

## Justice Committee

### Oral evidence: [The work of the Lord Chancellor, HC 225](#)

Tuesday 24 March 2020

Ordered by the House of Commons to be published on 24 March 2020.

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Members present: Sir Robert Neill (Chair); Rob Butler; James Daly; Maria Eagle.

Questions 1 - 67

#### Witnesses

I: Rt Hon Robert Buckland QC MP, Lord Chancellor and Secretary of State for Justice; Jo Farrar, Chief Executive Officer, Her Majesty's Prison and Probation Service; and Susan Acland-Hood, Chief Executive Officer, Her Majesty's Courts and Tribunals Service.



## Examination of witnesses

Witnesses: Rt Hon Robert Buckland QC, Jo Farrar and Susan Acland-Hood.

**Chair:** Welcome, everybody, to this session of the Justice Committee. I very much appreciate the efforts that Members, witnesses and the Committee staff have made to enable us to have the hearing under what are very difficult circumstances. Although there is no public gallery, it will of course be available for broadcast. It enables us to get some important questions to the Lord Chancellor and his officials on to the record. I am very grateful to everybody who has made the effort to enable us to do this. As you can see, we are doing our best to maintain the appropriate social distancing in the way we have arranged the room.

Lord Chancellor, Ms Acland-Hood and Ms Farrar, thank you very much for coming to give evidence to us today. It is appreciated. We have to start with declarations of interest. I am a non-practising barrister and consultant to a law firm.

**James Daly:** I am a partner in a firm of solicitors in Bury, Greater Manchester.

**Maria Eagle:** I am a non-practising solicitor.

**Rob Butler:** I am a former non-executive director of HMPPS and a former magistrate member of the Sentencing Council.

Q1 **Chair:** That is a pretty formidable list.

Lord Chancellor, I know that you have been very busy and exercised in dealing with the immediate impacts of the coronavirus outbreak on the system. Could you tell us a bit about that and what else you would like to say about the way it fits into the overall objectives you have for the Department, and how what has happened influences that?

**Robert Buckland:** As you can imagine, Chair, the focus of the Department has increasingly been placed upon the challenge that COVID-19 poses to the Ministry of Justice and its agencies. That has involved work virtually around the clock for the last several days and weeks, where we have been scoping out and planning the appropriate response to the threat.

The first point to note is that of course the Ministry, HMPPS and HMCTS have established plans to deal with pandemics. However, this particular challenge has arisen quite suddenly and has involved the whole of Government in having to respond at great pace to changing events. In particular, the pressures that are placed on, first of all, the court system and then the prison and probation service are acute.

The way I would characterise the approach is as follows. We, like the rest of Government, are dedicated to trying to protect vulnerable people and save lives. At the same time, during this response we have to ensure that law and order and public protection are maintained. It is those twin



objectives that we have to reach in striking the right balance for our policy approach.

The COVID-19 threat has occupied much of my mind in recent times, but it would be wrong to say that I have not been working very hard on a number of priorities that my Department set itself, both at the time of the new Government's formation in July and the post-election manifesto pledges. That work continues apace. It has clearly had to take second place to the priority of COVID-19, but there is a wealth of activity in my Department on sentencing, developing work on constitutional reform, and pushing forward the proposed royal commission on criminal justice and victims' rights, to name just a few policy areas where we are making progress.

**Q2 Chair:** What are the main areas we should be looking out for in relation to sentencing, for example?

**Robert Buckland:** As you know, we had to bring forward some emergency legislation in the aftermath of the Fishmongers' Hall and Streatham atrocities. That passed the House with a great deal of support from all parties, for which I am extremely grateful.

It was, of course, only part of the response to the threat of terrorism. We will be introducing a counter-terrorism Bill slightly later this year. My aim would be to bring it to the House in May. We obviously have to see the full effects of COVID-19 on that timetable, but that is my aim. In that Bill there will be a more, shall we say, comprehensive approach to serious terrorist offences that I think will build in the need to ensure that offenders who commit offences not only serve appropriate sentences but are on licence and supervision conditions that help to maximise public protection.

That comes with a package of announcements that we made prior to Streatham, with greater investment in specialist probation officers, specialist imams and the sort of counter-terrorism work that goes on day by day in our prisons, which is often unsung for obvious sensitive reasons, but which we need to emphasise in order to enhance public confidence in our approach to counter-terrorism.

After that, there will be a sentencing Bill, prefaced by a White Paper, that will allow policy discussion and development to take place in the normal way. A Bill will come forward, all couched in the framework of the new sentencing code that will be introduced as a result of legislation in this Session. There is a very bold agenda on sentencing. As you know, and the Committee knows, it has been one of my lifelong and career interests, and I feel that I am in a privileged position to be able to improve and enhance the system to increase public confidence, to make it more understandable and to get the balance right between the need to protect the public from serious offenders and to do more on the community sentencing front to create proper alternatives to the short-



## HOUSE OF COMMONS

term sentences that we know often lead to the revolving door of criminality.

Q3 **Chair:** The terrorism Bill will be an MOJ-led Bill as well as the sentencing Bill, as I understand it.

**Robert Buckland:** That is what I understand.

Q4 **Chair:** Are you confident, despite all that is happening, that we will be able to find the time to get the otherwise uncontroversial enabling Bill from the Law Commission through the procedures in time?

**Robert Buckland:** I am very keen to advance that, Sir Bob. The preliminary Bill has made its way through the Lords. It is in the Commons as we speak. We then go on to the consolidation procedure. I very much hope that we can get on with that to make sure that any new sentencing framework exists within that code regime.

Q5 **Chair:** I understand. Thank you very much. I will come back to some of the other questions if we have time. As you say, at the moment everything is rather put on hold, and is provisional or tentative in its timeframe. I understand the long-term objective around that and other issues you have talked about, Lord Chancellor.

We have the position immediately of a crisis impacting two aspects of the system, perhaps more. In relation first to the courts, what is the current situation? How would you assess it? We have seen changes from, "We'll try and keep business going as usual," probably all in good faith, from one of your ministerial colleagues, to saying, "We can't do any new jury trials." Now we are moving to the situation where virtually everything that can be done is being done online. What is the situation there? Perhaps Ms Acland-Hood can help us with some of the practical things. What are the risks being assessed for court users and staff?

**Robert Buckland:** I will bring in Susan in a moment, but I want to encapsulate it in this way. I emphasise that the overall policy objective I have is to maintain the system of justice and law and order in our country, even in the teeth of this unprecedented threat. It was important that we made it clear that, as far as possible, we wanted our courts and justice system to function. That did not mean we were pretending that everything was as normal, which is why, thanks to the work of HMCTS, we have started to scale up the sort of technology that can make such a huge difference in courts of all disciplines. At the same time, we must remember that we have to make sure that in the recovery phase from this crisis the court system is in a place to pick things up and deal with any backlog.

My concern is for the witnesses, the complainants and the victims of crime who are having to wait even longer because of what has happened. That is balanced against the need to observe the developing policy of Government, in particular with regard to social distancing. I will bring



## HOUSE OF COMMONS

Susan in to deal with some of the operational details, and then I will be able to assist the Committee further with any questions.

**Susan Acland-Hood:** As the Lord Chancellor said, we had a generic plan for dealing with pandemic flu, but we found, as did almost everyone else under these circumstances, that some parts of that plan needed to be adjusted as we saw the developing situation. In particular, our plan had focused a lot more on our response to having people ill in the court system itself and in those who came to court, and less on our response to widespread lockdown and social distancing-type measures.

There were five elements of the plan. The first was to work with the judiciary to prioritise caseloads and case types so that we knew, if we could not do all of the work that was before us, which parts of the work were the most urgent to try to go ahead with. We have an agreed set of prioritisations. For example, today we are doing priority 1 work in the magistrates courts only, to ensure that we can take forward the things that are most urgent.

The second focus was to use video and audio hearings as much as possible, subject to judicial agreement about what is appropriate. You will have seen statements going out from the Lord Chief Justice to express his strong support. We are trying to make sure that we do as much as possible by audio and video. That has given us some challenges because we are set up much better in some jurisdictions than in others to do that. Even in crime, where there is quite a lot of use of video in the courts, the standard system is designed to communicate between fixed end points in the court, in prison and in police stations.

We have taken a number of actions there. We have audio teleconferencing accounts that in general are principally used in the civil jurisdiction and are specialised in that they allow for recording that meets the standards of the court. We very rapidly scaled up the number of accounts we have available. We now have enough audio accounts to cover something like two thirds of the normal workload of the courts. We are seeing the use of those increase day on day. We expect somewhere in the region of 600 audio hearings to take place across the court estate today. I cannot promise that that number will be achieved, but that is what people are planning for today. That has been increasing steadily day on day.

We have made some technological changes—this is not the technical language—essentially to unlock the criminal system I described earlier, so that it can talk to people outside those fixed end points. We have only done that on a very small scale so far, but we will start to see many more licences available from tomorrow. We are planning the use of that much more widely across the system, which will allow us to do more criminal hearings by video.

We have enabled Skype for Business on every judicial and staff laptop across the HMCTS estate. It was on the laptops, but they were not set up



to be able to communicate outside the walls of HMCTS. We have unlocked those and are starting to see them being used widely, and quite creatively, by judges and HMCTS staff. There is the same caveat on these figures as on the others. This is an approximate, expected figure rather than something we have done. We expect around 100 hearings today where video will be used in part—some people may be present and some will be on video—and around 160 fully video hearings. Those are not huge numbers in the context of the total caseload we would expect across the whole estate, but they are growing very rapidly and people are taking advantage of the technology. We are doing everything we can to try to support them to do that to a greater extent as we go on.

The third element of our strategy is around having the capacity to consolidate into a smaller number of courts across the estate. We have not yet done that, but we expect to continue to move in that direction. That is probably the next thing you will see us do.

The fourth element has been about trying to make sure that we keep courts clean and safe and that we are able to observe social distancing. It would be fair to say that that has been a challenge, and I am happy to talk more about that. We have asked our contractors to do additional cleaning. We have asked them particularly to pay attention to handwashing areas. We have tried to address issues that have arisen in relation to maintenance in the court.

We have asked staff members in the court to check regularly on the provision of soap and paper towels in bathrooms, which was an earlier issue. We have reissued guidance to security staff. There were some issues arising in relation to security search, where security guards were putting hands in bags. We have reminded them that they should not put hands in bags. They should ask people to open their own bag or take items out so that they can see to the bottom, which has helped with that.

Social distancing continued to be something we were worried about. That was really the reason for the Lord Chief Justice's announcement on Sunday that we would cease new jury trials of all lengths for a period while we made sure that we could put provision in place to keep people suitably apart.

Some judges are working creatively and well to do that. I have a report here from a trial that was held in Preston, where half the jurors sat in the well of the court while the other six spread out in the jury box. The public gallery was also limited in order to make sure that we could socially distance. We are continuing to work with judges and staff to try to make sure that we can do that wherever we are still holding hearings.

**Q6 Chair:** Shall we pause there for a moment? That is the same Preston Crown court where a female barrister was reported as saying there was no soap in the ladies' lavatories in the robing room. If they cannot get the basics right, how are we going to achieve cleanliness? It does not sound as if these laudable ideas are being achieved in practice.



**Susan Acland-Hood:** We addressed that very quickly and there is soap available in the robing room in Preston.

Q7 **Chair:** One of the problems—

**Susan Acland-Hood:** As I say—

**Chair:** Let me finish the question. One of the problems we have had is that there has been concern about lack of cleanliness in the courts for a long time, which has been raised with your agency in the past. This is simply building on it, isn't it, Ms Acland-Hood?

**Robert Buckland:** What I would say here, Sir Bob, is that, clearly, handwashing facilities are very important, bearing in mind the nature of the virus and the science that we know deals with the problem immediately when it comes to hand contact.

The real issue is social distancing. There is a particularly acute issue with juries, and that, frankly, is the struggle we have been having to reconcile. I am very grateful to the Lord Chief Justice and to barristers and solicitors up and down the country. As you know, as a former member of the profession, I speak to a lot of my colleagues, not just in London but across the country, and I know the heroic efforts they have been making to keep trials and hearings going. It is important that we note that. I would not want it thought that somehow there was a collective whinge from people in an unjustifiable way.

I absolutely take on board their concerns. They are trying to keep an important public service going, which was why, when we decided to close schools and to designate people as key workers, I was determined to make sure that people who went to court—barristers, solicitors and legal executives—all came within that scheme in order to make sure they were able to do that and that their children could be cared for safely.

I get all the tensions there, but at the same time all we are trying to do—ultimately, the Lord Chief Justice is responsible for listing, not me—is ensure that we can keep a basic service going and avoid the sort of problem I can see coming down the road with a prolonged adjournment, a prolonged gap, during which we cannot function effectively as a justice system.

Q8 **Chair:** Effectively, you cannot continue trials with a long adjournment like that, can you?

**Robert Buckland:** That is the problem.

Q9 **Chair:** And you cannot adjourn the trial either. You are going to have to abort cases.

**Robert Buckland:** Juries are still sitting in England and Wales. There are ongoing trials now. Judges are working extremely hard, and the jurors themselves are being superb in wanting to make sure that they can carry on with that work.



The problem comes when somebody is symptomatic, and the longer a case goes on, the more likely it is that will happen. That is why I think the Lord Chief Justice was right to go to a limit of three days or fewer. Again, he was right overnight, on Sunday/Monday morning, to ask for a pause so that we could check social distancing. We are having to respond at great pace to a fast-moving situation. I do not think, with respect to people who have been commenting about this, that it is fair to judge us as harshly as some people are doing, bearing in mind the imperative of making sure that we have a functioning justice system.

**Q10 Chair:** I suspect what is behind some of the comments is that historically the system was already stretched for a number of reasons. It might be a lack of funding or whatever else, and, in the instance quoted, this loads much more on top of it and makes it very hard for it to catch up. Is that an argument for the future that more investment is going to be needed?

**Robert Buckland:** As you know, Chair, I am a very strong champion of our court system, having lived with it and been part of it for all my professional life as a barrister and as a part-time judge. I know the challenges that people face, and it is my intention to continue making a strong case for the court system in the forthcoming spending review. Of course, that is affected by what is happening but it will not diminish my determination to make the strong case for the investment we need.

**Q11 Chair:** Ms Acland-Hood, I know that the Courts Service struggles sometimes to get the IT it would like to have because there have been budgetary reductions from time to time. That is an argument now, isn't it, for speeding up investment because people have done remarkably well, as you rightly say, with what they have? It is probably not as advanced as it might have been in an ideal world. It is not your call because you are not in a position to take those decisions, but are we in a position to scale up in due course what is available?

**Susan Acland-Hood:** In terms of?

**Chair:** The investment in IT.

**Susan Acland-Hood:** As I said, we are scaling up at pace at the moment. I have a couple of reflections on that. The first is to thank you for the reflection that people are doing a lot with what they have. I am tremendously proud of my staff, who are working extraordinarily hard in really difficult circumstances at the moment. They are among the relatively few people now who are going out to work and they are doing the most magnificent job.

For me, there are two reflections around investment and reform coming out of this crisis. The first is that, where we have put in place new systems and new ways of working, they are helping us to deal with this issue because we are able to work more remotely. The things that we have put in place around audio and video are much more readily possible because of what we have done, particularly in places where we have reformed systems that underpin them. It makes it much easier for judges





and others to work remotely, but as a whole our system remains very paper-based and very physically-based. The crisis highlights the things we have not yet done and need to do, and for me it makes the case for why we need to continue to do that and to continue to invest in it.

**Q12 Chair:** The Government's guidance stresses the importance of cleanliness and says, "We are seeking to provide hand sanitisers at every site and expect an initial batch to arrive this week for dispatch to courts." Where are we with making sure that every court user, from the judge to court staff, barristers, witnesses and jurors, is going to have access to a hand sanitiser? How far off are we from that?

**Susan Acland-Hood:** The first thing to say is that the PHE guidance is that soap and water is just as good, if not better, than hand sanitiser. The reason for wanting hand sanitiser is that it is more convenient in certain locations. We have hand sanitiser. It is worth saying that across the whole of the public sector it is colossally difficult to get hold of scale supplies of hand sanitiser at the moment. We have identified a supplier. We were due to have a shipment this afternoon. It is coming from South Africa, and South Africa has literally just now announced that it is stopping all flights, so my hand sanitiser is in South Africa.

**Q13 Chair:** It is not possible to meet the Government's own guidance; that is what it comes down to.

**Susan Acland-Hood:** The Government guidance says, "We will seek to provide it," and we continue to seek to provide it. The Government guidance does not say that to be safe you have to have hand sanitiser. It says that the best thing is to wash your hands with soap and water. Hand sanitiser is something I would like to do.

**Q14 Chair:** It may be an ambition that is some way from being achieved, for a number of reasons.

**Susan Acland-Hood:** We are doing as much as we can.

**Q15 Chair:** Lord Chancellor, that brings us back to the other issue I was going to raise before I move on to my colleagues. You make the point about backlogs. There was already a concern about backlogs in the Crown court, which was rehearsed in various ways, but this is going to build on that enormously, isn't it? We have a backlog already. You have indicated that you want to increase the number of sitting days in the Crown court both in the current year and future years. Surely that is going to have to be increased even more now.

**Robert Buckland:** My intention had already been to increase sitting days quite significantly for the year ahead, but we are in new territory now with COVID-19. The position now is more about the availability of courts and actually getting sittings achieved because of the problem it is causing. There is now a different order of magnitude and a different challenge. It is my aim to work very closely with the judiciary to make sure that we have a recovery plan so that whenever this ends—in a few



## HOUSE OF COMMONS

months or however long it might take—we are ready with listings and allocations at the right time.

What is crucial during the crisis is that we continue to process work; that we continue to have plea hearings; that we continue to list cases; and that we continue to have a supply of cases to make sure that, when we are able to fully re-operate, we are in a position to start doing a lot of work at some pace. That work is being undertaken by the senior judiciary. Susan mentioned the concept of working out key courts from which operations can be maintained. Equally important is the sense that later in the year we will be able to return with gusto to making sure that we can list cases for trial and deal with what would be quite an alarming backlog if no work whatsoever was able to be done between now and then.

Q16 **Chair:** It will be listing up to the capacity of the court, pretty much.

**Robert Buckland:** Potentially, yes. It is a completely different challenge from the one that I faced even only five weeks or so ago.

Q17 **James Daly:** I would like to ask a few questions regarding COVID-19 and the magistrates courts. I saw a tweet from Her Majesty's Courts Service, which I think has been confirmed, that today only urgent cases would be heard. They were defined as overnight custody and prisoner production. I have some experience in that realm. I hope that in terms of prisoner production there would have to be a very good reason to take a prisoner to a court. May I assume that prisoner productions are by way of video link?

**Robert Buckland:** That is a very good question. As you know, video links are now more ubiquitous than they were when we started in practice. There are still some limitations, however. It may be that Susan can come in on this. Wherever possible, where the video links are working well, that is exactly what should be done. It is particularly important in the magistrates court, bearing in mind the fact that a lot of the cases are shorter, more straightforward and can be dealt with much more quickly. I do not know whether Susan wants to add anything to that observation about video link.

Q18 **James Daly:** Could I develop the point? I am sure Ms Acland-Hood will come in. One of the concerns that I have is in respect of overnight custody. You quite rightly, Lord Chancellor, talked about how we need to keep the system going. Overnight custody generally involves close contact, if you are being physically produced in the court, between police officers and court staff. What steps are being taken to mitigate that contact? If one person is in handcuffs, it makes social distancing somewhat difficult.

**Robert Buckland:** It is a point that has already been raised with me directly by some of our colleagues. The concept of handcuffing is a difficult one. It is only used because of security and public protection issues, but it throws up a huge challenge for custody staff. I am confident



that everything is being done to work out ways in which such contact can be reduced or eliminated. Quite clearly, it goes against what we plan and propose by way of social distancing, which is why the virtual approach is absolutely the preferred way to go, as much as possible. Does HMCTS want to add anything to that?

**Susan Acland-Hood:** That is exactly right. It is genuinely difficult. It is a bit analogous to the fact that, if the police end up making a physical arrest on the street, they are highly likely to come closer to someone than you would ideally under any other circumstances at the moment. However, there is a balance that has to be struck. Similarly, we have to keep people safe on every dimension. We are working to make sure that we put in place as much as we can to observe social distancing, while making sure that the court is secure.

Q19 **James Daly:** May I develop that point further in terms of how the court is working? It has been made clear that the parties involved in all hearings should not attend court unless contacted directly. I know from my experience of dealing with parties over many years that they may not have a fixed address or may not be contactable. I suspect that, unless the doors of the courts are locked, members of the public or defendants are turning up at courts today. Would I be correct in that assumption?

**Robert Buckland:** I cannot possibly comment as to precisely what the movements might be across the estate. You are no doubt right that there will be people turning up. There have been issues at the door about security, which Susan Acland-Hood mentioned. All those precautions are now very much in place. I think staff feel better able to direct and tell people about the necessity of their visit to court so that people can be informed as they arrive as to whether they need to remain in the court.

Again, there is increased use of technology. It might not be specifically the case in the magistrates court, but with jurors, for example, text messaging is now being used to make sure that jurors do not come first thing in the morning. They are told by text to wait and not to come into the court building. That approach is already leading to a vast reduction in footfall, but clearly it is a continuing concern.

Q20 **James Daly:** Lord Chancellor, you make a very valid point, but building on the point made by the Chair, defendants, and perhaps families of defendants who wish to be in court to support their family member who is before the court, are going to come, and perhaps more than one person together. Bearing in mind the Prime Minister's advice and the national guidance, it is a little concerning that we are letting people into the courts. I do not think they are getting the right advice when they are there. As the Chair said, we do not have hand sanitiser. I know you are making every effort, and this is not a criticism, but I hope that you will take away those concerns.

**Robert Buckland:** I do, Mr Daly. It is more than advice now, of course; a mandation was issued last night with potential criminal sanction.



Therefore, we are again into a new stage, and I think we are all digesting that. As soon as that announcement was made at 8.30 last night, HMCTS and the judiciary were literally working overnight to digest the consequences for the system. It therefore means that people need to ask themselves the question—the old world war two slogan: “Is your journey really necessary?” We need to understand that in the context of court hearings, while balancing the importance of the need for public accessibility to the courts. They are public proceedings and the public need to know about them. Hence some of the welcome changes we are making in the Bill to further widen and enhance the use of video and audio hearings, but in a way that still allows the public to have access to them.

**Q21 James Daly:** In many parts of the country three magistrates will still be hearing a case. Some magistrates, although not all them, of course, may be very near to or may fall into the vulnerable groups that have been identified. What steps are being taken to ensure that people are not put at risk there? Secondly, if a lawyer is required to be in court, what steps are being taken through the Crown Prosecution Service to ensure that staff are protected in the best possible way?

**Robert Buckland:** The CPS is ultimately a matter for the DPP and the Attorney General, but I have had assurances from the Attorney General that she is satisfied that the CPS is taking all the appropriate steps to protect the safety of its staff, and to allow as much work to be done as possible through technology. As Susan said, the level 1 work being done in the magistrates courts, for example, is the priority. That means a more sensible use of prosecution resources as well.

With regard to magistrates, we have already taken action on what we regard as the older, more vulnerable group. At the moment we are seeing an understandable concern among the lay magistracy about coming to court, but the important resource we have is the district judge magistrates court team, who are able to step up, step in and deliver essential justice in our lower courts. We are taking all those steps to mitigate and to make sure that lay magistrates are not in a position where they are not able to observe social distancing or shielding as appropriate.

**Q22 James Daly:** I have one final point. We obviously want the criminal justice system to continue; people need access to justice. In certain parts of the country, some of the more remote areas, if I can describe them as that, there is a limited number of lawyers. If they, for whatever reason, become sick—let us hope that they do not—people are potentially going to be many miles away from a lawyer to assist them and give them advice. Could you comment on that and describe what procedures are being put in place to ensure everybody has access to justice?

Going forward, there is a plea regarding the issue raised by the Chair. Prior to this crisis, many legal aid firms worked on very small margins and from week to week. I hope that you will keep an eye on legal aid



firms—I am sure that the Department, working with other Departments, will do this—and that they are supported to make sure that they continue to give access to justice at the end of this process.

**Robert Buckland:** Mr Daly, you make a very powerful point. Prior to this crisis, I had already asked for work to be done to map the provision of criminal legal aid across the jurisdiction. There is definitely an issue. The sustainability of practice in this area is a real question in many respects. The Law Society is working very closely with officials in my Department to help identify those needs.

It is part of the wider review we have been doing of criminal legal aid. Very recently, I announced a set of accelerated requests for a response to that from both professions. There is more work to be done, most definitely, with regard to the solicitors' profession and to work out what will be a sustainable model for the future. I am far from convinced at the moment that the way in which we remunerate solicitors matches the work they do, including the important work they do, for example, in the police station and in the early preparation of a case.

To cut to the chase on COVID-19, the particular impact of it could be an acute one. We are liaising very closely with the Law Society about it. I am so grateful for the support that the Law Society has given us through this very testing time. It has shown that professionals are prepared to step up to the plate to help deliver justice in a calm and measured way.

Q23 **Chair:** Of course, Lord Chancellor, the situation applies to the Bar as well. The independent Bar is self-employed.

**Robert Buckland:** I am extremely grateful to the Criminal Bar Association for the way in which they have responded to this particular crisis. Theirs is a can-do attitude, and I am profoundly grateful to my friends and colleagues at the criminal Bar and, indeed, across the disciplines. The family Bar has been working. I have heard of cases done entirely through the means of Skype and other mechanisms. I think there is a care case ongoing that is being done entirely through that medium. That applies to the civil courts as well. Of course, they have had the flexibility in those jurisdictions to do things digitally. As I said, the particular challenges come in the form of jury trials, which we do not have the technology to deliver entirely digitally. It is just a fact of life.

Q24 **Chair:** That poses an acute problem for the criminal Bar, of course. You cannot live on interlocutory fees, sentencing and other matters. Without trials and brief fees, your income dries up.

**Robert Buckland:** There is a real small business question there. When it comes to the competencies of my Department, the Legal Aid Agency and the payment schemes that operate, clearly, we need to look at that. We are looking at what it might mean in order to make sure that we do not end up with a real cash-flow desert, shall we say, for many practitioners who might find that there is no work during the course of the crisis.



## HOUSE OF COMMONS

Q25 **Chair:** One hopes that the support being given would be extended by banks. A lot of young barristers operate on overdrafts.

**Robert Buckland:** I do not know about you, Sir Bob, but when I was at the Bar I was very lucky to have a very understanding bank manager.

**Chair:** Snap. It might have been the same one.

**Robert Buckland:** I needed one quite regularly. My plea to the banks today is to please remember that they are helping to nurture a profession that we need. Remember that we should all be in this together, to use a well-worn phrase.

**Chair:** I am sure that is a message you will take back to another Chancellor in terms of what needs to be done and the urgency of it. Are there any further questions on the courts front?

Q26 **Maria Eagle:** I have a little follow-up for Susan Acland-Hood. I have certainly received a lot of concern via my email inbox from practitioners about the cleanliness of courts. While I understand that your hand sanitiser is stuck in South Africa, soap and hot water is an adequate substitute.

Do you have a similar problem with liquid soap? What percentage of your courts that are now operating do not have running hot water, where simply putting in some liquid soap might be an inadequate response? I have received lots of concerns from practitioners who go out day by day and find courts that do not have hot water, soap or hand sanitiser, and therefore they are worried about their own safety and that of other court users.

**Susan Acland-Hood:** We certainly have adequate supplies of soap, and we have soap in every court. It is certainly true that during the course of this we have had places where soap has run out in particular locations or in particular bathrooms, but not court-wide. It would have been in one bathroom.

First, when it is raised with us, of course we address it. As I said earlier, the other thing I have done is to ask for much more regular checks during the day. Very early on, cleaning contractors may not have responded quickly enough to the fact that the soap was being used much more rapidly than usual. We now have much more regular checking to try to make sure that soap is in place.

Similarly on hot water, I have had a small number of issues raised with me and we have gone to fix the hot water. We have made that a top priority. It would always be a high priority thing for us to fix in court, but we have given it even more priority at the moment. We are trying to make sure that, if there are issues with the hot water, we fix them absolutely immediately.



Another thing, as the Chair raised, is that people have been identifying issues with court cleaning over a longer period. In order to make sure that we responded to that, we had the opportunity to have new contractors starting on 1 April, because our cleaning contract came up for renewal. That is not to disparage the particular individuals in the old contract. It is not just about changing who they are; it is about changing the contract we use, so that we have better specifications and better grip. Ordinarily, the change of contract would be really good news. It just comes at a slightly unfortunate time, so we are also trying to manage that. I do not want to delay the change because I think the change will make quite a big difference for us in being able to provide better cleaning, but coming at this precise moment it is an additional challenge.

**Q27 Rob Butler:** Could you say a word or two about the youth court? I am interested in two particular aspects, having served as a youth magistrate. The encouragement is that the young person or child should sit right next to their parent and, on the other side, a legal adviser. That is obviously completely contrary to the social distancing rules by which we are now operating. Equally, video court hearings are highly undesirable for young people and are only supposed to be used in utterly exceptional circumstances. I know we might argue that this is an exceptional moment, but could you talk us through a little bit about what special provision is being made for the youth court?

**Robert Buckland:** To be fair, special measures for young and vulnerable witnesses have been the norm for many years in sexual abuse allegations and, indeed, with some other types of offence where we have had young witnesses. The challenges of the youth court are identical to those in the rest of the court estate. Susan might be able to fill in with particular information as to where we are with regard to hearings at the moment. Clearly, with social distancing, a lot of well-researched and well-established practices cannot be undertaken.

That leads to a wider question about how we manage our young offenders. We have a large number in our youth estate but historically many fewer now in youth custody and detention than for very many years. That is a notable achievement. We still have about 700 to 750 children—that is what they are—in our youth custodial settings.

There are various types of setting. I am concerned about how we manage them. Until now we have been able to maintain family visits, which as you know are so important for stability, but of course change has come and, therefore, there is a particular challenge for governors and all those responsible for the welfare of the children we deal with to manage their expectations and to try to keep the youth estate as safe as possible. I do not know whether Susan wants to come in particularly on youth courts, in the first instance.

**Susan Acland-Hood:** The points you make are valid, and, as I said in response to the question about magistrates courts, this is not easy. There is a difficult challenge in balancing what we know about good practice in



## HOUSE OF COMMONS

the youth court with what we know we should be doing at the moment on social distancing. We are trying to make sure, as best we can, that physical distance does not make people feel emotionally unsupported. There are not a huge number of hearings in the youth court going ahead at the moment. I do not have the figures with me.

Q28 **Chair:** That is a deliberate attempt to reduce the number to the minimum, I take it.

**Susan Acland-Hood:** Overall, we are trying to make sure that we are not going ahead with things that are not urgent. That affects the youth court as it does everyone else.

Q29 **Chair:** Do you have a sense of numbers? Mr Daly asked about magistrates. Do you know how many magistrates are unavailable either because they are self-isolating or because they are near the limit? How many, potentially, are we down at the moment?

**Susan Acland-Hood:** I have the figures for today. Today is a particularly unusual day, following the Prime Minister's statement. We are trying to staff the magistrates courts principally with DJMCs today. We were expecting about 256 magistrates today, and of those around 70 have not arrived. That is partly because we told them not to come because we were going to staff with DJMC, so it is a bit misleading.

Q30 **Chair:** That gives us a sense. Mr Slaughter cannot be here this morning, but he wanted to raise a couple of civil issues. His proposition is this. Isn't the logic, given that we are putting a moratorium on evictions and other matters, that the civil court should be operating purely on the basis of emergency matters? That is his contention.

**Robert Buckland:** That is an interesting point and I have been considering it in the context, for example, of limitation periods, court orders, the Civil Procedure Rules and all those issues. In fact, a number of practitioners have raised them with me. The message I am getting from the judiciary is that flexibility is the order of the day. Let us take limitation, for example. If a limitation period is missed on a PI claim, the circumstances of COVID-19 will clearly be a material factor for a court to consider in using its discretion under section 33 of the 1980 Act. I did not see the need to amend the law.

Q31 **Chair:** You are satisfied that judicial discretion can deal with it. That was the point that was raised.

**Robert Buckland:** I thought about whether or not we should amend the law, or, for example, have time—as you and I remember—in August in the High Court. I do not actually think that it is necessary. I am also encouraged by the number of protocols that are appearing. I am very grateful to the Member for Cardiff Central, who, as we know, is an experienced former personal injury lawyer. She drew my attention to a protocol between the Association of British Insurers and Thompsons Solicitors that encapsulates what needs to be done, particularly in the





## HOUSE OF COMMONS

field of personal injury, when it comes to being sensible about the impact on proceedings of what is going on around us.

It is a good question, but I am confident that everybody is mindful of it and will make the necessary adjustments so that people are not denied justice because of the force majeure of COVID-19.

**Q32 Chair:** The other point Mr Slaughter raises relates to listing in those cases. He uses the example of listing possession actions. It is a long time since I was there, but I have certainly seen it. Very often you get 20 or 30 listed as a block, and you just go through them. Not everybody appears, so the judge has the whole lot in front of them. If they did, you would have an awful lot of people hanging around in the waiting room of the county court trying to find the duty solicitor and seeking advice. It is probably the worst possible scenario. Given that there is a commitment to no evictions during this period, should we be adjourning all possession actions, say for three months?

**Robert Buckland:** Certainly the legislative intention is very clear. It is a matter for the courts as to how they list, but, putting it bluntly, we do not want people who are self-isolating or staying at home to find that they are not able to do that.

**Q33 Chair:** Perhaps Ms Acland-Hood can help us on that.

**Susan Acland-Hood:** We have already removed the possession block lists for the reason you describe.

**Q34 Chair:** That will be very welcomed by people. You mentioned other jurisdictions, Lord Chancellor. A couple of small issues have been raised with us—for example, employment tribunals and the EAT. It is not apparent to a lot of practitioners whether or not schedule 24 to the Bill that is going through at the moment, which enables greater use of video and so on, encompasses those tribunals. There is a suggestion that it does not. What thought has been given to that? Is it possible, within the tribunals, for there to be greater scope for practice directions, and so on, to deal with the matter?

**Robert Buckland:** My short answer is yes, there is scope, but Susan might have some more information particularly from the SPT, the Senior President of Tribunals.

**Susan Acland-Hood:** I am very sorry; I did not quite hear you.

**Q35 Chair:** The point that is being made is that schedule 24 to the Act gives power for the courts to take more video and other evidence. The suggestion from a number of senior practitioners is that, on the face of it, it does not include employment tribunals and the EAT.

**Susan Acland-Hood:** We believe we have more flexibility through rules and practice directions in the tribunals.

**Q36 Chair:** I am conscious that there is more flexibility. Are you satisfied, and



## HOUSE OF COMMONS

is the Senior President of Tribunals satisfied, that this can be made to work in that way?

**Robert Buckland:** That is my understanding as well, Chair.

Q37 **Chair:** That is very helpful. A small point that has been raised by other people, which is not directly your responsibility, Lord Chancellor, is the issue of delays and the slowness of the Planning Inspectorate to move to online planning appeal hearings and public inquiries, compared with the swiftness of the court system and the judiciary—so credit there.

I am told by a number of senior practitioners in the field that, although the policy sits with MHCLG, the regulations, which for example specify that the inquiry shall take place at a place, and things like that, sit within the remit of your Department. Perhaps we could urge you to talk to Lord Greenhalgh, the new Minister of State, who I gather is seized of these matters.

**Robert Buckland:** I will look into that. I have an interest in the work of the Planning Inspectorate, and I will do that.

Q38 **Chair:** That is very helpful. Having met some of the senior judiciary, and others at all levels, I think you are right, Lord Chancellor, to stress the work that is being done, not just by Ms Acland-Hood's staff but by the judiciary itself and the professions to try to keep things going in very difficult circumstances. I hope you will see that the concerns we have raised are not done to criticise but to try to make sure that we can get the very best possible outcome for what is a public service.

**Robert Buckland:** Indeed it is. It is a public service where we have volunteers, including lay magistrates and jurors. Of course, jurors are subject to a summons, but they are, none the less, members of the public who come forward. We also have the professions. Although they are private citizens in that sense, they perform a public service, often funded by the public. Getting all those various elements working in these particular circumstances is a unique challenge, but it is one that I am very pleased that so many people have risen to and done their very best to discharge.

**Chair:** May we turn to the other part of the Department—Ms Farrar's responsibility, and your own of course—in relation to prisons? If prisons are not a Petri dish of infection, potentially, I suppose one might ask: what is?

Q39 **Maria Eagle:** Lord Chancellor, could you first outline what the current situation and guidance is in respect of prisons and coronavirus?

**Robert Buckland:** As I outlined earlier, and as you will know from your previous experience, there are contingency plans in place at all times to deal with the sorts of challenges prisons can face. For example, there is a contingency plan for pandemic flu, and a command structure in place to deal with an outbreak or outbreaks of that type of contagion. It goes right down to issues of food supply.



## HOUSE OF COMMONS

To take the no-deal planning, I was very impressed by the way in which HMPPS and the Department worked together to identify the vulnerabilities placed on prisons by that challenge. The work done there has been transferred to this challenge. Shaun McNally, the senior civil servant who headed no-deal planning in my Department, is now running the coronavirus taskforce. It meets daily. We have already stood up the criminal justice gold command; you will know exactly what I mean by that. It is the meeting place for all the agencies—police, probation and other agencies—to come together to work out what the challenges are, and to make sure that all the parts are talking to each other, so that we are getting communication.

Under all that, what I see from HMPPS on both sides of the equation, both prisons and probation, is a real sense of urgency and the need to do everything we can to support our staff. I publicly thank the Prison Officers Association for the incredible work they are doing with my officials. The collaboration and co-operation has been outstanding, and has helped not just to keep morale up but to allow prison officers to feel, in the main, that they can work with confidence that they are being listened to and accommodated, and that their worries and concerns are being dealt with. Let's face it, they are on the frontline; they are frontline workers. For example, the POA made their views on visits very clear yesterday. We have acted very quickly in order to end visits. They worked with us because they could see that, in terms of maintaining order and a sense of stability through the estate, there was an interest in keeping visits going for as long as possible.

I was being a little granular there; forgive me. I want to come back to the overarching principles that in my mind are operating strategically. There are two things. One is the need to save lives and protect the vulnerable. The second is to maintain law and order and public protection. In our Prison Service and our prison system, those two issues come together in a very challenging way. I have to try to get the balance right in order to make sure that the public are protected and risk is managed, and that at the same time we minimise the effects of the virus within the estate. That is how I would encapsulate it. I am sure Dr Farrar will be able to help with some more details.

**Jo Farrar:** Of course, yes. As the Lord Chancellor says, we have practice plans, policies and procedures in place. We have been working very closely with Public Health England to make sure that we are looking after the wellbeing of our staff, and the good order, decency and wellbeing of people in our care. In terms of what we are currently doing, we have moved today to an exceptional delivery model in prisons. That was in consultation with our trade unions. I, too, thank our trade unions for working so constructively with us, and our hard-working and dedicated staff who have been helping us to manage through a difficult period and work in some of the most challenging circumstances.



## HOUSE OF COMMONS

Following the Prime Minister's announcement, we have moved today to an exceptional delivery model in prisons. That means that people in prison will have more time in cells. The reason we were trying to manage a more or less normal regime for the past two or three weeks was to minimise the amount of time people would have to spend in cells, knowing that this was coming. From today, they will spend more time in their cells, but we will be making sure that people come out for meals, to make phone calls to family or other people that they need to phone, and to have their health attended to and to take showers. We will also be making arrangements for people to exercise in the open air with proper social distancing.

We have stopped visits from today, so we are making more access to phones available; 60% of prison cells have in-cell telephony. For those who do not, we are ensuring that people have access either to handheld devices, which we have secured, or to phones on the landing that they can use.

We have made sure that we continue to pay people in prison who can no longer attend employment. We are continuing employment for essential work such as for those who work in kitchens, but for other people who can no longer undertake employment we are ensuring that their pay continues so that they can continue to make telephone calls and have access to the canteen, and so on.

Q40 **Maria Eagle:** Have all the gymnasiums been closed?

**Jo Farrar:** We have closed the gymnasiums, yes. The exercise we are looking at now is outdoors.

Q41 **Maria Eagle:** How many prisoners have currently tested positive for the virus, and how many staff have currently tested positive for the virus?

**Robert Buckland:** The latest prisoner figure is 10. I think I am right in saying that. Staff numbers are still developing. I have a figure for overall HMPPS staff who have been self-isolating; about 4,000 of our prison staff have self-isolated. That is different from a coronavirus diagnosis. We have had a number of those diagnoses, and, along with the rest of the population, that will sadly only increase.

**Jo Farrar:** Just before I came in we received some updated figures, Lord Chancellor, so I can let you know. We now have 12 staff in total who have tested positive, and 13 service users who have tested positive for the virus.

Q42 **Maria Eagle:** I have some information via one of the trade unions that has members in prisons. They tell me that, as a result of one of their surveys among their members, there are confirmed cases in 20 prisons. Is that therefore not accurate? If you have only 13 confirmed, they cannot be in 20 prisons.



**Robert Buckland:** The figures we go on are the figures that Public Health England confirms and verifies. They are checked all the time. I see the dashboard ticking up, sadly, at the moment. I think we have the authoritative figures.

You hit on a very important point because we have had a lot of anecdotal tales about COVID. There is, I am afraid, a difference between diagnosis and suspicion. The truth is that there probably are more cases—of course there are—as there are in the general population. It is important that we work on as authoritative a set of figures as possible, and those are being updated hourly.

**Jo Farrar:** We have confirmed cases in nine prisons, and we are investigating a case in another prison. We have a number of suspected cases, and I presume that is probably where the misunderstanding comes from.

Q43 **Maria Eagle:** It is a number of years since I visited prisons myself, but I used to visit them very regularly. I know what some of the issues are in respect of social distancing and hygiene and cleanliness. Lord Chancellor, how practical are your current advice and policies, given the current state of the prison estate, for minimising the spread of the infection throughout prisons?

**Robert Buckland:** I am not going to make any bones about it: it is a huge challenge. I have quite a proportion of the estate where there is crowding and more than one person in a cell. That presents a real challenge. I have a number of people in the cohort you would class as vulnerable. I have about 1,800 who would be shielded if they were in the community. I have prisoners with underlying health conditions. This cohort tends to have poorer health than the rest of the population. Therefore, it is an acute problem.

There has been quite a degree of work done so far to isolate and separate people as much as possible, but the problem will only get more serious as we hit the peak. It is important to distinguish between the male estate, the female estate and the youth estate. There are particular approaches we can take in the female estate, in summary, that will very much support the female offenders strategy. I am thinking very carefully about the cohort of pregnant women and mothers with babies. Mercifully, they are very few in number; there are about 50 self-declared pregnant female prisoners. We are looking very carefully at the circumstances of those cases. You can almost put them into an exceptional category.

Coming back to the male estate, the particular challenges will come, for example, in the category B local prisons, where you have quite a churn of people coming in and out and a real sense of not so much instability, but a changing population and therefore a greater problem with the introduction of the virus. I assure the Committee that we are working hand in glove with Public Health England, who are providing specialist advice. My director general of prisons is working hourly not just on a



strategy but on what a plan looks like for managing the problem. We will continue to focus on that and develop it over the days ahead. It is designed to balance the protection of life against the need to protect the public as well, and to manage risk. That is the nub of the question or the challenge that is set before me.

**Q44 Chair:** Some prisoners will be very low risk. Is it sensible or wise to be keeping people like that in custody—perhaps making more use of release on temporary licence, for example?

**Robert Buckland:** I absolutely take on board your points, Sir Bob. Release on temporary licence is available. I am keen to make judicious use of that as much as possible in order to achieve the necessary leeway. I also need to think about what that means for prisoners who are going to be released anyway. Over the next six months, quite a few thousand will be released in the normal course of events, which is why we are working very closely with MHCLG and Louise Casey to develop at pace an accommodation plan.

I am thinking about stable accommodation on the outside. We now have quite a supply of potential accommodation. We need to harness that, in my view, not just for prison release but as approved premises for people who are already on licence. I am interested in bail accommodation as well. I have about 9,000 prisoners on remand, some of whom are of course on remand for very serious matters. We need to use discretion carefully, but there is definitely a case for us to look expansively at what we can do with regard to supported bail accommodation to try to alleviate some of the pressures that clearly exist in the system at the moment.

**Q45 Maria Eagle:** Do you anticipate perhaps releasing prisoners to relieve pressures on the prison estate?

**Robert Buckland:** I have to bring that in as part of the equation. However, I want to reassure the Committee that the question of risk has to be up there in the way it is done, if we are to do that. It is not just about release. At the moment, with the courts system not operating at full kilter, it is a question of what the supply of offenders is going to look like. There are other things we can do as well. Let's not forget that there is a challenge for probation as well and how we supervise in the community. I have to deal with the whole picture. Looking at the whole picture, rather than just prisons, is where I need to start from, and where I am starting from.

**Q46 Maria Eagle:** Do you have PPE for prison officers looking after people who are self-isolating or those who are confirmed as having the illness?

**Robert Buckland:** We have supplies. I need more. I am glad to say that I am hearing good reports about face masks. We are getting more and more of them, which is good. I need more PPE. I have raised the issue at the highest levels. I have political support from my colleagues in Government in the right places to help prioritise the Prison Service for PPE.



The same goes for testing. I need more tests to happen, because through testing I can identify people who are safe, to use the common parlance, and manage the risk in a better way, rather than using blunt instruments to do it. Both those priorities have been noted within Government and action has been taken to make sure that the frontline of our prisons is a real priority when it comes to those two vital interventions that we need in this crisis.

**Q47 Maria Eagle:** What about healthcare for those who become very sick who are in prisons? What provision do you have planned to deal with that element?

**Robert Buckland:** Jo can come in with some more detail. At the moment, diagnosed cases are going into healthcare and the national health service. There is a question about how we manage that at scale, bearing in mind the obvious pressures on the NHS. Of course, within the Prison Service we have some facilities for healthcare. We even have some facilities for end-of-life care, and I have visited a number of those facilities. I have to be realistic about the scale of the challenge we are facing. Perhaps Jo can come in with some more detail as to how we are going to manage this growing challenge.

**Jo Farrar:** At the moment, we are working closely with our colleagues in Public Health England and the NHS to have a plan for our prisons to manage people who are ill. As the Lord Chancellor said, the cases we have had at the moment, where people have become very ill through COVID-19, have been treated in hospital. That continues at the moment.

We are managing a number of people in prisons. We have access to healthcare in prisons. We had a delivery of 50,000 masks this weekend, which has helped us to make sure that prison officers are able to do the things they need to do with people in our care. We are trying to shield the vulnerable. If we have a case in a wing, for example, we do some things around that wing to make sure that it is shielded from the general prison population to stop the virus spreading to more vulnerable populations.

We have been very pleased with the co-operation we have had with both the NHS and Public Health England. They have given us very good guidance and healthcare support when we needed it.

**Q48 Maria Eagle:** Can you or somebody comment, Secretary of State, on whether or not it is true that buckets of warm or hot water and liquid soap have been placed outside prisons at the gates—one in particular—and staff told to wash their hands in a bucket on their way into work? Is that true, and, if it is, is it an acceptable way of ensuring cleanliness?

**Jo Farrar:** I have not heard that, and I would be very shocked if it was true. If it is true, however, it would be good to know that example because we would want to put a stop to that. We have been providing hand sanitation for staff coming into prisons and facilities for both staff



## HOUSE OF COMMONS

and prisoners to have adequate access to handwashing facilities and soap, but I certainly would not be expecting people to use a bucket outside a prison gate.

Q49 **Maria Eagle:** It is Strangeways, I heard.

**Jo Farrar:** If that is happening, I will check that out and make sure that it does not happen. That is not the way we want to work.

Q50 **Maria Eagle:** Finally, do you have enough liquid soap and hand sanitiser?

**Jo Farrar:** We have plenty of liquid soap. We are working closely with our suppliers. We do not tend to bring hand sanitisers into prisons, but we have been using them until now for visit halls, for example. We have access to soap, yes.

Q51 **Chair:** Do you have a figure for how many prison staff are unavailable at the moment as a consequence of sickness or self-isolation?

**Robert Buckland:** I have given you a figure. It might have been updated now. For the prison-only population we were looking at somewhere around 4,000, but there might be an updated figure.

Q52 **Chair:** About 4,000 of our prison staff.

**Jo Farrar:** I received some figures as I walked in the door. We are now down to about 3,500 people in prisons who are self-isolating. We are starting to see people coming back to work.

Q53 **Chair:** Is that your staff?

**Jo Farrar:** This is our staff. It is about 10% of our prison staff population, and similarly for probation. For prison and probation together, we have about 4,300 people self-isolating at present.

Q54 **Chair:** What is the regime for testing when people come into prison? You would like to do more, Lord Chancellor. At the moment, what is the test you apply to do a test?

**Robert Buckland:** On visits, we were doing temperature testing, but visits have stopped now. Jo might have some more information.

Q55 **Chair:** That is out of the equation, but what about reception to prison, for example?

**Jo Farrar:** We are very much guided by Public Health England. At the moment, we have been supplied with tests for people who have become ill; not everybody. We are talking to Public Health England about increasing the number of tests to help us manage the prison regime and to test our staff. They have been very positive about that, so I think we will be rolling out some tests for staff who are self-isolating so that we can bring people back to work if we need to. We have also been looking, in terms of staff, at people who are not currently operational. We have been redeploying people who were perhaps working in other areas to help boost our staff numbers.





**Robert Buckland:** I am very grateful to the Treasury for having worked really quickly to develop a bonus package to support staff and to bring back recently retired members of staff to come and help. They responded to our calls and we now have a package that the unions thought was a decent one. We have been able to offer that to our staff, not just as a thank you but as a way of recognising the particularly acute circumstances they are facing on the frontline.

Q56 **Rob Butler:** I have a couple of questions on the secure estates, if I may, and a couple on probation. There are some intrinsic challenges in the custodial estate in maintaining social distancing for staff. For example, staff typically go into a prison through a gatehouse where there is an airlock. It is a small, cramped area where normally there might be 10 or 20 staff, and they cannot be 50 cm apart, let alone 2 metres. What changes have you had to make to that? Is it slowing the process of people coming on and off shift, for example?

Similarly, there is what is called a three-man unlock, where three officers need to go, albeit in pretty robust PPE equipment that might at least be a help, to allow a prisoner out of a cell, but they are in close proximity. Unfortunately, there are still a lot of assaults in the prison estate. It is clearly not necessarily possible for an officer, if they have to break up a fight, to don a protective mask beforehand.

Those sorts of circumstances are pretty much unique to the prison estate. How are you managing them to ensure the safety and wellbeing of the staff?

**Jo Farrar:** We are working with each governor to work out the plan for their prison. They already have plans in place. As we tighten the regime, we are issuing new guidance that covers all those things. We have a weekly call with governors to talk through specific issues about how they might manage it in their prisons. Now that we do not have visitors, that does not slow down visits to prisons, but bringing staff into prisons is obviously slower. We are having to adhere to social distancing guides.

In terms of order and discipline in the prison, we now have a much more restrictive regime so it is easier for us to plan for that and to move people around the regime. At the moment, people in prison have been responding well to the current situation. They are obviously as worried as everybody in the population. We have been communicating individually with prisoners, to talk to them about the regime and how we will manage it, by putting individual letters under each prison door, for example.

**Robert Buckland:** There has been a lot of communication with prisoners to tell them what is going on and why we are doing what we are doing. It is about their safety. That flow of information is so important because lack of information will just lead to frustration and worse.

**Chair:** Tensions will rise.



## HOUSE OF COMMONS

**Robert Buckland:** Exactly. I pay tribute to everybody for working so hard to try to manage this situation.

Q57 **Rob Butler:** Open prisons are an important part of the overall service and a fantastic way of enabling people to move on and prepare for release. Obviously, by definition, men, typically, who are in open prisons are going out to work. They are going into the broader community and then coming back into the prison to sleep. What safeguards are there? They could potentially contract the virus when they are out at work and bring it back into the prison, where it could spread. Are there specific challenges that you face in open prisons? Are you having to restrict their regime?

**Robert Buckland:** There has been a restriction overnight. Jo will be able to tell you more about that.

**Jo Farrar:** We are restricting people now from going to work. If they are working in essential services we are allowing them to work, but we are making provision around what that means when they come back into the prison. Obviously, we have staff coming into the prison every day, so there is always a risk, but we are doing what we can to be sensible.

We are also looking, particularly in open prisons, at how we define a household. If people are in a shared unit, we define some of that as a household so that it reduces some of the restrictions with individuals, but we have to reduce movement around the prison to stop the spread of the virus.

Q58 **Rob Butler:** When we get to the stage of release and people coming to the probation service, could you paint a picture of what is going on in the probation service and how many staff may be affected and not able to work? The relationship between the offender and the probation officer is absolutely crucial.

**Robert Buckland:** Jo has already outlined some of the figures with regard to self-isolation in the probation service. We have moved to an exceptional delivery model. That means we are making sure that priority is placed on offender management and risk supervision. In other words, we are focusing the attention of the probation service on offenders in the community and the way they are monitored. Jo will be able to give more information about that.

**Jo Farrar:** We have had to stop some activities such as unpaid work, for example, but with the Prime Minister's announcement yesterday some of that would have stopped anyway. For probation officers, it means that we cannot do as much face-to-face contact, so we are prioritising our face-to-face contact for our most high-risk offenders. We have a small number of offices open, but we are doing more doorstep visits. We are carrying out telephone, Skype and video messaging for people under our supervision. We recognise that that is not as robust as face-to-face contact, so we are increasing the frequency of those contacts. All our



plans are reviewed by senior probation officers to make sure that we balance the risk against the needs of social distancing.

Q59 **Rob Butler:** You mentioned, Lord Chancellor, the work that is being carried out with Dame Louise Casey to try to improve accommodation for those who are released. Is anything similar going on to help people in the broader aspects of their resettlement?

**Robert Buckland:** The work can encapsulate that as well. I have to give priority to people who have immediate accommodation needs. If we are to make stay at home work, it has to work for that cohort, too, so I have to outline pretty clearly what my priorities are. The challenge for us in the community, with a reduced number of probation officers, is how we supervise, which is why collaboration with the police and other agencies is going to be crucial if we are to be able to get this right. Indeed, the police have a natural interest in making sure that they are part of it, because it will help them manage the crime risk in their particular neighbourhoods. There is a huge logic that will drive people together to help get it as right as possible.

Q60 **Rob Butler:** Are you at all worried, because probation officers will not necessarily be able to carry out all the valuable work they normally do, that there might be a higher chance of reoffending further down the line?

**Robert Buckland:** Of course I worry about that. We all have restrictions on our liberty. Let us be frank about it. The entirety of society is, to some degree, having to live within constraints. That means those who do not observe the constraints will be more noticeable and more obvious within our community, and compliance with the new rules is another condition, if you like, that we can place on offenders in the community. With my long years of experience with offenders, I am very clear-eyed about some of the realities we face, to some degree, that will assist us in the management of at least some of the cohort we are dealing with.

Q61 **Chair:** Are there any more questions on prisons? May I raise one issue, Lord Chancellor? We have got to a stage where we already have overcrowding. It has been reported, Dr Farrar, that one wing had to be closed because of staff shortages and more men have had to double up. Is that a common feature, a bit of a one-off or anecdotal?

**Jo Farrar:** I am sorry, where is this from?

Q62 **Chair:** I noticed that Professor Hardwick, the former chief inspector of prisons, was commenting on social media about the closure of a wing because of staff shortage and forcing prisoners to double up. Are there contingency plans to avoid that? Obviously, it would be making a bad situation much worse with the risk of infection.

**Jo Farrar:** Absolutely. I am not entirely sure what he is referring to. At the moment, we are moving people around the estate to make sure that we have more people in single accommodation. If we are closing places,



## HOUSE OF COMMONS

it will, if anything, be the more crowded places to get people into single accommodation.

Q63 **Chair:** That involves you having capacity within the estate to do that, which is a factor in some of the evidence we have discussed.

**Jo Farrar:** It does.

Q64 **Chair:** Lord Chancellor, has any assessment been made of the current exceptional measures that were announced last night, and the consequences of the Bill going through the House at the moment, of the likely pressures on the justice system, either on the courts or on the prisons in the extra workload that may be engendered? For example, some people may commit criminal offences. They may take the opportunity of a lockdown to commit burglaries and other crimes. There may be elements of disorder or profiteering of some kind that turn into criminality. One imagines that you want the courts to deal with those swiftly and condignly. How are we going to manage the extra pressures there and on any sentences?

**Susan Acland-Hood:** We have considered COVID-19 and lockdown-related crime. I described at the beginning that we had done some work with the judiciary on prioritising cases. As you say, if things are starting to happen where we want to show a very clear signal that they are not to be tolerated in the current circumstances, we want to be able to bring them to court quickly, so we have put them high up in the prioritisation list. That covers the types of things that you describe, but we think we may see family work of various kinds rising. We are also very concerned about domestic violence.

Q65 **Chair:** Where there are guilty pleas, you will be able to sentence and you will probably want to sentence quite quickly. That pushes more burden on to the estate potentially.

**Robert Buckland:** The truth is that none of us can be entirely clear about what the trends might be. Susan is right to highlight domestic abuse. I think online crime will increase as more people spend time online. I am worried about what that might mean with regard to online abuse, for example, and fraud. We might see more of that type of criminality. Sadly, I do not think we will eliminate crime among younger members of society. We have to think about the people who are going to be least compliant with the new orders. One can readily envisage the type of group that is not going to comply.

Because things are moving hourly, my main focus has to be on how to deal with the upsurge and how we manage the particular moment. There will be time for us to think very clearly about what the recovery phase should look like and we should also be able to manage the middle phase—the profile of crime, what the system is looking like and how it responds. The Committee is meeting at a very timely moment, but it is a moment that very soon will be overtaken by events and things I might be saying to you this afternoon will be different in 24 hours.



**Chair:** We understand that.

**Robert Buckland:** We all acknowledge that reality, but I want to assure Members that, in the work of the Department and its agencies, we are all focused on this. We ourselves are using technology in new ways to make sure that all parts of the system work together. We are practising what we preach when it comes to self-isolation and social distancing. This is a new experience for us all. We are determined to get through it in a sensible way, and the sort of thinking that you would expect us to do is being done.

**Chair:** I understand that.

Q66 **James Daly:** Lord Chancellor, I am going to ask you a question which you may or may not be able to answer, but perhaps it could be taken forward. In the civil courts system, one possibility is that there may be a rise in the number of people who, sadly, are not able to pay their mortgages. Let us hope that it does not happen. We will, hopefully, have the three-month mortgage freeze in place, but people will have other financial debts and, as we both know, the way for those to be enforced is through the civil courts system. I am very concerned that people are going to be penalised and brought to court through no fault of their own because of the difficult circumstances they have been put in.

There are two questions. First, has any view been taken on the extra civil cases that may be brought by the banks and suchlike? Secondly, do you foresee circumstances where guidelines could be given to civil judges regarding dealing with people in a sympathetic manner, taking into account their very difficult personal circumstances at this time?

**Robert Buckland:** That is a really good point. We can be encouraged by precedents, because those of us with long memories remember the recession of the early 1990s, when there was a spike in repossessions, and it was a very difficult time. That was not repeated in the last recession because there was a deliberate policy taken by the banks and building societies not to go for repossession but to seek other means by which debts could be discharged.

I watch these matters very closely. I notice occasionally that a change in practice by particular institutions can lead to a rise in repossessions. This will be very much part of how we manage the recovery, to make sure that all the help we give people through this time is not lost because of a dislocation at the end of the process, when we think normal service has been resumed but we have not taken into account the fact that there has been a gap and dislocation. The work we need to do to manage that is something I would encourage the financial institutions and all those involved with managing civil liability to start working on as soon as possible.

**James Daly:** Thank you, Lord Chancellor.

Q67 **Chair:** Lord Chancellor, Dr Farrar, Ms Acland-Hood, thank you very much



## HOUSE OF COMMONS

for your time and for your evidence. I appreciate that you are all having to deal with a lot at the moment, and I am grateful to you for coming along.

Lord Chancellor, is there a point to be made that recovery requires investment, and if we are all Keynesians and borrowing very heavily now, it will take but a fraction of that investment to fund a great deal for the Ministry of Justice and its agencies?

**Robert Buckland:** I take your point, Sir Bob, but take heart. The most recent spending round allowed a 4.9% increase in spending for the Ministry of Justice, which is the biggest increase for many a year. The Budget gave us a significant amount of investment for community orders, nearly £70 million for investment in community orders, £15 million for victim services, £5 million for the new domestic abuse integrated courts, and funding for the important royal commission on criminal justice. That will be independent, but I will oversee it, and it will delve into some of the early problems that complainants face in the process, and come up, I hope, with some novel and important system-wide approaches that can improve the experience of the criminal justice system for many people who at the moment either do not get that far or find it all too much.

**Chair:** It is an issue we had hoped to deal with today in rather more detail. Obviously, events have rather distorted the topics we had to deal with. Perhaps we could ask you to come back and talk about those other issues and what would have been the other half of the evidence session had we had more time on subjects other than COVID-19. Once again, I am very grateful to you all. Thank you very much.