where we were under-invested.

Q38 Maria Eagle: Just a quick one from me. Does the Treasury still think in terms of unprotected Departments arising out of the original cutbacks in 2010 and onwards? We still see this phrase used in analyses of budget. Is that still happening within Government? What impact does the one-year settlement have on your capacity to plan long term? I hear you say that there will be a spending review that should be multi-year. That is great, but we have had a couple of years of one-year settlements. What impact has that had on your capacity to plan?

Antonia Romeo: In terms of protected and under-protected, MOJ was an unprotected Department, and we certainly have not been given any protections. I do not know whether those Departments that were protected are still described as such. I assume yes, but James may know. From our point of view, what happened in the 2019 reset was that a Department that had taken cuts, because the money had to come from somewhere, was reinvested in. Although it is not described as protected, there is an understanding between us and the Treasury that the need to invest is very welcome. It is true that it is harder to plan, when you want to do things that are long term, if you only know you have the funding for one year.

Recruitment is a good example. If a lot of your business is in pay bill, you cannot normally continue to recruit in the long term if you do not know if you will have the money for those staff. In practice, in our business, that is less of a problem because of the way our budget is built up. However, there are some areas where we have particular programmes. If you take, for example, the residential centre for women in Wales, that is one. We would like the opportunity to do more of those centres. We are currently not funded for any more centres. That is the sort of thing that we will be putting into the next SR.

In an ideal world, one would have a longer time horizon for planning. In practice, we totally understood why it had to be a one-year settlement given everything that is happening. The single most important area for us to have a multi-year settlement was on our prison build programme because we have to plan for the long term. That is not just the new prisons; it is also all the work on house blocks and the rapid deployment cells that we are designing and implementing. In the area where it mattered most, we secured a multi-year deal, and we are pleased the Treasury recognised the importance of that. Inevitably, we are looking forward to when we can have another multi-year settlement to enable us to do longer-term planning.

Q39 Rob Butler: I want to come back to prisons in a bit more detail. Ms



HOUSE OF COMMONS

Romeo, can I clarify what you just said about maintenance? Are you saying that you now have all the money that you need to deal with the maintenance backlog in prisons?

Antonia Romeo: To deal with the maintenance backlog is going to be more than a one-year hit. With the £315 million that we have received for next year, that alone will not be sufficient to undo the maintenance backlog. My point was that it will enable us to do a lot of the crucial things that we have not previously been able to do, such as updating fire systems and boilers and refurbishing cells. You will be well aware of that. My point was only that the NAO had estimated that what we needed was £255 million per annum over a number of years. Had we got less than that, I would already have felt that we were behind in what we needed on an annual basis. However, having got more than that, I feel that for this year coming we are in a strong position. We have to keep up that progress.

Q40 **Rob Butler:** Understood. How many prison cells at the moment are out of use because of their poor condition?

Antonia Romeo: I might ask Jo to come in on the number of cells.

Jo Farrar: I cannot give the number of cells that are out of use. We operate prison capacity on the basis of the number of cells that we have available. We have recently had to take a number of cells out of use because of a fire safety issue. That was about 1,000 cells. At the moment, we have a capacity above what is needed and that is enough to allow us to continue with our compartmentalisation strategy.

Q41 **Rob Butler:** In defining what is a cell that is in a fit state to use, that can be interpreted in different ways by different people. I well recall going on a prison visit on a very hot summer's day seeing a prisoner in a cell with a broken window and saying, "Is there not a better cell that you could be in?", and asking the officers. He said, "Well, actually there is a better cell. There is a cell that does not have a broken window," but the broken window is the only way this guy gets any ventilation on hot nights. The prisoner said, "I would rather stay in the cell with the broken window." That is not a great advert for the state of our prisons. I am wondering how long in time and how much in money would it take to get all prison cells up to a decent standard?

Jo Farrar: We believe that our backlog is around £900 million in terms of prison maintenance, maybe slightly higher. The £315 million will really help us with that. That includes the additional capital spending that has increased to £175 million and the capital of around £42 million that we would have at HMPPS to spend on regular maintenance. We also have resources that we spend on maintenance. The forecast expenditure this year is about £238 million. Added together, that helps us to make sure that we do not have to take extra cells out of use and that we can start to bring other cells back into use.



HOUSE OF COMMONS

Through our prison build programme, we are building many more places that are fit for purpose, not only through the new prisons that we have announced. I am really pleased that Five Wells is still on track to open at the beginning of next year. That will give some really decent accommodation that will enhance the facilities that we have available. That is not available in all our prisons because some of them are very old. In those prisons, we really try to maintain decent standards. If we feel that they are dipping below a decent standard, we will take those cells out of use. In fact, we would also be told by the inspectorate to take them out of use if we had not done that already, because this is one of the things that HMIP focuses on in its visits.

Rob Butler: Let me move on a little bit to what might happen post Covid-19.

Q42 **Chair:** Before you do that, can I interrupt? A thousand cells are out of use because of fire safety issues. That seems pretty alarming to me. What has been done to rectify that, Dr Farrar?

Jo Farrar: This is some of our older, originally temporary accommodation that we have been using across the estate. We have had a comprehensive fire safety review across the estate. Following Grenfell tower, we felt that it was absolutely crucial to do this. We have been able to replace those cells by using some of our temporary accommodation and also by maintaining other cells. We have a plan to replace those cells in the longer term, but we wanted to make sure that people were in safe accommodation. As I said, we have really stepped up our investigation of fire safety following lessons learnt from Grenfell.

Chair: Sorry, Mr. Butler.

Q43 **Rob Butler:** Not at all. Could we move on to what the situation might be in prisons after the pandemic? We know that there will be a big process of catching up in the courts. You have already spoken about that today. What modelling has the MOJ done to understand how that might impact on prison places and probation services in the next couple of years? Do you want to start, Ms Romeo, and Mr McEwen might want to follow up in detailed monetary terms?

Antonia Romeo: Jo might want to comment on what we have been doing and some lessons learnt. Do you mean what we have learnt about how we have done business in prisons and probation during the pandemic that we can take forward?

Q44 **Rob Butler:** No, I mean about pent-up demand. We know, as we have discussed, that there is a huge backlog of cases in the courts, which will almost inevitably lead presumably to lots more demand both for prison places and probation services.

Antonia Romeo: Sorry, I misunderstood you. As you know, we have been funded in the SR in fact explicitly for that. There are two things happening. We already knew that due to the police now recruiting an



HOUSE OF COMMONS

additional 20,000 officers we were facing a significant increase in demand. Due to the need to reduce the outstanding cases in the courts, we expect that pressure to increase on the system, and that is why we are building the 18,000 prison place programme. Jo has already referred to Five Wells in particular, which is coming on stream. The 10,000 are coming on from the four new prisons. We have, as you know, expansion in a number of prisons with house blocks.

We also have the development of the rapid deployment cells that I mentioned, which will be a very interesting and helpful new innovation. We have £60 million for this. If we can properly create space that we can then deploy—the clue is in the name: rapid deployment cells; we can move them quickly around—that will give us critical flexibility in allowing us to deliver the supply, the capacity, in prison that we will need as the demand for places increases. The thing that we are completely clear on is that we need to provide places and capacity for everybody who is sentenced to custody.

Q45 Rob Butler: Mr McEwen, I do not know if you want to pick up on any specific numbers in terms of modelling. Quite a lot of that refers to the 20,000 extra police officers. I well remember that that has been modelled, but has there been any modelling of the pent-up demand specifically due to Covid and what could potentially be a sudden influx?

James McEwen: As part of our settlement for next year, we have secured £275 million. Those are resources that we can deploy across pent-up demand as a result of Covid and as a result of additional police recruitment. There is a lot of uncertainty about both of those metrics, and the pace of progress on both and the impact of both can be very different in different scenarios. It would be foolish of me to predict precisely how much of that £275 million will go towards Covid recovery and how much is to do with additional police demand. In fact, it might be very difficult for us to tell analytically which is which. There is £275 million there. That, we think, gives us the firepower we need to deal with pent-up demand and additional demand flowing into the criminal justice system. We have additional money for probation as well for demand changes.

In general, on prisons, we have talked about the £315 million for maintenance on the capital side. Overall, the capital settlement next year for prisons alone on prison capacity and maintenance is over £1 billion. It is a step change. It is the step change we have been looking for. That is more money in a single year for prisons than we will have spent in the history of the MOJ on capital, with this year being an exception, because we should be close to £1 billion this year as well. Just to give you a sense of the investment that is coming into the system and the support we have been given, that is a helpful metric.

Rob Butler: Thank you very much. With an eye on the clock, I will draw it to a close there. You are muted, Sir Bob.

Chair: Good job. Most people say that is a rarity. Thanks.



HOUSE OF COMMONS

Q46 **Andy Slaughter:** I know there is difficulty in predicting finances for the future in the absence of a multi-year settlement. Two things you do know. The OBR predictions are that there is an unprotected Department, and you will have to make budget cuts of between 1% and 3% from 2022 onwards, if I have got that right. You also know that you are not subject to the public sector pay freeze in respect of most of your staff. Over 70% are below £24,000 a year. Have you factored both of those into account? Have there been discussions with the Treasury about how you are going to afford that?

Antonia Romeo: James, do you want to start on this?

James McEwen: On pay, we are working closely with Treasury and our trade unions and wider stakeholders to formulate our pay strategy. As you say, we have a number of low-paid employees in the organisation. Consistent with Government's overall pay guidance, we are working closely with Treasury. We have a complicated suite of pay arrangements. For prison staff, we have an independent pay review body. We are in the process of preparing evidence for that. Our courts and HQ staff are a separate bargaining group, and probation staff are another bargaining group still.

We are in the process of having conversations with the Cabinet Office, Treasury and with trade unions about our approach to pay next year. I do not want to speculate about what the overall headline numbers from that might be because I do not think it would be helpful and it would be positively disrespectful to those concerned.

Q47 **Andy Slaughter:** Do you know whether you will get an additional sum?

James McEwen: Within our financial planning, we have set aside a sum for pay. For next year, our financial planning assumes that there is an outcome from those settlements. As I say, we need to let those conversations run their course. I would not want staff finding out through this hearing what our plans might be when we are still in the process of having confidential conversations with trade unions, pay review bodies and others about that.

Q48 **Andy Slaughter:** Will you have to find that money from within whatever—

James McEwen: Exactly. The planning that we have done for the year ahead has made some assumptions about pay. That is the projection of what it might be. That is the sort of risk when Treasury gives us resource settlements that we have to manage. That is where we are on pay.

Q49 **Andy Slaughter:** Are you planning more savings in line with expectations from 2022 onwards?

James McEwen: From 2022-23?

Andy Slaughter: Yes.



James McEwen: We are looking carefully at where we can invest in modernising our terms and conditions for staff, so there is a win-win. In conversations with our staff, particularly those in the courts, in OPG, CICA, LAA and HQ, we are behind the pay rates comparative to other Government Departments. So we are having a conversation at the moment with Treasury about whether there is a something-for-something deal where we can invest in our pay but in return for which there will be some modernisation of terms and conditions. If we were to do that, that would have to be a self-funding approach in line with Government guidance. That is something that we are working on and we are talking to staff about the fact that we are in conversations with the Treasury and others. That is a flavour of what is going on.

Q50 **Andy Slaughter:** How are your staff relations? We noticed that in a couple of courts there had been ballots to take strike action recently. Are relations with your staff and unions good or not at the moment?

James McEwen: Kevin, do you want to pick up on that?

Kevin Sadler: Thanks, James. You are right. The PCS balloted in 12 courts on the question of industrial action. In only two of those courts was there a "yes" vote for that ballot. However, I have some news for the Committee. We are still waiting for formal notification, but we have been told today by the PCS union that they consider the dispute closed. We are addressing some local issues at those two sites, but we have been told this morning at a meeting with PCS that we are out of dispute. We see them about twice a week at the moment.

Generally, on the civil service-wide people survey that we do, the engagement of our staff increased over the past year and increased in all key parts of the system, which was great news considering the challenge and strain that we have put people under working during the pandemic and having to come to work as key workers every day. I am really grateful to them for that and the purpose that they have shown in doing that.

Q51 **Andy Slaughter:** It is good if you have reached agreement. There were actually "yes" votes in most of the courts.

Kevin Sadler: No. Sorry, that is not correct.

Q52 **Andy Slaughter:** But they did not pass the threshold. Is that wrong?

Kevin Sadler: They did not pass the threshold in 10 locations. In one of those locations, there were 10 union members, and only one of them voted for industrial action. So I would not call that a "yes" vote.

Q53 **Andy Slaughter:** Can I go, finally, to prison, briefly? You are planning for 18,000 new prison places. The previous plan was for 10,000 additional places. Notwithstanding whether we should all celebrate having nearly 100,000 prison places in the country, what is the logic of that? Why do you need that new strategy?



Antonia Romeo: As you know, we published the prison population projections at the end of last year. As has already been referenced, the combination of the 20,000 additional police, coming out of Covid and reducing the outstanding case load means that we are projecting a significant increase in the number of people coming into prison. Therefore, we will need much of that 18,000 to have the capacity to hold the people who are sentenced to custody.

We have a significant programme. There is the original 10,000 I mentioned, which is made up of four new prisons and expansion. There are the two prisons Glen Parva and Five Wells already under way. There are an additional 1,000 places through the rapid deployment cells. There are an additional 3,000 places that came out of SR20, which was a Cat D of 500 places, and additional houseblocks. There is a very rigorous plan with projects and planning. The biggest risk against all of this is often planning permission. Although we have the funding, which has de-risked significantly those programmes, none the less, as we go forward, we have to make sure we have planning permission in place. That is often something that contributes additional risk.

Q54 **Andy Slaughter:** A few years ago, we were hearing about getting rid of some of the old Victorian prisons and disposing of the sites and so on. That is no longer an aspiration.

Antonia Romeo: The 2016 prison estate transformation programme was predicated on the fact that the 10,000 new prison places would be partly funded by the Treasury and partly funded by closure of other places. What ended up happening was that we were not in a position where we could close those places. We could not make the disposals. Therefore, we could not fund some of the additional new builds.

The good position we are in this time is that the new build is not predicated on disposals. That is very important. Obviously, we want this to be a no-regrets policy, which means that, if we get to the point where we do not need it, Jo knows which of the bits of her estate she would like to, as it were, dispose of first. Crucially, we are not dependent on those disposals to fund the new builds. We are in a much stronger position, albeit it is obviously the case that, rather than maintaining some of the old, dilapidated bits of the estate to make them safe and secure, we would like to dispose of those and then keep improving and modernising the estate.

Andy Slaughter: It is intriguing. In the interests of time, I will leave it there, Chair.

Q55 **Ms Dines:** I want to go over some of the financial questions. How is the £275 million for the year 2021-22 for costs flowing from the extra police officers and Covid-19 split between the two? How do the figures work out?



Antonia Romeo: This is something that we just referred to. As James explicitly said, it is not that straightforward because we had the projections from what we were expecting already for the 20,000 additional police. We knew there would be additional pressure through reducing the outstanding case load. We have broken it down roughly. Part of it is explicitly for the Covid outstanding cases in the courts. Part of it is for Covid recovery in probation. Part of it is what we describe as handling CJS demand. It is not an exact science in that respect because we do not know exactly what will drive the additional place. We are worrying about what the projection of additional places is and if we will have enough capacity.

Q56 **Ms Dines:** I am a bit concerned about the modelling. How can you have a reliable model to plan how you will spend your money? I do not really understand that, I am afraid.

Antonia Romeo: Sorry, could you explain the question?

Q57 **Ms Dines:** Can you explain your modelling on how you will deal with the money? How is your modelling working? For the new extra police officers, how are you estimating how much extra work and throughput into the criminal court system that will produce? How is the modelling working?

Antonia Romeo: There are two different parts to the modelling. There is the forecast that predicts what will be the increase in demand. James and I are saying the way we do it. We could give you some numbers, but they would not be accurate. The way we do it is that it is not split out between what was a new incoming person specifically, because we have an additional police officer versus what is a new person specifically because of what we did in the case load. Our very complex model delivering the forecast that we have used over a number of years provides our population projections, and that is what we published.

If what you are asking is how do we know where we are going to spend the money, of course we know the answer to that because that is part of our financial planning process. The allocations process that we go through determines how much of it will go to courts and how much of it will go to prisons. That is done at a very rigorous level, and of course we know that. You would not expect us to have complete precision on the actual source of an additional single prison place. It is more that we look at the overall projection of the population and then we make sure that we will have enough money directed to align the resources to where they need to go to make sure we have enough places, we can get people speedily through the courts and we can offer probation as needed.

Q58 **Ms Dines:** Historically, has that modelling been quite successful? You will have to build Covid in and a sudden rush of extra crimes. For example, burglaries are really low at the moment because everybody is at home. It is quite a complex operation. I am wondering how you can formulate any kind of model really.



HOUSE OF COMMONS

Antonia Romeo: I will say something on this and I know James will want to come in. We have been discussing exactly this. You are exactly right. It is already very complex. To take one example, the impact on the prison population will depend on what the new police officers are focusing on. The different types of crime tend to deliver different lengths of time in custody or, indeed, some could lead to more out-of-court disposals and whether one ends up in the Crown court versus the magistrates court, et cetera. You are right: it is complicated.

On top of that, we have to layer the effects of the pandemic. James might want to say more, but I mentioned at the beginning that a big part of my focus, my priority, is on capability. That includes our data and analytical capability. A lot of our data that goes into some of these models is still collected manually. Not all the systems speak to each other. I want to be realistic. We have a very good and well-tested forecasting model that we have used for a number of years. However, we know there need to be some changes made to it, and that is why we are seeking to build up significantly our capacity and also, as a final point, to join up across the CJS. Data is held by the police and by the CPS. All of these models and data need to speak to each other so that we can have a true picture. If there is time, I might ask James to add something.

Q59 **Ms Dines:** That is great. I am very interested in the extra provision of the prison places because, historically, from my anecdotal experience it has been extremely hard for flexibility to be provided in the system. That will be a real new area for you to have to be flexible and respond really quickly.

Antonia Romeo: I completely agree. This is why I mentioned already the rapid deployment cells, which were one of the things we had to bring on stream quickly after the pandemic hit. Something that Jo and her team did was to quickly stand up some temporary accommodation. This is not like the temporary accommodation of old. Some of this was new and could potentially be deployed in a much more flexible way. We have a programme at the moment still looking at the design of that because it is hard to design it in a way that is suitable for cat B and cat C. None the less, if and when we crack that, it could potentially be a game changer in terms of how we provide capacity.

Q60 **Ms Dines:** James, do you have anything to add?

James McEwen: I would stress some of the variables in the model. Small changes can have very big impacts when we are looking at a stock of backlog cases and a flow of new cases. You have picked up on that in your line of inquiry. We have a very good and very serious model that served us well for a number of years pre-pandemic when we were looking at marginal changes to some of those variables. Post pandemic, looking at the variables, and with a significant recruitment of police officers, there are much bigger swings and there is an awful lot of noise in the system. If that old, serious model takes weeks to run—and it does—we are tooling it up to build much more nimble capability so that we can do some “what



HOUSE OF COMMONS

if" modelling and we can test some of the impacts of those variables changing. That is what we are working on at the moment.

Ms Dines: Thank you for those answers.

Q61 **Janet Daby:** I would first like to pick up a line of questioning that Andrew Slaughter put to Kevin Sadler. What did you think of Laura Bee's evidence that she gave last week? Can you say a bit more about what you have been doing to avoid strikes in the London and Liverpool courts?

Kevin Sadler: I have to say I was a little bit disappointed by Laura's assessment of employee relations. It is not what I recognise. We have had more than 150 meetings with trade unions on health and safety alone since the pandemic began, and we have been meeting them around two to three times a week. There were specific concerns at Liverpool and Snaresbrook. We had already taken management actions to address many of them. We have continued to work with the trade unions on those particular sites. The unions had a meeting with staff at those locations last week. As I said, the trade unions have told us today that they consider the dispute to be closed. We will work at those local sites, as we do at all sites, to make sure everything is all right.

We have over 350 sites. It is disappointing that there was a vote at those two sites. It was not the majority of staff there. It met the statutory minimum in terms of the union members. We continue to work with staff every day of the week on health and safety. I am really pleased that the most recent data is showing that the incidence of Covid among our staff is lower than the national average. Sometimes it has been a little bit above; sometimes it has been a little bit below. We are keeping both staff and users safe through all the public health-endorsed activity going on in our courts and tribunals.

Q62 **Janet Daby:** It is good to hear you are keeping those dialogues open.

I would like to return to Antonia Romeo. It is do with the difficulty that you may be experiencing as an accounting officer, returning to the fact that you do not know how much you will receive from the Ministry of Justice. How difficult are you finding how to manage that in terms of staffing costs and other costs that will be needed to deal with these extra prison places?

Antonia Romeo: Was that question for me?

Janet Daby: Yes.

Antonia Romeo: How much money I receive from—

Q63 **Janet Daby:** How difficult is it, without knowing how much money you will receive from the Ministry of Justice to pay for staff and the other costs of the extra 18,000 prison places?

Antonia Romeo: I run the Ministry of Justice, so I can give allocations. Are you thinking of Jo, who runs HMPPS?



Q64 Janet Daby: From what I have picked up—correct me if I am wrong—in terms of the new prison and the finance available for that, are you aware of what that is and how that will be allocated, and how that will be managed for staffing and other costs? Is that all costed out?

Antonia Romeo: Perhaps I will say something and then Jo, who is the accounting officer at HMPPS, might want to add as well. There are two parts of this. There is capital and there is resource. On the capital, the good news is that, because we have this multi-year £4 billion settlement, we can allocate now the money on capital that will go into, for example, the builds, the house blocks and so on.

Not to prejudge what Jo might say, what is harder to do, when we only have a one-year resource settlement through the SR, a one-year SR, is knowing that we are going to have enough resource money to staff up and do the other resource requirements necessary associated with a new prison in, say, two years. We do not have certainty on that yet. Again, that is something that will need to be prioritised through the multi-year SR that we are about to go into. In particular, the point is that, when you have a multi-year capital settlement, you will need to have the resource that goes with it. As we grow our estate, we expect to need to grow our resource allocation alongside that. That is something that Jo will be very focused on, but she will want to add.

Jo Farrar: That is absolutely right. Some of the resource costs are different depending on whether prisons are in the private sector or in the public sector. Some of them will be subject to competition. These are all the things that we need to work out over the next few years and build into our spending review settlement. Treasury has already given us some money to cope with demand in the immediate term. That is reassuring. We now need to look to the longer term and make sure that we have the resourcing required to bring all of our new prisons online.

Q65 Janet Daby: I have one more question to Antonia on objectives. What are the top objectives that you have for the Ministry? Could you say what those are and how you would regard that as success?

Antonia Romeo: Essentially, our objectives are set out in our outcome delivery plan when published. We focus on protecting the public, reducing reoffending and ensuring swift access to justice for people. We also focus on a lot of work on the constitutional side, achieving appropriate reforms as set out by our Ministers in the constitutional space. A crucial part of my job as Permanent Secretary is to ensure that we have the enabling capability to do that, which is why I spend a lot of my time worrying about how we align our resource against the objectives set out by the Lord Chancellor and ensure that we have capability for the future so that we will be able to deliver against those objectives over a number of years.

Q66 Dr Mullan: We have focused a lot today on finances and the risks around finance and projections. I would like to talk a little bit about your



approach and thinking around risk in terms of delivery, particularly beginning with the probation programme. It is a key and important area of reform going forward. What are the top risks from your perspective on the delivery of the next stage of probation reform?

Antonia Romeo: Jo will also want to come in on this. There have been a number of lessons learnt from previous reforms on probation. There is the unification that will happen in June. One of the biggest risks with a programme like this is moving the whole thing at once, which is why we have been specifically de-risking on things like piloting first of all in Wales, which we have been doing for a year. We are ensuring that we are rolling out in advance as much as we can—and Jo will have some specifics on this—for example, things like putting out the laptops in certain places first. You do not do a big bang transformation where you go from a number of organisations into one. You sequence and in particular you test. That will be a very important part of de-risking the programme.

Overall, the key thing about the programme is that it is not just a one-off event. It is really part of a three-year workforce strategy that is looking to increase capacity. Jo is seeking to recruit 1,500 more frontline staff next year and in subsequent years, and also to increase capability through qualifications and access to training. There is a long-term plan as well as the single moment, which, as I say, we are de-risking as a single moment in terms of creating the new programme.

The final thing to say on risk is that some of this is about bringing back together. It is essentially a significant de-risk of what was considered and judged by Ministers to have been quite a risky position to have got into. In particular, what we are seeking to do, as you know, is to ensure that we learn some of the spirit of what drove previous reforms. Bringing innovation in and using the voluntary sector more effectively is something that is very much in front of mind in terms of this programme. Jo will want to add.

Jo Farrar: Thank you, Permanent Secretary. I will add a few things as a way of reassurance. The unification will absolutely happen in June. It is on track to deliver. It will deliver. Some reassurance we have had around that is that our plans have been tested by the IPA, the Infrastructure and Projects Authority, who have confirmed that they are viable plans. We have had an inspection by HMI Probation, which has confirmed that we are on track for delivery¹. Some of the things we might have wanted to do in advance such as ensure all training for people so that we can move more quickly to mixed case loads cannot happen because of Covid. Some of the training we will slow down. It will take us a bit longer to get to the position we had wanted to. However, all of the things that the Permanent Secretary mentioned that we can do in advance we have been doing; IT,

¹¹ MoJ have subsequently clarified that Dr Jo Farrar was referencing the HMI Probation 19/20 annual report which references the upcoming unification of probation, rather than any particular inspection report.



buildings, making sure that our workforce plans are rigorous and in place have all happened in advance. I am very confident in our ability to deliver in June.

Q67 Dr Mullan: You have mentioned a couple of external approaches to monitoring your progress. Internally, what are your key methods of keeping it on track in these next few months?

Jo Farrar: We have a strong governance programme that goes up right to the Permanent Secretary. We have some independent challenge on that. The Permanent Secretary mentioned earlier one of our non-executive directors. We also invited other people externally to challenge our programme. We also have individual programme management of some of the aspects, such as the workforce programme, to make sure that every part of the probation programme is on track to deliver. It is one thing that I monitor regularly as the chief executive.

Q68 Dr Mullan: I am conscious of time so I will ask you to be really specific in the answer to this question. As to the trends on vacancies, retention and recruitment, rather than explaining what they are, could you limit yourself to saying where the problems might be looking at those trends? Is there anything that you are concerned about?

Jo Farrar: There is nothing I am concerned about. Our retention at the moment is reasonably good. People are looking forward to coming together as a unified probation service. We have plans in place to recruit the 1,500 extra probation officers and we have a really good workforce programme. I have no real concerns about that.

Q69 Dr Mullan: Moving on from probation, we have talked about prisons, but I want to think more about what you see the risks are from an operations perspective as we move back to normal practice in the prisons, particularly around risks of serious disorder. In wider society, there are concerns about this summer and people being let out, so to speak. Do you have any similar concerns about prison transition as well?

Jo Farrar: That is something we are thinking about really carefully and we are making sure that we have everything in place to ensure that does not happen. When we were a bit more open over the summer, we did not see major disorder. We have not seen major disorder throughout this period as we have seen in other countries. We have also been doing a lot to learn the lessons of Covid. As we build back our estate, we are thinking very carefully about regimes, for example, and how we ensure that we have really good order but also better outcomes for people in prisons. For example, one of the things that people have said is important is smaller group activity, particularly for children, so we are looking at that. We have also heard from people in prison and staff that the one-to-one interactions, quality time with staff, is really important to minimise disorder and to help with wellbeing, so we are prioritising key work and the roll-out of offender management in custody.

Q70 Dr Mullan: Ms Romeo, do you want to add anything to that?



Antonia Romeo: Jo said that we are being very careful. What is clear is that HMPPS moved incredibly quickly and effectively when the pandemic hit into the new way of operating. The national framework has set in place the pace at which we will come out of the degree of lockdown that we were in and the processes that Jo and her team are following carefully. The key thing is learning the good lessons from the pandemic while ameliorating against the downside, as you have referred to, and, as Jo said, that we are closely managing.

It is worth noting that there were a number of really good things that happened during the pandemic. The number of video visits went up significantly and have been really popular, and the inspector particularly noted how important it is for prisoners to be in touch with their friends and family. The team will very much want to keep those sorts of things going. Also, there were the small groups, the key worker process. I know we are running out of time, but there were a number of great things that we have learnt within the estate in this period that we want to keep going even as we guard against some of the risks.

Q71 **Dr Mullan:** I want to dig a little about data now. Some of my colleagues will ask some further questions on that. There has been a recognition that the MOJ needs better access to data. We have heard evidence about the absence of understanding, for example, of the risks to vulnerable and excluded court users because there is not that sophisticated picture of who court users are and how proceedings move forward. Today, we have had to talk about anecdotal evidence of users who are having a good experience and a bad experience. When will you be in a better position to understand the picture of how service users make use of the courts service and therefore give us a better understanding of how it can be improved and if it is improving?

Antonia Romeo: I will ask Kevin to come in on this because he has lots of work under way in particular in the context of reform to talk to the service users about it. Speaking briefly more broadly, we are embarking at the moment on a detailed look at all of our data, how it is captured and how it is held on the system. Lots of it is held on legacy IT systems. A lot of these things come down to the IT. Often, as I mentioned earlier, the IT does not speak to anyone else's IT. There is a lot of data involvement, and when that happens there is a lot of driver error involved. How can we use data in a really timely way?

In response to a question from Ms Dines I was talking about how our forecasting works and saying that these things take a long time. These systems can be quite cumbersome. We have to find a more agile way to capture data and then, crucially, use it to inform ministerial decisions. I really want to make sure that we put evidence at the heart of the way we operate in the MOJ. That is a big part of the focus, by the way, of the operating model review, which is: what do we do with evidence, how do we focus our resource on evidence, and what is our capacity and capability to ensure that we are using evidence all the time? Kevin will



want to comment on your particular question about service users in courts.

Kevin Sadler: Specifically on remote hearings, we are actually surveying and interviewing user groups as we speak about remote hearings during Covid. We expect the study on that to be completed by the summer, with peer-reviewed findings to be published in the autumn. That is coming relatively fast. I mentioned the Nuffield research in family. There was also work done for the Civil Justice Council that we have been reading with interest and learning from.

More broadly on data, it is one of the key benefits that comes out of HMCTS reform and we have always seen it as one of the critical things that comes out, as systems, as Antonia said, do not provide sufficient information and require lots of manual intervention. That is always a risk with data. Since Covid started, we have done quite a lot to improve the speed and amount of material we provide. We have moved to weekly rather than monthly reporting on almost all our jurisdictions and provided greater depth of data and analysis there.

When I, as I frequently do, have looked at what other countries have been doing, I found their data a little bit harder to find than ours. However, we need to do a lot more. We launched a new strategic data platform in mid-January, and it is now in the testing phase. That will provide our teams with access to modern and new technology to store, process and analyse our data. We expect to invest heavily in this over the course of the next financial year having put aside some money from our spending review 2020 bid to enable us to move forward and particularly pick up the recommendations that Natalie Byrom gave to us and move that forward as quickly as we possibly can, including identifying protected characteristics as part of our new reform systems.

Q72 **James Daly:** Can I ask Ms Romeo a question? The data is one thing, but it is how data impacts good policy decisions that is the really important outcome. One of the things that I, in this Committee, tend to ask questions repeatedly about is the relationship between your Department and the Home Office regarding release under investigation. Ms Romeo, in terms of the wider impact of potential reforms to release under investigation, have you had any discussions with your counterpart at the Home Office regarding how that may impact your Department and the courts system?

Antonia Romeo: There is a two-part answer to this question. We are talking a lot. There are three parts of the CJS. There is the MOJ, the Home Office and the CPS. In fact, we are meeting regularly as a group, the trilateral—myself, my counterpart at the Home Office and the DPP—to talk about major issues.

On your particular question on release under investigation, I have not had a conversation on that myself, but I am sure there may well be a lot of work happening in the Department. I am happy to answer more.



Q73 James Daly: Ms Romeo, one of the reasons why I hope that you will be speaking to your counterparts is that we have a very difficult situation where thousands upon thousands of people are on release under investigation at this moment in time for periods of over 12 months for the most serious offences. I would hope that your Department would be planning for an increase in the throughput of criminal work on the basis that these people may well not be charged but there should be a significant increase in the charging numbers coming through. Has your Department taken an assessment of the impact of that on the courts system? Clearly that has not happened yet. Is that right?

Antonia Romeo: Much as I like to put myself at the centre of every story, the fact that I have not personally had a conversation on it does not mean that lots of work has not happened. What happens on every policy impact is that, when there is a policy or operational decision with a downstream consequence, we closely track that. One of the many thousands of people in the organisation will be talking to their colleagues about it. All I was saying was that the answer to your question about whether I had had a conversation on it in my first two months, was no. I am very happy to bring that conversation to that group. There is no doubt that, as that number goes down, we will be focusing on what that means for our services in ensuring that we are able to respond to it.

Q74 James Daly: That is a very clear answer; thank you very much. In terms of the data that we have been talking about today, could you explain to me from your perspective how data feeds into policy decisions and how that works? Are the Ministers leading those policy decisions? How do the data feed into that?

Antonia Romeo: All policy decisions are made by Ministers. Officials advise. When we put up the advice, that good policy advice will be heavily informed by the evidence base, which will include data. That could be data from stakeholders. That could be qualitative data or hard quantitative data, of which we have a lot. There is a wealth of information that we have in the Department. I am focusing at the moment on how we make sure we are routinely capturing that data and using it as evidence to inform those policy decisions. From what I have seen, and I have been in the Department for two months, in some areas we do this extremely well, and there are areas where it could be improved. This is why I am keen that we look at expanding the capacity of our data and analytical team. I am doing some work with the chief statistician of Government on this.

Q75 James Daly: Thank you very much. I apologise. I appreciate you have only been in your position for two months. Some of these questions may well be unfair and may well be better asked of other witnesses present.

I am sorry for jumping about in respect of my final few questions, but one of the striking things about Covid in terms of the criminal justice system, which I have a particular interest in, is what I perceive to be the different ways courts throughout the country have dealt with matters.



HOUSE OF COMMONS

We, as a Committee, had a virtual visit to Liverpool Crown court last week. That court, because of the physical size of the building, has been very successful in dealing with criminal cases and certainly criminal trials in the Crown court, but other areas of the country have not. That may well be down to physical space or other factors.

In terms of the data and what the Department has been able to see in those places that have dealt with the challenges that Covid has thrown up, what has led them to deal with that better than other courts?

Antonia Romeo: I have a couple of things to say, and I will ask Kevin as well to come in. The first thing to say, by the way, is that I am completely happy at this Committee to take responsibility for everything in the Department because that is my job. All I was trying to do was to demonstrate that I might not have had all the conversations in the first few months that I hope to have over the next few years.

On your specific question, Mr Daly, there is no doubt that, as in all public services, you get pockets of best practice and you get pockets of areas where lessons can be learnt. We have definitely seen—and Kevin will want to say more—that we are looking at the moment at the areas where this is done most successfully, because, to reduce the outstanding case load, we obviously want to learn from the best. There are some areas where it is extremely effective, and we want to bring that in.

When we look at how we are going to reduce the outstanding case load, we do not just look at overall sitting days and Nightingales. Those are all crucial as well. We also want to look at the operation of the courts. We referred already to reform. Part of that is: where are the areas where the case management system is working the best? In some local areas you get particularly excellent relationships, which means that the listing process—which is the judges' responsibility—can work particularly effectively. We are definitely looking at that as well to ensure that we can bring together productivity and efficiency, working very closely with the judiciary as well as capacity constraints, and I should say with the CPS as well, because they are a crucial part in this.

Kevin Sadler: The first thing I would say is that every part of the court system and legal professionals have responded magnificently. I am really grateful for everything everybody has done. That said, we have more pressures in some parts of the country than others. The ability to run socially distanced hearings has been easier in some locations than others. Wales and the south-west have been particularly well endowed with courtrooms that we can use in a socially distanced way with relatively minor modifications.

In some parts of the north-west, not in Liverpool, we have been cursed by the Victorians with some estate that is quite difficult to manage. There are particular challenges in London where we tend to have our larger Crown courts. It is not so much the courtrooms that are the problem but the public areas and the need to manage footfall in those public areas so



that people are kept appropriately distanced. There are some challenges there.

The other point to make is that the intake of work has varied across the country. In Wales, the south-west and in the midlands, we have seen slightly less than pre-Covid level intake of work, whereas in London in particular we have seen increases in workload compared to what we were receiving before Covid. There are some challenges there.

As Antonia says, we are aiming to learn from where it works most effectively. Wales is performing very well. It is no coincidence that my turnover of staff in Wales is pretty much the lowest in the whole country, whereas it is higher in London and the south-east, and that creates challenges.

The additional point to make is that this is not just a courts issue. You will know better than me that an effective court hearing requires prosecution, defence and policing all to be working as effectively as possible together to make sure that the hearing goes ahead. We are working across the criminal justice system to make sure that we are running things as efficiently as we possibly can in that context.

The final point is that Covid has hit different parts of the country at different levels. We still see attrition from defendants and other parties catching Covid, and that creates a challenge as well.

Q76 James Daly: One of the things—I know you will do this—from my experience of working in the court system for many years is that the practitioners at the coalface are never asked. This is no reflection on the Department now. As a practitioner, in the courts that I worked at, I was never given the opportunity to comment regarding how the system could be improved or any suggestions to feed into that. I would really encourage as much interaction not just between lawyers and the Department, but between everybody who is using the court system on a daily basis. Mr Sadler, what you said is the crucial point. The criminal justice system does not simply work in isolation with the Ministry of Justice. It has to be joined up between the Home Office, the Ministry of Justice, the police and the DPP, to make it work properly.

My final question is this. I hope the Chair will forgive me because I will put a separate question in regarding something else. We have talked a lot about money, Ms Romeo, at the moment and the challenges faced by the Department. I was provided with information saying that there has been a 35% reduction in applications for legal aid funding over the last 12 months. If that is not right, I stand to be corrected. I am sure Dr Farrar can correct me in respect of that.

One of the things that I know that the Government are looking at and hoping to take forward is the sustainability of the criminal legal aid profession. Have you had any opportunity to look at the issues related to that? Are there any financial challenges regarding a potential increase in



HOUSE OF COMMONS

fees or any other potential policy outcomes that may help to support young criminal lawyers within the profession?

Antonia Romeo: Thank you for the question. As you know, the Government and the Lord Chancellor are very focused on supporting the legal profession during this really challenging time. There has been a number of things in place already—for example, deferring debts, providing hardship payments, and the additional £50m per annum for criminal legal aid. We have the review under way under Sir Christopher Bellamy's chairmanship to look at the long-term sustainability of the sector, which is due to report at the end of this year. That will be a very important part of ensuring that sustainability.

The more work we do to get the flow through the system and to get the human resources to get the work going, that is what the professions need to ensure that that is what will get the Legal Aid Bill spent as we get that. We are absolutely all hands to the pump on ensuring that happens, as Kevin and others have already set out.

James Daly: I absolutely agree. Thank you very much, Ms Romeo, and thank you to all the panel.

Q77 **Chair:** Thank you very much, Mr Daly. That is very helpful.

When will the MOJ's new evaluation framework be published?

Antonia Romeo: New evaluation framework for?

Chair: Your data evaluation framework.

James McEwen: Is this for court reform, Sir Bob, or in general?

Q78 **Chair:** Can you tell me court reform to start with and then perhaps more generally?

James McEwen: I will try to get back to you on the general.

Q79 **Chair:** You remember Ms Romeo told the PAC that you were looking to do work around this. I am interested on where we are with it.

Antonia Romeo: The thing I was referring to at the PAC was something we spent a bit of time in today's session talking about.

Chair: Your broad evaluation framework.

Antonia Romeo: It is an evaluation of our data and our analytical capability to ensure that we have the best possible data to deliver evidence-based decision making. We are just kicking it off. I imagine it will take us a few months. To be honest, I want to move in multiple steps. I want to get some things sorted as soon as possible. Other things will take longer because we will need to change some of the factors in our forecasts, and that means quite a lot of work in terms of the systems. It will be a multipart process, if that is what you mean. James may know of other data evaluations.



HOUSE OF COMMONS

Q80 **Chair:** Do you have anything more specific on that, Mr McEwen? There has been criticism. Our Committee may have seen some of the work of Dr Natalie Byrom, who was seconded to the Ministry at one point. There is a lot of work being done, but is the data systematically collected? There are gaps in data particularly in the courts service, for example, where you would not expect there to be.

James McEwen: From memory, from the PAC conversation, this related to specific recommendations to be more transparent around our evaluation framework for court reform. That advice is with Ministers, and we hope to be able to publish that imminently. There are wider publications that we have in the public realm already. There is a framework around areas of research on which we are interested in working with the academic and wider research community, for example. We can draw all this together. The specific conversation at the PAC was around court reform evaluation. Apologies—it is not out there yet—but it is imminent, and we will make sure that the Committee and the PAC have a copy once it is published.

Q81 **Chair:** When we heard evidence from Dr Byrom, she made the point that a lot of this, which was missing, was not particularly sophisticated data. Most other organisations would have no great difficulty in having data, for example, of the number of judges who sat since March and so on. Why is it that the Department, which your predecessor, Ms Romeo, said he wanted to be data led, seems to have lagged behind somewhat on this—and some of the agencies? They vary agency by agency, I grant you.

Antonia Romeo: In some cases, it is inevitably the case with quite large, disparate estates where the data is collected. This is not a justification, by the way, but it might be an explanation. Kevin will want to speak to the HMCTS in particular and Jo to HMPPS. It can be held. If you are still asking us this question after the common platform has been rolled out—well, I hope you do not have to. For now, the truth is that a lot of the data is still manual. It is not timely. That is what we need to address.

Q82 **Chair:** Mr Sadler, you are also nodding about a lot of it still being manual and so on.

Kevin Sadler: That is exactly right. I read Natalie's evidence very carefully and we undertook to implement the findings of the report she did with us. I will go back to my earlier answer. This is one of the key reasons why we are doing reform. It is particularly in terms of the deployment of judiciary. Listing is still done in some places with a pencil and paper. In the more sophisticated areas, it is done with Outlook. Our new scheduling and listing system, which is being piloted in Oxford and Havant at the moment, will enable us to have national data on what we are doing and how we are doing it. At the moment, the best we can do is ask staff to say what a district judge who does civil and family spend most of the morning on and most of the afternoon on. That is just not good enough. We need the new systems to come in to enable us to have that proper data.



HOUSE OF COMMONS

Jo Farrar: I hope the Committee will have seen improvements in the data that we have published over recent years. I know certainly in conversations with some of our stakeholders that they have been pleased with improvements. We know that there is still some way to go. The way that we have responded to Covid and been able to put a lot more data in the public domain has generally been welcomed, and it is a journey I want to continue.

Q83 **Chair:** It is something that we may well want to return to at some point. Thank you all very much. Thank you for your time and for your evidence. It is good to see all of you. Ms Romeo, please pass on our thanks to your staff. We will join in your tribute to those during the pandemic. We also wish you well in the task that you have as permanent secretary.

Antonia Romeo: Thank you very much.

Chair: We look forward to a positive engagement with you and the rest of your team no doubt going forward. Thank you all very much for your time. The evidence session is concluded.