

# Public Accounts Committee

## Oral evidence: Reducing the backlog in criminal courts, HC 643

Monday 13 December 2021

Ordered by the House of Commons to be published on 13 December 2021.

[Watch the meeting](#)

Members present: Meg Hillier (Chair); Sir Geoffrey Clifton-Brown; Antony Higginbotham; Mr Richard Holden; Sarah Olney; Nick Smith; James Wild.

Justice Committee member also present: Maria Eagle.

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

Questions 1 - 121

### Witnesses

I: Antonia Romeo, Permanent Secretary, Ministry of Justice; Jerome Glass, director-general Policy and Strategy Group, Ministry of Justice; Andrew Baigent, Chief Financial Officer, Her Majesty's Courts & Tribunals Service.



Report by the Comptroller and Auditor General  
Reducing the backlog in criminal courts (HC 732)

Examination of witnesses

Witnesses: Antonia Romeo, Jerome Glass and Andrew Baigent.

Q1 **Chair:** Welcome to the Public Accounts Committee on Monday 13 December 2021, where we are here to look at the very important and serious issue of the backlog in our criminal courts system. This is something that we have been discussing for a while with the Ministry of Justice. We know that there are huge challenges, which the pandemic exacerbated, but there was a big backlog before Covid-19 hit. Since then, we have seen court buildings closed and jury trials suspended because of social distancing and other pandemic reasons. That has had a real impact, as we all know, and I am sure our witnesses agree, on victims, witnesses and defendants alike.

There is a plan—there is always a plan—from the Permanent Secretary and the Department to address this backlog. We want to dig into how that is going and what it will look like when the plan is actually achieved. There is still going to be, potentially, a considerable backlog. We are delighted to be joined today by, guesting from our sister committee, the Justice Committee, and a former Minister at the Ministry of Justice, Maria Eagle MP. A very warm welcome to you, Ms Eagle.

I would like to welcome our witnesses from the Department. We have Antonia Romeo, who is the Permanent Secretary at the Ministry of Justice. We also have Jerome Glass, who is the director-general for the policy and strategy group at the Ministry of Justice—a warm welcome to you—and Andrew Baigent, who is the chief financial officer for Her Majesty's Courts & Tribunals Service, which is often referred to as HMCTS. We will try to use full names so that people can follow what we are doing.

I want to ask, before we get into the main session, Ms Romeo, what the latest situation is with recruiting a permanent head of Her Majesty's Courts & Tribunals Service. We are aware that Mr Sadler, who is acting up, is not permanent. He has been acting in that role since September, I think, of 2020. What progress is there on recruiting a permanent head to that?

**Antonia Romeo:** That is correct. The first thing I want to say is that Kevin has done an absolutely fantastic job in a really challenging year as interim CEO of the Courts & Tribunals Service. The recruitment has now closed. We will be sifting very shortly, interviewing and hoping to get somebody in post before the end of the financial year.

**Chair:** We will look forward to that. Thank you very much for that update.

Q2 **Mr Holden:** We are aware of the media speculation about potential



## HOUSE OF COMMONS

significant changes to the Human Rights Act. We were just wondering what pressures you think that will put on your Department as you try to deal with the backlog situation.

**Antonia Romeo:** As you will be aware, there was a manifesto commitment by this Government to do a review of the Human Rights Act, which Sir Peter Gross has been conducting. That review will be published shortly and the Government will respond alongside that. We are a Department of 88,000 people. We are able to manage really significant, operationally difficult things, while also doing quite detailed policy work on a range of other issues, including the Human Rights Act. I do not currently foresee a significant difficulty in doing both those things.

Q3 **Mr Holden:** You do not currently foresee a significant difficulty, but do you see any difficulty at all in being able to do those things simultaneously?

**Antonia Romeo:** Do you mean being able to do the policy work required to launch and bring through a consultation on the Human Rights Act alongside recovering the court system?

**Mr Holden:** Yes.

**Antonia Romeo:** No.

**Mr Holden:** Good.

Q4 **Sir Geoffrey Clifton-Brown:** Good afternoon, Ms Romeo. There is a report in *The Times* today, citing the Joint Committee on Human Rights, about how terrorism suspect cases, if they went to Europe, would not be able to hear evidence in secret, as they would do in courts in this country. Will the review cover that aspect?

**Antonia Romeo:** I might ask the DG for policy to comment. The review itself had quite specific scope. I think you are also asking whether the Government response to the review and what might happen next will cover that aspect. That will partly be to come out when the review and the response are published, which is going to be shortly. Do you have anything to add, Jerome?

**Jerome Glass:** I have nothing to add to that. As part of our response, we will be looking at not only the Peter Gross review, but wider issues related to the Human Rights Act. As the Permanent Secretary says, that is something that we are considering at the moment.

Q5 **Mr Holden:** This is an issue that I am sure we will come on to in more detail in questioning. I have a specific instance in my constituency where a trial has been delayed now around the incidence of physical and sexual abuse at the former Medomsley young offenders centre. There are 1,800 alleged victims there and there is a real difficulty in moving the situation on to look at broader issues until the criminal cases are concluded. Could you write to me separately about those final outstanding cases and if you have any update on the timings of those?



**Antonia Romeo:** Yes.

Q6 **Chair:** We will move into the main session. When we looked at this before, the backdrop is that, in October 2019, there was an announcement that there would be an extra 20,000 police officers at the same time as the Ministry was looking at cutting and changing the courts system. Do you think that the pre-pandemic cuts went too far in retrospect, in order to deal with what those police officers might turn up, in terms of court action?

**Antonia Romeo:** My predecessor has noted to this Committee that spending review 10 in 2010 was particularly challenging for the Department, with 27% taken out of the overall budget. In practice, in spending round 2015, although the intention was for money to be taken out of the budget, that was not, in fact, sustainable. In every year, we ended up with an increased budget. Although that caused difficulty in planning, because getting the money year on year is not as good as getting it overall, our budget went up over that period. We were re-baselined in 2019 and now we are on a far more sustainable footing.

To actually answer your question, we are now planning for a significant increase in demand, as you have noted, because of the additional police. Also, we have to recover the system and all these other things that we will come on to talk about. I do not think that it is the case that we would have been in a better position had we not gone through SR15. As I say, we ended up in a better financial position than we were then, but I think we are in a significantly better position now, following the spending round last year and the spending round we have just gone through.

Q7 **Chair:** I applaud your ability to spin the Treasury's settlement to you so positively. It is the stop-start funding that has caused some of the problems. If in the year before the pandemic we saw a rise in the backlog from 33,000 to 41,000 cases, that suggests that, for all your positive words, there was still a big issue, even before Covid hit.

**Antonia Romeo:** I do not disagree with that. I guess I am saying that it was not necessarily to do with the funding decisions that had been made previously. In practice, we ended up at, essentially, an all-time low in 2018-19 with the outstanding caseload of about 33,000 cases. As you will know, we use something called sitting days to work out how to build up or get through the caseload. Receipts into court had been falling over a long period, and those are driven by things like the case mix in the crime rate, the actual recorded crime et cetera.

**Chair:** We discussed it a lot in our last session, I think, with your predecessor.

**Antonia Romeo:** As a result of that, the decision was taken to essentially maintain the outstanding caseload at that level and sitting days were set in order to do that. In retrospect, then the case mix changed. We had more triable either-way offences. We therefore had more coming into Crown. That is what caused the increase and, therefore, immediately the decision



## HOUSE OF COMMONS

was taken to give 850 more sitting days in that year and then again an increase the following year.

I guess I am saying that I do not think a line can be drawn—I am not attempting to spin anything—from the funding decisions taken in previous spending rounds to that. It was more about a decision about what we thought was going to happen in terms of the case mix and what the trend was in terms of crime. This all predated the decision to significantly expand the criminal justice system through the recruitment of an additional 20,000 police officers.

**Q8 Chair:** I hear what you are saying. Mr Baigent, from your point of view at Her Majesty's Courts & Tribunals Service, were there conversations between you and other bits of the criminal justice system, the police, the CPS and so on, before those decisions on sitting days were taken?

**Andrew Baigent:** As you would expect, there were detailed discussions about what we thought the workload was going to be coming through and the sitting days were set on that basis. It is worth saying, though, that, as part of the concordat process, which is the formal agreement between the Lord Chancellor and the Lord Chief Justice, a review point was put in for discussion. At that review point, we realised that there were additional receipts coming in. That is when the additional days were added, as part of that review. It was built in up front that there would be the review, which would add some days.

Of course, some of those days came in right at the point that the pandemic was starting and activity in March dropped off. Then obviously from 23 March the cases stopped being heard in the Crown Court.

**Q9 Chair:** You are the chief financial officer at Her Majesty's Courts & Tribunals Service, so there is a challenge, and we are a Committee that will be badgering you about value for money. We would certainly be challenging extra capacity that was not being used, if that was the case. Do you think it was cut too close to the bone? You can have a review point, but then you still have to build up that capacity. There are many moving parts in this. In the meantime, in the middle of it are defendants, witnesses and victims.

**Andrew Baigent:** Yes, indeed. At the time the decision was made, it was done on the best evidence we had in front of us.

**Q10 Chair:** There was not much contingency, was there?

**Andrew Baigent:** No, there was not much contingency, but that is why we put the review point in, so we could build that back up again.

**Q11 Chair:** What is your lead-in time to build in extra sitting days, in order to ramp that up?

**Andrew Baigent:** It takes four weeks or so to list. You have to have the cases that can be warned and brought in, so it takes around that amount of time. It then depends on whether we are talking about a relatively small increase, which can be done with the resources we have and the judicial



## HOUSE OF COMMONS

capacity in the system at the time. If it is a larger increase, such as the ones we are looking at in the current year, that requires more judicial capacity. I suspect we will touch on the lead time for judicial capacity later, which can be considerable.

**Q12 Chair:** We are going to come on to that. There are also other moving parts of the system. This Committee has done some detailed work in the past on interpreters, for example. Is there any particular issue around access to interpreters that has contributed to the backlog?

**Andrew Baigent:** Not at the volumes we are talking about in these years, no.

**Q13 Chair:** Are you confident that you are on top of the issue of interpreters in courts now?

**Andrew Baigent:** Yes.

**Q14 Chair:** You say that very confidently. Can you give us an example of what you have done to improve it? We had some really serious concerns about this.

**Andrew Baigent:** A lot of the interpreters are now coming in through the video platform. It allows for online interpretation to provide support to people who are taking those services. That actually means that you can have a lot more capacity in the market, because you are not having people coming in to interpret to a particular building and waiting. They are able to do more in actually taking that forward and more cases. That has increased the capacity in that.

**Q15 Chair:** I think we will get to the online stuff in more detail. What about other pressures in the system and other contracted services? You have your court staff; you have the judicial and legal practitioners. Where are the pinch points inside Her Majesty's Courts & Tribunals Service?

**Andrew Baigent:** You are talking now about current, rather than at the point we were just talking about.

**Q16 Chair:** I am talking about not just the lawyers and judges, but other people who are essential to keeping the courts going.

**Andrew Baigent:** In any system, when you lift the capacity very quickly, you get those constraints kicking in. There will be pressure points at various points as we lift the overall capacity of the system. You would expect that.

**Q17 Chair:** Can you give us some examples of what those pressure points are, what staff you will need and how quickly you can turn them on?

**Andrew Baigent:** In terms of the staffing, we have the number of staff we need for the level we are sitting at at the moment. We have the number of auxiliary services, such as interpreters, that we need to sit at the level we are sitting at. We will talk, I am sure, about judicial capacity. That is



## HOUSE OF COMMONS

the constraint that is most operating in the Crown Court system at the moment.

Q18 **Chair:** As far as you are concerned, you have the people you need to deliver the capacity that you are aiming to deliver.

**Andrew Baigent:** On the basis of current plans, yes.

**Chair:** Okay. I will leave it there for now.

Q19 **Maria Eagle:** It is nice to be back on the Public Accounts Committee, even if only briefly. Ms Romeo, what are your planning assumptions about an acceptable backlog in the criminal courts? I am particularly concerned about the Crown Court backlog, which I consider to be the most serious one. What is an acceptable backlog compatible with doing justice for victims, defendants and society in general?

**Antonia Romeo:** If I may start with a little bit of context, we have already talked about the backlog. In 2018-19, it was at an all-time low. That was 33,000 in the Crown Court, having been about 52,000 as recently as 2015. It then went up to 41,000 for reasons we have discussed just pre-pandemic. Inevitably, the closure of the Crown Courts for two months, all the social distancing and all the other issues we will come on to talk about have meant that it has now gone up, as is well known, to 60,000.

You will be aware that our spending review settlement of this year has given us the money to get the backlog down to 53,000. Doubtless we can talk about that. I should say that that is against a counterfactual, not of what it is at the moment, but of what would happen, given what we are expecting the receipts into court to be as a result of the new police officers, so significantly higher. The report says 72,000 is the number that is the counterfactual to the 53,000. That is still quite significant to reduce to that by the end of the Parliament.

To your point about what is acceptable, I have perhaps two further points. Everyone in the Department is profoundly conscious that each one of these cases involves real people, victims, witnesses, defendants, who may or may not be on remand. We are absolutely clear that we have to drive down the backlog as far as possible, particularly to get things right for victims. That is why, as well as worrying about the actual outstanding caseload and the timeliness, we are also doing a lot, as we may come on to discuss, about victims in particular, including a victims law consultation.

Q20 **Maria Eagle:** That is a very comprehensive answer, but it did not quite tackle the question that I asked. Do you have any working assumptions about what an acceptable backlog is, or do you have any view about what an acceptable backlog in the Crown Court is?

As you said, quite rightly, you had a backlog just ahead of the pandemic of 41,000. The aspiration, with the £477 million you have secured to deal with the backlog, according to Minister Cartledge, is to get it down to 53,000 by March 2025. That is what he said in his parliamentary answer. That is



## HOUSE OF COMMONS

significantly higher than the pre-pandemic backlog. That is only a reduction of 7,000 and does not actually take us back to the pre-Covid level of backlog. What is an acceptable level of backlog?

**Antonia Romeo:** The most important thing is that my job is, within the financial constraints within which I operate, as accounting officer, to drive down the backlog as much as possible with the money that we have. Like all Departments, we operate within fiscal constraints. We have been given the money and Minister Cartlidge is correct that the expectation, what we are aiming towards, is to bring it down to 53,000 by the end of the Parliament. As I said, that is not just a decrease of 7,000, because it is actually against the counterfactual, given the additional receipts coming in.

Q21 **Maria Eagle:** You accept that it does not take us back down to the pre-pandemic backlog. It does not even negate the Covid backlog, does it? If you succeed, the level of the backlog by the time you get to March 2025 will be higher than it was pre-pandemic.

**Antonia Romeo:** That is correct. The facts are the facts. It was 41,000 going into the pandemic. With all the effort we are going to put in, the financial constraints and other constraints that we face, including on capacity et cetera, doing everything we can do, we hope to get it down to 53,000, and we think we will, by the end of the Parliament. As the Secretary of State has said recently, we will be looking at additional things we can do that do not require additional money.

I should also say that the way we set sitting days is in an annual process through the concordat between the Courts & Tribunals Service and the Department. If it turned out that we are in a position to sit more days, we would then certainly sit more days. At this point, I am committing to do what I have been given the money to do in the spending round and in the agreement—

Q22 **Maria Eagle:** I can totally understand why an accounting officer would give an answer like that and it is completely correct. It still leaves us, three years from now, with a backlog of the most serious cases in the Crown Court that is higher than we had before the pandemic. When I put to the Lord Chief Justice, who appeared before the Justice Select Committee, that it did not seem to be particularly ambitious to seek to reduce a backlog that is now 60,000 by only 7,000 by March 2025, he agreed. Do you think that, with more sitting days, you could reduce that by more? How many sitting days would it take to reduce it back to the pre-Covid backlog?

**Antonia Romeo:** As the Lord Chief Justice also said, this year we are expecting to sit about 100,000 sitting days. We have a plan, within the constraints of the money that we have, to increase those sitting days significantly over the course of the SR. If it is the case that we have enough judicial capacity to do more, and we already have enough physical capacity, as part of the annual process of the concordat I would expect to be agreeing more sitting days and then to be able to do more. As you say, I cannot reasonably say that I could do that now.



## HOUSE OF COMMONS

Perhaps I could make two additional points. One is on timeliness. What matters to individual victims is the timeliness, not just the actual number in the backlog. We are really focused on that as well. The productivity improvements that we hope to see as part of the court reform programme, in particular through the tech rollout that we can talk more about, I think will make a difference on that.

The scorecards we published last week, the criminal justice scorecards and, in particular, a separate scorecard for adult rape cases, essentially are aimed at bringing real transparency to some of these issues. They break down the different bits of the system so you can see where victims are most likely, for example, to be coming out of the system through victim attrition, which is something we worry a lot about.

The Committee might remember that, when I came in, in my fourth week in this job, back in February, I was very focused on getting data right. A lot of this is about making sure we have good data across the CJS and shining a light on it. I believe that that is a crucial first step to getting the right outcomes, including getting the backlog down.

**Q23 Maria Eagle:** Could you tell us how many sitting days would be needed to deliver your 2024-25 ambition of reducing the backlog in the Crown Court to 53,000? How many sitting days will you need to deliver that?

**Antonia Romeo:** It is 105,000 next year, 106,500 the following year and 106,500 the year after that.

**Q24 Maria Eagle:** If you manage to achieve all those sitting days, you will get the backlog down to 53,000.

**Antonia Romeo:** We will get the backlog down to 53,000, yes.

**Q25 Maria Eagle:** That is helpful to hear. One of the other constraints on sitting days is having judges available to sit. What is your assessment of how well you are doing in that respect?

**Antonia Romeo:** We work incredibly closely with the judiciary and I should also, at this point, take the opportunity to thank the Lord Chief Justice and the judiciary for their exceptional work and partnership in this really unprecedented time. We have not recruited all the judges we wanted to recruit. In the last round, we were 11 short in circuit, and that means we have to make up for that in terms of recorders. We recruited 104 crime recorders in the last round, so they will be coming on stream and that is positive.

We also have another round, which is, I think—Jerome will correct me if I am wrong—currently underway, to do the next round of circuit judges. In that, we are seeking to recruit an additional 78, which will make up the shortfall as well as the ones that we already need for the additional demand. We have a plan in place and we work very closely with the judiciary in order to fill the gaps with both the fully salaried judges and the fee-paid recorders.



**Q26 Maria Eagle:** Can I ask you what you are doing to understand the impact of these delays to trials, the backlog and people having to wait longer, whether they are witnesses, defendants or whoever, to have trials take place? What are you doing to understand the impact that that has on victims and witnesses, and on defendants, some of whom might actually be in jail?

**Antonia Romeo:** Yes, indeed. Perhaps I will come back to the fact that we are very well aware that this involves real people. It is not just about the numbers in the caseload. It is also about the experience of victims. We are doing quite a lot and the team will be able to say more about specifically the experience of victims through the process.

The victims law consultation that we have just launched is specifically aimed at putting the victims at the heart of the process. As the Secretary of State said, we have a moral duty to do this and to improve the system. It is seeking to look at things like a community impact assessment. It will look at the role of the victims in the parole board. It will look at options for redress where things have gone wrong, and at things like increasing the victim surcharge.

We have a large number of things that we are consulting on. We work very closely with the Victims Commissioner. We work closely with the victims policy adviser to the Lord Chancellor. We are constantly meeting these groups and talking about what it is. The victims law consultation and the scorecards are both aimed at doing that. The third thing that we launched last week is the rollout of section 28 of the pre-recorded evidence. It was already rolled out to vulnerable witnesses and we are now about to roll it out to intimidated witnesses. We are just about to launch that.

**Q27 Maria Eagle:** Could I ask Mr Baigent, or whoever would care to answer, how many victims and witnesses have withdrawn from court proceedings as a consequence of delay? How many cases have collapsed as a consequence of victims and witnesses withdrawing from being willing to take part?

**Antonia Romeo:** In the data that we published last week, this is something that we are measuring. We have these metrics now, because we believe that this is exactly the sort of thing. In practice, in the last quarter, the proportion of victims who withdrew during the court process actually fell. Essentially, you go from crime recorded to police decision, from police referral to the CPS to CPS decision, and then from charge to disposal, which is the court bit. Even if it falls at one area, it could be because it has gone up significantly in the other sections, which it has. These are public numbers, which I can tell you now if you would like, or we can send you the scorecard afterwards.

**Q28 Maria Eagle:** Either would be fine. Do you actually know how many people have withdrawn from court cases, causing them to collapse, because of delay? I realise that there can be delay before charge as well as delay once you get into the court system. For the particular witness or individual, it is



all one system.

**Antonia Romeo:** I can tell you that in quarter 2 2021, which is the most recently available data, because we operate on national statistics, within the court bit of the process, in 1.2% of cases the prosecution offered no evidence because the victim or witness no longer supported the prosecution. As I say, that is a low number. That number had reduced, but the numbers that have withdrawn earlier in the system are significantly higher. You have to look at the system as a whole. This is why we have to join it all up across the criminal justice system.

Q29 **Chair:** Can I chip in there? The Victims Commissioner, according to evidence we have had from the Criminal Justice Inspectorates, says that there is a steady increase in the number of cases where victims withdraw before charges are brought. This is Dame Vera Baird, who says that the rate has increased from 9% in 2014-15 to 26% in 2020-21.

**Antonia Romeo:** This is before charge.

Q30 **Chair:** As Ms Eagle is highlighting, it is about victims and their experience, not just the court bit of it.

**Antonia Romeo:** I completely agree. That is also in the scorecards. In the quarter I was referring to before, the percentage that withdrew from crime recorded to police decision was 29%. The percentage that withdrew from police referral to CPS decision to charge was 16%. This is all the data that we are publishing. We are trying to get the transparency, so we can really understand what it is and improve victims' experience. Could I say a little more about what we have been doing to improve victims' experience?

Q31 **Mr Holden:** Ms Romeo, is that 29% of the people who make allegations? Is it 16% of the total number or of the people who make it to charge?

**Antonia Romeo:** It is the percentage of prosecutions that are stopped post-charge because the victim did not provide evidence or has withdrawn.

Q32 **Mr Holden:** It is not a percentage of those on charge. You are saying that it is 45% overall, with 16%. That is right.

**Antonia Romeo:** That is correct and then plus the 1.2%.

Q33 **Nick Smith:** This is about a point that Ms Eagle is making. Ms Romeo, when Ms Eagle highlighted that the backlog will be approximately 25% on pre-pandemic levels, despite your investment, you suggested, but it was not clear what you meant, that timeliness for victims will somehow be improved. I could not understand what you meant by that.

**Antonia Romeo:** I said that there are two different things. There is the outstanding caseload. There is also the issue of timeliness. You have to focus on both. We want to get down the outstanding caseload, because each one of those represents a victim, a witness, a defendant and so on. Also, there is the speed of the system and you have to monitor both, which is what we are doing in the scorecards.



## HOUSE OF COMMONS

Q34 **Nick Smith:** You sort of suggested that the timeliness would be improved despite the increase in 25% of the backlog. Do you not accept that, because of the increase in backlog, timeliness is likely to worsen too?

**Antonia Romeo:** I am saying that, if we can significantly improve productivity and disposals, we can improve timeliness. We want to do that as well. We also want to get the backlog down.

Q35 **Nick Smith:** What is the reality, given that the backlog is going to be 25% higher?

**Antonia Romeo:** It depends on what sorts of cases you are focusing on. We have a situation at the moment where we are very concerned about victims of rape and serious sexual offences. In particular, the judiciary, during the listing process, are focusing on those cases and ensuring that they are brought. Those are often very difficult cases. They take longer. All I am saying is that it is not straightforward. Not everything is correlated with everything else. We want to monitor it all and that is why we are producing information on all those areas.

Q36 **Nick Smith:** Again, that sounds as if timeliness will go on and be extended and not be reduced.

**Antonia Romeo:** I am saying that it is not a linear correlation. I do not think we are disagreeing, are we?

Q37 **Nick Smith:** I am not sure what you are saying, because the backlog has gone up by 25%. You are saying that timeliness may be improved, even though it is related but different. From what you are saying, it is not very convincing.

**Antonia Romeo:** I am saying that we have to focus on all these things. We want to improve timeliness. There could be lots of perverse incentives in this and part of this is about ensuring that there are not perverse incentives in terms of choices. Listing is a judicial function, so it is independent. I am saying that they are not directly related. My point was that I want to look at, and we are looking at, timeliness, the victim experience, crucially, so victim engagement, and outstanding caseload as well. These are a range of different things.

Q38 **Maria Eagle:** Could I ask about delays to jury trials that relate to serious sexual offences? You have made some reference to that. This is an example of where delays and having to wait longer to get to a trial can seriously impact upon witnesses and victims. It can seriously impact upon defendants, many of whom will be remanded in custody, and not all of whom would be found guilty at the end of the day; they may have served time in prison though they do not eventually get found guilty. The potential impact on all those involved in these trials is very serious indeed.

Delays to jury trials have disproportionately affected these sorts of trials. There is a big increase in the number of sexual offence trial cases in the backlog. It increased by 71% between March 2020 and June 2021, from 3,500 to over 6,000. These are the most serious kinds of cases. I wonder



what you have been doing specifically to tackle this issue, to assist both victims, who are particularly affected by trial delays, and those defendants who are perhaps remanded in custody.

**Antonia Romeo:** There has been a lot going on. To unpack that, the reason why you would expect those sorts of cases to increase as a proportion of the backlog is that the areas where we had the most difficulty during social distancing were those courtrooms and those trials, which were very difficult and complex, and particularly needed juries. It was the jury trial rooms. Those were the ones that were most delayed, by definition. The magistrates courts kept going, as we know. That, in itself, is not unexpected. You are right that it is still a significant area of concern.

In particular, we have increased the amount of money on victim support services from £92 million in 2019-20 to £150 million this year. That will be £185 million by the final year of the SR. That money is going on a whole range of things—rape support centres; specific domestic abuse and sexual violence support money given to police and crime commissioners. We had four helplines set up with a live chat function, particularly during Covid.

Most importantly, there are independent sexual violence advisers and independent domestic violence advisers, of which we are recruiting 700 this year. That number will be 1,000 by the end of the SR. We know, and we worked very closely with the Victims Commissioner on this, that those victims who have support are significantly less likely to withdraw from the process. In particular, those victims who have had, as we call them, ISVAs—independent sexual violence advisers—supporting them are 50% less likely to withdraw from the process than those without. That is really significant. It is all about getting that support in place.

Q39 **Maria Eagle:** That is good. I wonder if you have any evaluation of how much impact that extra support that you are providing, in terms of money, has translated into. We have a 71% increase in the number of delayed trials for these kinds of offences. Although you have increased capacity for the big trials, and that is welcome, because that was certainly one of the causes of delay, has there been a drop in the number of rape and sexual assault cases since you have increased the capacity to deal with these trials? How is it looking in terms of translating into numbers?

**Antonia Romeo:** I am going to ask Jerome to say something about the specifics that we have been doing on this. As you will know, we published the rape review in the summer. That had a particular series of actions with it, one of which was the scorecards. There were some ambitions, such as getting the number of referrals of charges and of receipts into court back to 2016 levels, which was where we saw a significant decline. That will include an increase in cases coming to a court of about a doubling in adult rape cases.

We published last week a progress report on the rape review. We have set out in particular the seven levers that we think are going to make the most difference. One, as I mentioned, is the scorecards. In particular, we have



## HOUSE OF COMMONS

the scorecards on adult rape, which, as discussed, have detailed metrics across all these areas. The second, as we have just discussed, is victim support and putting the victims code into law, which is what we are consulting on.

There is something called Operation Soteria, which is being piloted in five police forces, looking at the relationship with the police and the CPS, and the work they are doing with victims, in particular making rape investigations more suspect-centric and less victim-centric. That is going to be rolled out to a further 14 forces by the end of the year.

There is all the work we are doing to increase capacity in the court, which should speed up the system, as discussed, in particular for rape and serious sexual offence cases. There is some work on digital disclosure, which is also set out in the rape review, which is about the mobile phone swap-out. There is a big focus on resourcing, which is going to help recruiting these additional 20,000 police, which of course will help, and more resourcing for the CPS, including specifically specialists in rape cases.

Finally, there is the work to roll out section 28 for intimidated victims and witnesses. That is the pre-recorded evidence. "Intimidated" includes in its legal definition those victims of rape and serious sexual offences. Those are the seven main things that we are doing. The progress report came out last week, in terms of what we have done on that, if you would like Jerome to say a bit more.

**Q40 Maria Eagle:** Has there been a drop in the number of rape and sexual assault cases that are being dealt with since you have done all this, or has there been an increase?

**Antonia Romeo:** Do you mean cases coming to court? Do you mean recorded crime?

**Q41 Maria Eagle:** I mean cases being dealt with from the ones that are in the backlog. We saw that there has been an increase in these kinds of cases being held in the backlog during the pandemic. Given that you have done all this to tackle the backlog and deal with the most serious end, have we seen an increase in the number of these trials being dealt with since you have done all this?

**Antonia Romeo:** I draw your attention to the scorecard that we published last week. As it happens, between the last quarter that we published, which was quarter 2 2021, and the previous quarter, the number of outstanding cases of adult rape in the Crown Court has fallen, but it is still significantly above what it was before the pandemic. We have to bear down on that.

**Q42 Maria Eagle:** You are hoping that it is starting to move, but it has not moved very far yet.

**Antonia Romeo:** I am not only hoping. I am marshalling all the resources at my disposal to ensure that it does move, including all the things that we have talked about already. Can I bring in Jerome?



## HOUSE OF COMMONS

**Jerome Glass:** You are right that, at the top level, there appears to be a relationship, which you would expect, between timeliness and attrition of victims. That is something we want to really get to the bottom of. The direct answer to your question is that it is a bit too early to say. Part of the reason that it is too early to say is that the scorecards cover a period to June 2021, which are the latest stats that we have published. They are national statistics.

We published the rape review in June 2021 and we have done the progress report since then. It is probably a bit too early to say that the measures that we have put in place through the rape review and the rape review action plan will be showing through. That said, as the Permanent Secretary has said, there are early potential positive signs.

Q43 **Mr Holden:** One of the things we are all very concerned about is that the Prime Minister has made a significant commitment in this space to increase rape prosecutions and convictions. What concern do you have that these dramatically increased numbers of cases still wait in the backlog, particularly those increases of over 400% in people waiting over a year to get to trial? That is after charge. This is after the investigation, after people may have spent a year waiting for the investigation after that charge. How concerned are you that this is going to totally undermine the driving force of what the Government are attempting to do?

**Antonia Romeo:** My job is to work to ensure that we bring this backlog down. The Government are committed to bringing down the outstanding caseload. They are particularly focused on victims of adult rape. The Government have said that the situation is unacceptable. My Secretary of State said that we have a moral duty to do it. There is no doubt and we are profoundly aware that at the moment the experience of the victims and the victim attrition rate are unacceptable. This is why we are doing the things that I previously listed, in order to do as much as we can, not only to reduce the numbers in the outstanding caseload but also to improve the experience.

Q44 **Mr Holden:** I appreciate that. Do you think that you will actually be able to achieve what the Prime Minister set out, which is an increase in rape prosecutions and convictions?

**Antonia Romeo:** You will know that the criminal justice taskforce is the Prime Minister-chaired, cross-Government group that exists to drive this improvement across the CJS. It is our job to make sure that that happens. I should say that this is a cross-criminal justice system issue. We work incredibly closely with these other Departments. One thing that I think has changed significantly recently is that join-up over the past several months.

We have the Criminal Justice Board that oversees it all. We have the criminal justice steering group, chaired by the Secretary of State—the Deputy Prime Minister—to join up with the smaller group. That is supported by the criminal justice action group—sorry there are so many groups—which is chaired by me, with the DPP and the Permanent Secretary at the



## HOUSE OF COMMONS

Home Office, including the police and the courts service, and we look very specifically at the data and the scorecards.

In fact, we oversaw, at official level, the production of these scorecards. I feel as though we are joining up better now than we have been in the past. That is a necessary and obviously not sufficient condition, but it is our job to basically get all hands to the pump to get this sorted. As you say, it is a prime ministerial priority.

**Q45 Mr Holden:** You are going to do your best, but you cannot commit that we are going to see an increase in percentage convictions.

**Antonia Romeo:** You will see that I cannot possibly. I want to see justice. It is important for me. I run the organisation for the Secretary of State that supports justice being done. We want to see more guilty people brought to justice and that is the thing that we have to ensure happens.

**Q46 Mr Holden:** You have mentioned the overall system here, but you are, as a Department, just part of that. One major issue faced that knocks on to victims across the board, whether it is sexual violence or other serious crimes—I know it is not specifically your Department—is that rollout of release under investigation, which leaves victims vulnerable, because there are no bail restrictions. It leaves defendants in a situation where they do not know what is going to happen next and how long it is going to go on for. That, as you outlined earlier, is where these things fall by the wayside before they even get to you. How convinced are you that you are going to be able to sort out that as part of the bigger picture, working with your colleagues in other Departments?

**Antonia Romeo:** I know the Home Office is really focused on this. I think it is reviewing already, currently, the release under investigation. I do not know if Jerome wants to say more about what is explicitly happening on this. I know that they are taking it very seriously.

**Mr Holden:** Mr Glass, it might be better to come to you on the policy specifics on this.

**Jerome Glass:** I have nothing further to add to that. The numbers have increased; you are completely correct. That is an issue that the Home Office is looking at. One thing that concerns us is just how many latent cases there are out there, if you see what I mean. I know that the Home Office is looking at it.

**Q47 Mr Holden:** Is this going to affect whether you will be able to get these numbers down? You do not know how many latent cases, as you put it, there are actually in the system, under investigation at the moment, which could be dumped on your desk at any moment.

**Jerome Glass:** We have a relatively good understanding. As the Permanent Secretary was saying, we work very closely with the Home Office in order to understand demand through the system. We work with them; they work with the police in order to get a better understanding of



those numbers. We have worked with them specifically in building up the spending review bid, the one that the Permanent Secretary was talking about, in order to reduce the backlog. It is informed by their understanding as well.

**Q48 Mr Holden:** As you work closely with them, what are the stats on these latent cases? Do you have some idea of how many people are currently released under investigation for these various crimes?

**Jerome Glass:** I do not have those stats with me today.

**Mr Holden:** Could you provide them to the Committee, please? It is something particularly for the Justice Committee. These numbers could go down quite a lot. You could actually see these go down, but the amount of people released under investigation could skyrocket. As you said, this is a cross-justice issue. Could you please provide us with those stats certainly for the last three years, category by category, so that we can understand the situation that you are facing? We cannot hold you to account if the other parts of the criminal justice system are not being held to account as well.

**Q49 Sir Geoffrey Clifton-Brown:** Can I go back to this issue of prosecuting rape cases and go to you, Mr Glass? Senior barristers recently spoke to the Home Affairs Committee and warned that rape victims are “lucky if the case is heard within four years between complaint and trial”, amid increasing delays with prosecution. MPs were told that complainants just get fed up and drop out of the system. That is a pretty terrible state of affairs, is it not?

**Jerome Glass:** I do not recognise the numbers that you are quoting there. However, as I said just before, there is clearly a relationship between the amount of time that we know has been increasing, the amount of time that cases are taking in the system and victim attrition. You would expect that to be true. As things take longer, you would expect that there would be a bit of a reduction in the number of people who want to take their cases through.

However—and this is the point that the Permanent Secretary was making—we do know that, if you provide support through the system, which is what we have been trying to do with the 700 independent sexual violence and domestic violence advisers, rising to 1,000, there is a 50% reduction in the number who drop out. Given the position we are in right now, we are trying to make sure that victims get the support we think that they will need in order to hopefully increase the number of successful prosecutions and successful convictions of guilty people.

**Q50 Sir Geoffrey Clifton-Brown:** Do you have any evidence or statistics on the number of people who drop out?

**Jerome Glass:** As the Permanent Secretary said, we have statistics of attrition, which are published in our scorecard that we published last week. Those are across the criminal justice system, so for all cases, and there is



a very specific adult rape scorecard that sets out statistics for attrition or, as we define it, cases where prosecution closed because the victim does not support further police action, or prosecution stopped post-charge because the victim did not provide evidence or has withdrawn.

Those numbers are high. There are much higher than we would like them to be, clearly. That is precisely why we have set out the measures that we have in the rape review, the rape review progress report and the rape review action plan, but also in the victims Bill consultation that we released last week.

**Q51 Sir Geoffrey Clifton-Brown:** In those scorecards, which were first published last Thursday, it says that it took on average more than 15 months, 457 days, from a suspect being charged for an adult rape case to be concluded in the Crown Court during April to June. That is an increase from January to March, when it was 373 days. In 2019, it was 301 days. Why are these cases taking increasingly longer to conclude?

**Jerome Glass:** There are clearly a number of factors. One is simply, as we have just been discussing, that the most serious cases, the ones that involve jury trials, are precisely the ones that were difficult to sit during the early stages of the pandemic. Thanks to the work that Andrew and Kevin Sadler and his colleagues have been doing, we are now beginning to work through those cases, but there was a time when they were just building up. We are now trying to work through them. There was naturally an increase in those sorts of cases.

The other thing that is potentially going on is that we are seeing, across the criminal justice system, what I am calling a harder case mix. Generally, in terms of the crime mix, we are seeing an increase in sex cases and violence cases flowing through the system. That is where the police are focusing their time, probably correctly, so there are more of those coming through the system as well.

You will recall that the number of rape cases has increased significantly since 2010. That is not necessarily just a societal thing. It is also, hopefully, the sign of something a bit more positive, which is that victims are feeling more confident in coming forward and that they are being treated better through the criminal justice system.

**Q52 Sir Geoffrey Clifton-Brown:** We have an awful lot to get through and I know the Chair is going to want to move on, but it is a very important subject. I have a very simple question with a very short, simple answer, please. When can we expect this trend to be reversed?

**Jerome Glass:** I do not have a simple answer to that. All I can say to you is what the Permanent Secretary said, which is that we are doing all the things that evidence indicates to us will reverse that trend. There is a huge number of things that we are doing through the rape review action plan that are set out in the rape progress update.

**Q53 Chair:** In a way, you can be a victim of your own success. The more people



## HOUSE OF COMMONS

who are confident to come forward, quite rightly, and quite properly supported, the more challenging those cases are to take through court. Of course, it is the judges who will decide on the listing. In reality, Ms Romeo, what power do you have to make sure those sexual offence and rape cases actually get through the system in the right timeframe?

**Antonia Romeo:** The power needs to be about ensuring we have everything in place so that we are driving timeliness on the bit that we control. We are accountable for the bit that we are accountable for, although we want to operate across the whole CJS and play a leading role on that to improve that timeliness and therefore drive down on the outstanding caseload.

You are right that what is happening with the denominator makes a massive difference to what the overall percentage is, which is why it is difficult to make statements about whether particular indicators, especially percentages rather than quantum, should be going up or down. We want to encourage as many people to come forward as possible, for them to stay in the system and for justice to be done. That means that we have to be operating at all these levels in order to do that.

**Chair:** With the backlog, that is quite a challenge.

Q54 **Sir Geoffrey Clifton-Brown:** I have one more technical question for you, Mr Glass. Under section 28, pre-recorded evidence sessions are entitled to be taken in RASSO cases. Some barristers think that these are disruptive and actually counterintuitive to what they are supposed to do, which is shorten the process. They actually think that it lengthens the process. Do you have a comment on that?

**Jerome Glass:** The first thing to say is that we have been piloting the use of section 28, which, as we discussed, is the pre-recorded cross-examination. We are evaluating as we go. We would like to roll that out nationally and the Deputy Prime Minister has made that clear. The length of time that those cases take, I would argue, is an important factor, but just one factor.

The thing that we are really most focused on is how we can support victims and witnesses, particularly those who are intimidated. The rationale for rolling out section 28 is to keep victims in the process. If that means that cases take a little bit longer—again, I do not have the evidence for that—that might be an acceptable trade-off, if it means that victims are staying in the process and feel better supported through the process.

**Antonia Romeo:** There is judicial discretion about making the decision. That is very important. It is the judge who will decide and therefore it is not a rollout that automatically means it is going to happen. The judge will always make decisions based on what is best in that particular case.

Q55 **Mr Holden:** When do the ISVAs come in? Is it after charge or after the allegation has been made?



## HOUSE OF COMMONS

**Antonia Romeo:** They come in before charge, right from the start. You can get an ISVA to support you even before you have decided whether you are going to press charges, as a victim. There is evidence that those people who get an ISVA, even before they have decided to press charges, are much more likely to do so. It is another reason why we think they are—

Q56 **Mr Holden:** I understand that. Given the number of cases, do you have enough of them? Why does everybody not have one?

**Antonia Romeo:** We are ramping up over time. Jerome might want to say in more detail how we are doing this, but we are getting 700 this year. We have significant additional funding. A lot of the £35 million additional that we are getting per year in the SR for the final year will go to pay for some additional ISVAs. There will be 1,000 by the end of that. It is not one to one; it is not man marking.

**Chair:** They will have more than one case.

**Antonia Romeo:** The plan should be for everybody who wants an ISVA to have one.

Q57 **Chair:** You talked earlier about the number of specialists you were recruiting into the CPS on rape and sexual offences. Are they lawyers or other professionals within the CPS?

**Antonia Romeo:** My understanding is that they will be prosecutors who are rape specialists. It is the CPS doing the job of the CPS, but with additional expertise.

Q58 **Chair:** It is not expertise of the people preparing those barristers or lawyers for court.

**Antonia Romeo:** I think that is correct. If I may, I will write to you if that is not correct.

**Chair:** It is just another group of lawyers that we need to keep in the system. That is what I was trying to drive at.

Q59 **Maria Eagle:** I want to talk a little bit about the long-term criminal justice recovery programme across the system. I realise you are not responsible for all of it, but you are the person who is here today, so you are in that sense. There seems to be a very large focus on remote hearings as part of the recovery programme. The Secretary of State emphasised this to the Justice Committee when he was before us recently.

I wonder to what extent you have an understanding of the impact of remote hearings on different groups of victims and witnesses. I am thinking particularly of disabled people, those who perhaps have a cognitive impairment, mental health conditions or neurodiverse conditions. It is certainly something the Equality and Human Rights Commission has highlighted. There is anecdotal evidence that some witnesses and participants in the system have difficulty coping with remote hearings.



## HOUSE OF COMMONS

**Antonia Romeo:** Thank you very much for your interest in this. As you know, just last week—was it last week?—we produced a report that was an evaluation of remote hearings, in particular on those groups. I am going to ask Andrew to say something about that in a moment.

**Maria Eagle:** It was Friday actually.

**Antonia Romeo:** The crucial thing is that we absolutely have a commitment that everybody should be aware that they can have a reasonable adjustment. The remote hearing is at the discretion of the judge, again, and they will only go with the remote hearing if it is in the interests of the victim, the witness and those participants. Ensuring that it is well understood what those needs are is absolutely crucial.

**Andrew Baigent:** The Permanent Secretary has made the most important point. Judges will assess whether it is suitable for remote hearings to be used in all cases. Remote hearings are a useful tool. They were very helpful during the pandemic to keep the wheels of justice going. Without those we would not be as far as we are today. The evaluation had a lot of interesting things in it, a lot of detail, which we are still going to be working through over coming months, revising and relooking at.

Q60 **Maria Eagle:** The focus is on disabled people and those who might have accessibility difficulties.

**Andrew Baigent:** The feedback we have, in terms of that group, is limited. There were not a huge number within the survey. We have a reasonably positive correlation between that group and feeling safe in their own environment, rather than having to go into court and finding that challenging.

Equally, we have some evidence in there that says they found it quite difficult to know exactly where they were in the process and to access the support that they needed from their advocate, for example, or their support services. It is very much a mixed picture. It requires further consideration and evaluation before we take forward in all cases. I come back to the point that the judge will make an assessment of whether it is right in the individual case.

Q61 **Maria Eagle:** Of course, but two thirds of public users making a request for reasonable adjustments said their request was granted. That means that 32% did not have their request granted. I am not only concerned about the capacity and the capability of people to deal with remote access, but the effectiveness of the evidence that they can then give. I realise that the evaluations you have done do not necessarily deal with this issue as much as we might wish, so perhaps I can ask you to make sure that you have an emphasis in future upon accessibility for disabled people and their ability to participate as fully as they could as if they were in the courtroom. If there is going to be this increasing focus on remote access, that is tremendously important.



**Antonia Romeo:** I agree. The evaluation is the starting point. The evaluation is not the solution, but the thing that tells us what we think people's experiences are. Now we have to go and look at that third of people who did not feel that they got reasonable adjustments and all the other things that came out of the report, and put in place systems, because if we are going to seek to do more remote hearings, which we are, we want to ensure that we are doing them in the way that is right. Even noting, again, that it is all subject to judicial discretion, we have to ensure that vulnerable people and disabled people have the opportunity to engage and we are responding in the right way, so I completely agree.

Q62 **Maria Eagle:** In 2017, David Lammy published a review into the treatment of and outcomes for black, Asian and minority ethnic individuals in the criminal justice system. It was quite a hard-hitting report and he made a number of recommendations, one of which was that the Ministry should collect and analyse data on ethnicity. Have you carried out any meaningful analysis on how ethnic minority victims and witnesses may have been disadvantaged by the pandemic?

**Antonia Romeo:** There are a couple of things in that. First, as you know, essentially there were three main areas that we had to focus on. One was standardising data, one was collecting the data and one was publishing the data. I would say on standardising data there have been some quite significant improvements. The 18+1 model is now broadly embedded.

You will know that a crucial principle is that you collect only once where you can—you do not ask people again and again for the data. However, we also know that the more often people appear in the system, the more likely we are to get accurate data, because you are asking people for data often and not everybody wants to give you their data. I would say it is not perfect. At the moment, on ethnicity in particular, the police collect data—

Q63 **Chair:** Sorry, just to make it clear, if it is on ethnicity and you ask someone the question to tick the box which ethnic group they are in, you are saying you are not getting accurate data.

**Antonia Romeo:** I am saying not everyone ticks the box.

Q64 **Chair:** Can you ask them to tick the box?

**Antonia Romeo:** We do. As it turns out, for example, the completion rate in the magistrates court is about 40% where you are operating remote, say, paper, so summons, postal charge or something. It goes up to 75% when the defendant is there in person, so when you can actually ask them to.

Q65 **Chair:** It is a bit concerning, because we had the DWP in front of us and it was only just beginning to collect data on the ethnicity of claimants, which we were very surprised about, so I just wonder if there is a wider issue here in Whitehall that people are not curious enough about the issue.



## HOUSE OF COMMONS

**Antonia Romeo:** We are asking. I think you are asking, "To extent could we mandate?" Is that your question?

Q66 **Chair:** Yes. I hate the word "mandate", but yes.

**Antonia Romeo:** In a way, that is the gap. At the moment the police force are asking for the data. What we are now doing, which Andrew might want to say something about, is collecting it later in the process in HMCTS as well, in order to improve the quality of the data.

Q67 **Chair:** There are always going to be some people who wilfully do not want to co-operate at all, but it is not that difficult for people to answer the question if they are asked and I wonder how many people wilfully refuse.

**Antonia Romeo:** I agree, although we are not necessarily always asking people when they are feeling in a super positive frame of mind about filling in the forms.

Q68 **Chair:** That is being polite, but, yes, there may be challenges.

**Antonia Romeo:** There are some challenges, but standardisation is important and we have done well on that. We still have a long way to go on collection. It is not consistent across all the police forces. We are now doing more. Andrew can say more about that.

In terms of publishing the data, we have done better. We have some statistics on ethnicity in the criminal justice system that we published last year. We are doing better as a response to the report on publishing the data that we have, but, again, we do not have terrific data. We have better data in the civil, family and tribunals area and we have done more to collect data on the impact there.

To your second question of what specifically we have on the impact of what we are doing on Covid and the recovery on these groups, I will let Andrew say more. We are not as far as I would like us to be, partly because during the main bit of the pandemic, it was all hands to the pump recovering the system. We were trying to evaluate and measure at the same time, but we have not quite got all the data that we might want to know the true impact on that. The work that we are doing at the moment will help further.

**Andrew Baigent:** That is right. I will come on to the report we were just talking about in a minute, but a lot of the work we are doing is very focused on the civil, family and tribunals area, where we are much more able to capture that data, which is not the subject directly of what we are discussing today.

I will respond to the particular point on ethnicity. In the evaluation that was published on Friday, we did collect ethnicity characteristics. There were about 5,000 public users in the evaluation, so it was a significant evaluation. On those questions, there was no significant variation as a result of ethnicity in those results, so that is one very particular response I can make to that.



Q69 **Maria Eagle:** We touched briefly on this earlier. I want to come on to having a look at your recovery programme and how confident you are that there is enough capacity in the criminal justice system to implement your action plan and your recovery plans. We touched upon part-time judges and the potential capacity constraint that there might be there. You have extended the retirement age, et cetera, but it seems—I am not being unpleasant—to be a short-term solution. Are you sure that you can replace that solution to the capacity constraint that might come in with judges' sitting days with recruiting more, and recruiting enough to deal with the backlog?

**Antonia Romeo:** Just before I answer that, Jerome has helpfully pointed out to me that the 2020 stats were published this year in 2021 and not 2020, just to correct for the record.

In terms of judicial capacity, as I say, in the next round of recruitment for the circuit, we are seeking to get 78. Last time we got 52 and that was 11 short.

Q70 **Maria Eagle:** You are fewer than you hoped to get.

**Antonia Romeo:** We were fewer than we hoped to get, which is why we have been filling with recorders. We then have two issues with recorders. One is whether we have enough recorders, which is why we have quite a significant recorder recruitment, but in addition we have to encourage those recorders we currently have to sit enough days. Not all of them are sitting as many days as we would expect, so that is something that we are working with the senior presiding judge and the judiciary to significantly boost, because those are the two ways you do it. We need more salaried judges and more recorders to fill the gap.

Q71 **Maria Eagle:** One of the other areas that might cause concern is burnout of Her Majesty's Courts & Tribunals Service staff. They have all been working really hard. People can only take so much. Do you have any concerns about welfare of staff and how are you looking after that? You are now expecting them to deliver the entire court recovery and reform programmes, as well as doing their ordinary jobs under trying circumstances. What are you doing about staff welfare?

**Antonia Romeo:** Thank you for saying that and I want to take this opportunity to recognise the absolutely exceptional work that has been done by HMCTS staff, MoJ staff and all our agencies with the professionals, the judiciary and all our partners to keep justice going through the pandemic, in particular the frontline staff who have been in every day during the pandemic. Thank you for making that comment, Ms Eagle.

We are very focused on wellbeing. We are very focused on what we can do to alleviate pressures from staff. We have recruited 1,600 staff to help support during the pandemic, but those staff who are working at this unprecedented time do have additional pressure. We will shortly be publishing the results of our people survey in line with the rest of the



## HOUSE OF COMMONS

Government and we will look very closely at the detail in that. I am not allowed to say what the results are until the results are out.

**Maria Eagle:** It is always illuminating.

Q72 **Chair:** Can I just be clear? You are the Ministry of Justice and you have lots of moving parts to your people survey. Is that broken down so you will be able to see?

**Antonia Romeo:** Yes, and to quite a granular level.

**Chair:** We will see HMCTS and different groups within that.

**Antonia Romeo:** Yes.

Q73 **Maria Eagle:** Just quickly on prison places, which is something I remember well from my time in the Department where it used to be a daily issue, there is going to be knock-on pressure and demand for prison places as you tackle the backlog and get through more cases than you have been getting through in the past. There are supposed to be 20,000 more police officers being recruited, who one imagines will arrest and charge more people. How are you going to make sure you have enough prison places to deal with the extra demand that is going to come at you?

**Antonia Romeo:** As you know, we run quite a complex forecast system of the flows through the system and there are a number of factors, because we have to look at what is happening on crime. As you say, there are new police officers, so the demand into the system is about the speed flowing through the courts. We are running now the biggest prison building programme in a generation, including six new prisons over the next six years.

Q74 **Maria Eagle:** How do you define generation? There was a prison building programme that was cancelled in 2010.

**Antonia Romeo:** This is 20,000 places, which includes some things that we have already been doing. It is 20,000 new places by the mid-2020s. We have a £3.8 billion multiyear settlement in the SR to deliver it. It is one of our most important delivery programmes and, as I say, it includes new prisons. It is also additional house blocks. It is something that we are quite tightly governing to ensure that it delivers.

Q75 **Maria Eagle:** You do not have any concerns that there might be any issues about having enough prison places.

**Antonia Romeo:** I am not sure if you have ever had an accounting officer here who had no concerns over something that important. The job is to have enough prison places for everybody who is sentenced.

Q76 **Maria Eagle:** I know what the job is. You are very happy that you will be able to do that, are you?

**Antonia Romeo:** I am determined to ensure that we are not put in a position where we cannot do it, so we are closely monitoring the progress



## HOUSE OF COMMONS

of the delivery of those places, and if there was any risk of not being able to do it—

**Maria Eagle:** You would what?

**Antonia Romeo:** I would do what was necessary. We already bid for an additional 2,000 places in this SR, because the way the forecast was, it determined an additional gap that we did not have covered. We were previously building 18,000 new places. We are now building an additional 2,000 places on top of that.

Q77 **Maria Eagle:** You are convinced that that will be enough.

**Antonia Romeo:** I am convinced that we will manage the programme to ensure that we have enough prison places to take the people who are sentenced. I could not possibly predict what may happen in five years, but what I do know is what my job is to do, which is to make sure that we have got the places to deliver and we run a complex delivery programme to do that.

Q78 **Maria Eagle:** Am I right that your modelling from July of this year showed that you were expecting a few thousand unfunded prison places over the prison building programme?

**Antonia Romeo:** As I mentioned, in this spending round we bid for an additional 2,000 places on top of the 18,000 places that we already had secured the multiyear money to do because the forecast was predicting a gap.

Q79 **Chair:** It has taken a long while to get so far with the prison building programme. It was delayed and your predecessor had to grapple with this, as you say. Spending review 2010 caused a big problem there. When are we going to see these prison places and the new prisons built? You can create prison places in other ways, so are we talking about new prison places or other ways of freeing up cells?

**Antonia Romeo:** Both. We have six new prisons. One is coming online in February next year. It will accept its first prisoner.

Q80 **Chair:** How many places?

**Antonia Romeo:** That is nearly 1,700 places—1,680. There is another one the same size coming on in May the following year. Then, additionally, we will need to have house blocks. We will also have something called rapid deployment cells, which are a more flexible type of accommodation mainly used in cat D, so open conditions, and perhaps some low-risk cat C. We are doing all the modelling on that and, as I say, we have a big portfolio programme in place. The IPA—I am trying not to use the acronym, but I cannot remember what it stands for.

**Chair:** There is a reason we ask for acronyms not to be used.

**Antonia Romeo:** The Infrastructure and Projects Authority.



## HOUSE OF COMMONS

**Chair:** That IPA—I was thinking there was another IPA in the justice system that I did not know about.

**Antonia Romeo:** They are very involved in it, as is the Treasury. Something I have done since coming to the Committee last, because I was very focused, as you know, on ensuring we had delivery properly gripped, is set up a delivery board, which is jointly chaired by me and our lead non-executive to ensure that we are gripping these programmes.

Q81 **Chair:** We did clock at the last hearing that you were very focused on this. I am pleased to hear that they are going to be delivered. It is all very well having prison places, but it is also about where they are. If you have rapid deployment cells and they are a long way from a court, there are issues there. In the first wave of prison places being open you probably cannot match logistically what you need and where it is, but is that part of the medium-term to longer-term plan?

**Antonia Romeo:** Yes. The medium-term and longer-term strategy is to ensure that you have prisons where you most need them and the right types of prisons, so those that are serving courts near the courts and those that are for long term, training prisons, et cetera, in the most appropriate places. Then the idea of the rapid deployment cells is that they provide the flexible accommodation that means that you can put them into the places where you have a more unexpected need, if you have to. The house blocks require planning permission often, so it takes longer to do it. It is not perfect, but we do our best to plan.

**Chair:** I am glad you know it is not perfect. We would all agree on that point. Let us leave that on prisons there, because we could get into the whole issue of prisons, which is very important, but not today's subject.

Q82 **Sir Geoffrey Clifton-Brown:** Among the other really quite interesting evidence we have received is that from Transform Justice. It talks about how digital information systems offer the potential to make court cases more efficient. The common platform was paused and the Lord Chief Justice said it had some difficult problems and setbacks. The PCS union said the common platform was not fit for purpose. Given that it has the potential to reduce quite a lot of cases in the magistrates courts, what is happening with this system?

**Antonia Romeo:** I am going to ask Andrew to say something about this. The short answer is that we have to get it right. We have rolled it out to over 40% now of Crown Courts. However, people were finding some difficulties in the system, so it was paused. Rather than continue that rollout, it was paused while we resolved those problems and we are planning to continue the rollout post-Christmas.

**Andrew Baigent:** As you said, we have rolled out to 44% of courts now. The pause is, as has been said by others, because of some issues on the system. It was being slow at some points. There were some process issues that needed dealing with. We also wanted to make sure that we paused for sufficient time to build back the confidence of users and the confidence of



## HOUSE OF COMMONS

our staff, of professionals and of others interacting with it. We are a long way along that process. There will be a formal review before it starts up again and we expect to do so in the new year. It is the right thing to do to pause rather than roll on regardless.

**Q83 Sir Geoffrey Clifton-Brown:** I entirely agree with that. It makes sense to pause it, but can you give us any idea when it will be up and running properly and what sorts of benefits you expect it to deliver when it is up and running properly?

**Andrew Baigent:** I should say it is still running in the 44% of courts. We have not stopped using it there. It is still running there; it is still running successfully. The rollout is paused. The rollout should recommence in the new year. That is certainly the plan. I am not going to say it is going to recommence now, because clearly we need to make sure that it is working properly and that we have the ability to roll out. We are still planning to complete that rollout in accordance with our original plan using the contingency that was built in and you would expect through good programme planning.

The common platform is a wide-ranging system. There are benefits in all sorts of different areas. You referred earlier to some of the magistrates courts benefits and some of the single justice procedure. The automated track case management is a mouthful, but that is for Transport for London prosecutions, for example, that come through that route. That is one element that speeds up the more routine summary justice that comes through that. You also have a number of other areas. I am going to pause there.

**Q84 Sir Geoffrey Clifton-Brown:** I am looking at paragraph 3.18 of the NAO Report, which says, "The pandemic has exacerbated these long-standing data challenges. The Ministry and HMCTS recognise that structural improvements to data infrastructure and management across the criminal justice system require a substantial effort, funding and analytical capability. The Ministry has not yet quantified associated costs". What are you doing to quantify what the costs are and what are you doing to make sure that you do improve this data flow across the different challenges of the criminal justice system, albeit with the caveats that Ms Eagle has already said, that you only have part responsibility for the criminal justice system?

**Antonia Romeo:** Perhaps let me say two things, if I may, and then others may want to add. The first thing to say is what we can do within MoJ group. You might remember, again, when I first came to this Committee back in February, we talked a lot about data. Ensuring that we have better join-up of our data, but also that we have a really significant data capability, because we are so dependent as a Department on the accuracy of our forecasts and evidence, is something I have been very focused on.

I have already brought in another director of analysis to complement our already excellent director of analysis and I am currently recruiting for a



## HOUSE OF COMMONS

director-general of performance strategy and analysis, who is going to lead on all this work, so to really put evidence at the heart of what we are doing and ensure we have a good grip on data through the group.

In addition to this, we have been really focused, as part of the criminal justice action group that I mentioned, so at perm sec level across MoJ, the Home Office and the CPS, on ensuring that we are much better joined up on data across the CJS. It can be quite difficult because we count things, for example, in different ways, so offenders versus offences or cases versus number of defendants, et cetera, depending on where in the system they sit, but that is the sort of barrier that we have to overcome to get proper join-up.

The scorecards have been a way of starting that, because it is trying to indicate how a case, as it were, flows through the system from the original crime committed and counting that into something that ends up as a case. I would say we are in the foothills, but making significant strides.

**Q85 James Wild:** Apologies for not being here at the start of the meeting. Just on data, if I can go back to the common platform first, I was informed that King's Lynn Crown Court in my constituency was going to be one of the courts soon getting the platform. Do you know if it has been rolled out there, Mr Baigent?

**Andrew Baigent:** No, sorry, I do not know that.

**Q86 James Wild:** As a common platform, have all the other partner agencies that need to buy into this system bought into it? They all have systems that work with it. There are no laggards.

**Andrew Baigent:** The system pulls from other places. It is at the point at the moment that the bits that are up and operating are the within HMCTS bits. I talked earlier about it being used by Transport for London. It is also in the process of being used by DVLA, so those elements are built in. It is a programme that continues for another year or so and there is more to do, as planned in that programme, to bring others fully in, but they are on board. The project board that runs this programme contains all the partners you would expect to see engaged in that programme.

**Q87 James Wild:** That is good to hear. Just on the issues that Sir Geoffrey was raising here in paragraph 3.18 on page 43, in terms of your spending review settlement, how much of that will you allocate to address the data challenge?

**Antonia Romeo:** We are still in the process of allocation, so I cannot give you a specific number, but we are definitely focused on ensuring that we are joining up data. It is a priority. Data, delivery and digital are our three big capability priorities, so I would expect to be allocating money to that and encouraging our partners in the CJS to similarly allocate some money to it.



## HOUSE OF COMMONS

**Chair:** On which Mr Baigent looks like he has something to contribute, which is hopefully some money.

**Andrew Baigent:** It is money. I would, wouldn't I? It is a very specific point. The reform programme includes quite a significant investment in data, so there are the two elements. It is the new systems, which allow us to collect the data in the first place. We have talked a little about common platform. Similar data comes through the civil, family and tribunal systems.

At the moment we do not have the data. Where there are paper files, it is notoriously difficult to collect anything that we can then use. Where we have the digital systems, most of them are very old now and it is very hard to interrogate.

The data is coming through. There is also a significant investment in a team to analyse that data and to use it for managing the organisation, but also for feeding into the MoJ's broader data function that the Permanent Secretary was talking about, to allow it to do the wider evaluation of the criminal justice system and of the other work we are doing. It is quite a significant investment within the reform programme.

Q88 **James Wild:** Is there a number you can share?

**Andrew Baigent:** I have not got the number with me, but it is multiple millions in there.

Q89 **James Wild:** Ms Romeo, when would you expect to be able to provide a bit more clarity about how that funding is allocated to various parts of your data?

**Antonia Romeo:** We are going through the allocations process at the moment and I expect to be agreeing it with the Secretary of State early next calendar year in advance of the financial year.

Q90 **James Wild:** One of the elements referred to in the report is that you do not systematically collect or codify data from the judiciary, even though it has a strong understanding of how long cases are likely to take. Also, one of the recommendations in the Report is to tap in more to the insight and the knowledge that the judiciary has about cases. Is there a reluctance to do that for some reason?

**Antonia Romeo:** Absolutely not, no. We talk to the judiciary all the time. I am not aware of any datasets that exist that we are not using. Probably the point is they have a huge amount of expertise and knowledge that may or may not be written down in an easily captured dataset, so understanding both the qualitative and the quantitative experience is crucial.

I meet the Lord Chief Justice every two weeks, one of those meetings being with the Secretary of State as well, and we are talking all the time about these sorts of issues. The senior presiding judge works incredibly closely with the CEO, the CFO and others. Indeed, HMCTS, as you will be aware, is a joint venture, essentially, between MoJ, the Government, and the



judiciary. The senior presiding judge is on the HMCTS board, which has an independent chair. HMCTS should be capturing both its own data and the data from judiciary. If you have any specific examples in addition or perhaps if the NAO does, we would be happy to look at them.

**Q91 James Wild:** The Report talks about more systemic working. It is more that qualitative insight that judges and clerks have about the feel for how long cases are going to work. There might not be an algorithm that can dictate those, but are you sitting down and making sure you are maximising the use of the courts and you have a proper insight into the length of time that things might take? There are not any constitutional issues here that are holding you back in terms of a reluctance to do that face-to-face and draw on their intelligence.

**Andrew Baigent:** There are two things I would say there. As we have talked about before, listing is a judicial function and our staff on the ground work very closely with the local judiciary in their area to pick up on all those lessons when they are listing. The local judiciary has a great understanding, with our staff, of what should be listed, what can be listed and how long cases will take going into court. That is absolutely at the heart of what we do.

There is perhaps a little more we can do to bring that together, so that we are looking at this systemically, and that probably is where the NAO Report is pushing. You always challenge yourself. An example, which again is in the NAO Report, that is worth reflecting on is the jury trial working group, which did precisely that. It was a group chaired by a senior judge, with the expertise of the staff and other judges around the country contributing to that. As the Permanent Secretary says, as a joint venture, we work hand in glove with the judges, and I have to say the pandemic has made that a closer and stronger relationship over the last two years.

**James Wild:** There is an openness there and you could potentially use this intelligence to influence your work on timeliness and to understand what is driving some of these trends that we are seeing.

**Q92 Chair:** The judges list, so they will have an idea, for example, how long a trial might take or which ones might collapse through issues about local CPS and local police forces. Do you have a picture from where you are sitting, Ms Romeo or Mr Baigent, about whether there are different geographical impacts on listing times and whether listings then do go through the system in the timeframes expected? Can you see if there is a particular problem geographically or, indeed, best practice somewhere where something is moving better?

**Andrew Baigent:** Work is done, I know, by the judiciary to identify best practice and to share when they are talking together. Indeed, the senior presiding judges both past and present spend quite a lot of time in that particular area, so that is very much picked up as they go. Are there good practice examples that go more widely? I think there are and I think they



## HOUSE OF COMMONS

are shared. Certainly from the staff side, we see those coming through and we see them disseminated.

Q93 **Chair:** You are saying “I think”. I just wonder how systemic this is, picking up on Mr Wild’s point about how you make it more systemic.

**Andrew Baigent:** As I said, because listing is that judicial function, it is really for the judges to then make that systemic and we will support them with the data and information. The new systems will give us better data and information. Part of the reform programme involves rolling out a platform called scheduling and listing. That will provide much better data on how the courtrooms are being used and the length of trials, so that again will reinforce, but that is at the early stages of rolling out. We have just gone out with a second—

Q94 **Chair:** Can you just walk us through? With the new data, you will have information about the time from listing to hearing, and then the outcomes and that bit of the process. If you saw an example, for instance, in one police force area where there was an issue perhaps to do with investigation information going to the CPS that was not so good, and the CPS had to go back and ask for more, would you be able pick up that granular information? Then what would Ms Romeo do to push, presumably through the Home Office and senior police groups, improvement in that area, if that was the issue? There are a myriad other issues that could arise in different parts of the criminal justice system.

**Antonia Romeo:** The starting point for this will be the localised criminal justice system scorecards that are going to come out at a local level and that is going to provide crucial transparency of exactly the sort you describe.

We then have to be extremely careful about operational independence. There will be limits. The starting point is a scorecard. These are not targets; these are metrics. It will enable us to see what is happening across the different local areas. We would be extremely careful about what we then did as a result of that, because we would always be very careful about operational independence, but, none the less, getting transparency is the first step. We do know a lot of this already. We know that the backlogs are worse in London and in the midlands.

Q95 **Chair:** They are 77% higher than pre-pandemic in London compared with the national average of 48%.

**Antonia Romeo:** Exactly, and a lot of this is to do with things like the different case mix that you get in different areas, different types of cases or where there are particularly, say, multi-hander cases.

Q96 **Chair:** You feel you have a reasonable handle on it at the moment and you have some ability to bang heads together, but you have to be careful of operational independence, so where does that line come? You cannot tell judges what to do.



## HOUSE OF COMMONS

**Antonia Romeo:** We work as a team, genuinely. We are incredibly careful, especially in the Ministry of Justice, as you would expect us to be, of democratic responsibilities and constitutional independence. We are really careful about that, but we do seek to join up across the CJS and we seek to use the data because we all want to do the same thing.

Q97 **James Wild:** How local are these local scorecards going to be? Is it going to be court level?

**Antonia Romeo:** No, it is not. We are going down to regional level.

**Jerome Glass:** It is slightly subject to decision depending on the quality of the data, but we would like to get them to be as local as possible, ideally down to police force level. If you get any lower than that, you start to get into very small numbers of cases, particularly as we would like to do it for the adult rape scorecard as well, so we just need to be a bit careful about that. We have not fully decided. The more local, the better.

On the subject of the judiciary and transparency, a mini plug for something that they have done is the Crown Court performance tool, which goes court by court and shows the number of cases that are seen in each court, how many are cracked and so on. That is publicly available. There is an initiative hosted on judiciary.uk. That goes to court level.

Q98 **James Wild:** You said police force level would be ideal. When might I be able to see the stats for Norfolk?

**Jerome Glass:** We would like to move to the localised scorecards early next year. As I say, I do not want to commit too much to doing them by police force level, because it will depend on the quality of the data, but ideally that is where we would move to and, as I said, early next year is when we would like to move to the localised scorecards, which will be very similar in form to the national scorecards. The national scorecards are the ones that we put out last week and we would like to move quite quickly to the localised.

Q99 **James Wild:** I am just coming to probably my final one or two questions. It is now a year since the recommendations in the Byrom review on digital justice were accepted. Where are you in terms of implementing those recommendations?

**Andrew Baigent:** We released an update to the report last week, which tracked the recommendations and where we are on them. Within that, some of the issues that I talked about earlier are very important to remember. We do not collect all the data that we wanted to do and that will come as the reform programme completes and the new systems come into line.

However, there has been quite a lot of progress. We have set up in shadow form the senior data governance panel, which is providing very good advice in terms of the accessibility of that data. One of the key things in there is that we will publish in the new year a data colleague, which will have the



## HOUSE OF COMMONS

data that we intend to publish and make available. There is a lot of work going on. There is still a lot to do and you will see when you look at the recommendations that a number of them are completed, a number of them are in progress and a number of them still have things to do.

Q100 **James Wild:** What is the biggest outstanding issue from your perspective?

**Andrew Baigent:** The biggest outstanding issue is the ability to have the information and to do a lot of the things that are within the recommendations. We commissioned the report from Natalie Byrom. She did an excellent job and it was a very challenging job in terms of us responding to that, but that is what we wanted her to do and she certainly did that. It has been the focus of our activity within our data and information for the last 12 months. I do not want in any way to leave anybody with any suggestion that it is anything other than that. It has been at the heart of our data strategy, which we also put out last week.

Q101 **James Wild:** My final question is to Ms Romeo. You talked about recruiting a DG of analysis and various other things. When would you expect to have them in post?

**Antonia Romeo:** I have only closed the recruitment process today, but I hope to move speedily on that and get them in early next year. I am shortly also going to be recruiting for a director-general of service delivery and change. The role will focus on delivery in digital transformation, so this essentially follows the operating model review I did since I last came before the Committee, trying to build the capability of the Department to put us in a position to deliver all the challenges ahead.

Q102 **Chair:** They are both encouraging positions. Is the latter a digital specialist? Is that what you are looking for?

**Antonia Romeo:** I already have a number of digital specialists, including at director level. They would need to be able to oversee them, because they will be doing the delivery as well. It is more than a digital job. It is a project delivery and change job.

**Chair:** That is refreshing. We have been battling on that on this Committee for longer than you have been Permanent Secretary—quite a lot longer, a decade or so.

Q103 **Sir Geoffrey Clifton-Brown:** Mr Glass, could I just again take you to the evidence from Transform Justice? They had two suggestions, really on more emergency powers during the pandemic, but just to put both of these ideas to you to get a reaction to see whether there is anything in them for perhaps non-pandemic times. One is the interim charging protocol, which was agreed by the Crown Prosecution Service, the National Police Chiefs Council and other stakeholders as a way of keeping the wheels of justice moving.

The courts and the judiciary had already decided that only the most serious cases should be heard, and in magistrates courts only those defendants



## HOUSE OF COMMONS

who had been remanded by police would appear. Is there any thought to changing the interim charging protocol and the police custody procedure?

**Jerome Glass:** I am not sure that that is a question for me. That is a question probably for the Crown Prosecution Service I believe, whose charging protocol it is. The Crown Prosecution Service does the charging as opposed to the Ministry of Justice. That is an operational decision for them. Through the group that the Permanent Secretary was talking about we can pick up that question with the Crown Prosecution Service. I believe it is a question for them.

**Antonia Romeo:** The interim charging protocol was brought in during the pandemic in order to help manage. That was why it was interim. It is not really being used anymore, unless Andrew tells me otherwise.

**Andrew Baigent:** No, it is not.

**Antonia Romeo:** What was being sought to achieve may already have been achieved, because it is not really in place. It was about prioritising and managing during this very difficult time when we had closed the courts and so on.

Q104 **Sir Geoffrey Clifton-Brown:** On the same theme, this is to do with summary justice. In the year ending March 2021, the CPS proceeded against 721,000-odd people for summary offences, the least serious offences, of whom 541,297 were sentenced to pay a court fine. If that large number of people are merely being fined in the magistrates court, is there not an alternative way of dealing with those cases via police caution or other methods, rather than going to all the expense of putting them through a full magistrates court trial?

**Jerome Glass:** It will depend on the individual case, clearly. Sentencing, as you know, is a matter for the judiciary, and so, without knowing the specifics of it, I would not be able to give you a meaningful answer on that. In terms of how we are dealing with them, Andrew may want to come on to this, but we are trying to deal with as many cases as possible through a thing called the single justice procedure, which essentially cuts out a lot of the administration for relatively low-level crimes, particularly those that result in fines. That is something that we have been trying to do a lot more by using the single justice procedure, so it may not be quite as burdensome as that implies. I would also say that the general principle of trying to divert cases from the criminal justice system for certain types of cases is one that we would potentially welcome.

Q105 **Sir Geoffrey Clifton-Brown:** Do you have a comment, Mr Baigent?

**Andrew Baigent:** I have nothing to add. Jerome has summarised that. The cases that are coming through there do take a little judicial time, but they are done in very large number by magistrates through the single justice procedure, so they are gone through very quickly. The most effort is in the trial cases in the magistrates court, which is where the effort is focused.



Q106 **Sir Geoffrey Clifton-Brown:** We have covered the shortage of judges, but we have not, Ms Romeo, talked about the shortage of barristers, in both prosecution and defence cases. I gather there is extreme stretch, particularly in the criminal justice system, at the moment in those categories, with many being listed with two or three cases simultaneously. What consideration is being given to that and what can be done about it?

**Antonia Romeo:** We have the independent review of criminal legal aid, of which this is in scope. Earlier this year, the review published a data compendium, which included data from the professions, so the Bar Council and the Law Society, as well as HMCTS, the CPS and others. That demonstrated some reduction in claims for publicly funded criminal work, but because the volumes of cases have also gone down it was hard to see the exact causation. This is in scope, as I say, for the independent review of criminal legal aid, which we will be publishing shortly.

Q107 **Sir Geoffrey Clifton-Brown:** My final question is for Mr Baigent on repairs to the various court buildings. We have a particular problem in Cheltenham Magistrates Court that the roof is leaking so badly that rain is being caught in buckets and it really needs a new roof. What is being done to schedule these repairs and is the funding available?

**Andrew Baigent:** Last year, we received a record level of funding in the courts and again this year we will spend £105 million on capital maintenance and repairs. That money will be spent this year. That is making a significant difference to both the major works that we have to do on heating and ventilation, and those minor repairs. There is a lot of work going on and being scheduled at the moment. As the Permanent Secretary said, we are still going through the allocation process for next year and that is important in being able to carry on that scheme.

Q108 **Sir Geoffrey Clifton-Brown:** I probably ought to know the answer to this question, but I do not. How are those repairs being scheduled? When can we get an idea of when this repair in Cheltenham might take place?

**Andrew Baigent:** I do not know the Cheltenham example.

Q109 **Sir Geoffrey Clifton-Brown:** No, generally, how are repairs scheduled or prioritised, if you like?

**Andrew Baigent:** We prioritise according to whether it is a health and safety or legal compliance issue. Those are done first. Then we move into ones that are going to cause the court to close or not be able to operate. If it is a major repair, that requires a couple of things to happen. There is a significant planning exercise once that repair is identified. There may need to be, depending on the value, a tender process. We may be able to use one of our existing frameworks, either through our facilities management provider that we have within the courts service—

Q110 **Chair:** The short answer is that you do not have a simple list of priorities.

**Andrew Baigent:** No, there is a series of criteria and many different reasons.



## HOUSE OF COMMONS

**Sir Geoffrey Clifton-Brown:** Gloucestershire MPs may be beating a path to your door before too long.

Q111 **Chair:** Sir Geoffrey will take this offline. You have a pitch there for Cheltenham. I have a last couple of quick mop-ups. At the very beginning, Ms Romeo, you talked about 1,500 extra sitting days. In all of this, we have been quite frustrated, and I sense that you all are too, about the delays. Is that enough extra sitting days or is that just what is possible?

**Antonia Romeo:** The numbers I gave are the numbers that will deliver the reduction. It is the numbers for which we are funded in the spending round and it is enough to get us to the 53,000.

Q112 **Chair:** That is enough. I was thinking it may be what is possible, but actually it may not be possible to deliver those places, from some of the things we have heard today and what the Report says.

**Antonia Romeo:** If we can get to that profile of sitting days, we will get to the 53,000. I feel reasonably confident that we will, because the Lord Chief Justice, indeed, has said he believes that especially in the latter years we will be able to get to that number of sitting days.

Q113 **Chair:** The danger is that it is always the later years and then if it slips a bit—

**Antonia Romeo:** Agreed, and the fact that we are on 100,000 this year means that we have to go a significant way to get to 105,000 next year, but I feel that we will. This is what the judicial recruitment should deliver. As I said earlier, if we found ourselves in the happy position of being able to sit more days, we would review that. As part of the concordat process, we would review whether we could go further.

Q114 **Chair:** When you have been in front of us before, you have talked about diverting civil and family tribunal cases through mediation. We have heard a lot about how things might be done on paper. We had a whole discussion about doing remote access to justice. What progress is there on that and what impact is that having on the number of sitting days? If you can take more out of the system that way, that surely can help.

**Antonia Romeo:** Yes, that is in civil and family, so it will not directly affect—

Q115 **Chair:** No, except that you potentially have some of the staff.

**Antonia Romeo:** Indeed, you have some judges who might be ticketed for both, so that will continue to help. We have been doing a bit of that between civil and family during the pandemic, because it was those areas where we had already gone online thanks to the reform programme that held up the most during the pandemic, so ended up with the lowest increase in outstanding caseload. Therefore, in practice we were able to divert some judiciary, for example, from civil into family to help manage what was happening in family. The lesson has been that the reform programme is absolutely essential to recovery.



## HOUSE OF COMMONS

Q116 **Chair:** What progress have you made getting those to mediation instead of through the courts of tribunals?

**Antonia Romeo:** I am going to let Jerome come in.

**Jerome Glass:** You are absolutely right that there has been an increase over the pandemic in both private and public family law caseload. We have been really trying to get people in the private family law sphere into mediation. We launched a voucher scheme, indeed, earlier this year, which helped part-fund mediation. That has been used by, I believe, about 4,000 families already. We put £2.5 million into that scheme.

Q117 **Chair:** Those 4,000 families would not, you think, have gone through mediation otherwise. They would have gone through the court system at more expense.

**Jerome Glass:** It is hard to say whether they would or not, but we are trying to encourage them.

Q118 **Chair:** You must have a baseline of people who were doing mediation before and you must have some way of tracking that.

**Jerome Glass:** Yes, but it is hard to work out the counterfactual of whether they would have or not. We have already got 4,000 people into mediation using those vouchers.

Q119 **Chair:** The counterfactual would have been, the year before, how many people went through mediation. It might fluctuate, but you will see a trend over time surely, because the mission was to try to get more people going through mediation. Ms Romeo put it very clearly last time we met or maybe the time before last time; I forget.

**Jerome Glass:** I do not have a counterfactual of how many people would otherwise not have gone into remediation, but it is encouraging how many people are taking up that scheme. I can try to get that baseline for you.

Q120 **Chair:** Yes, just some sort of metric about the baseline that you are working on, what you expected and whether you met that expectation. I am sure you have figures of some sort that you are using as management information. If you could provide us with that, that would be helpful, because it is pretty critical.

Finally from me, I just was not clear: we talked a lot about delisting and relisting. There was one awful case that the Mayor's Office for Policing and Crime highlighted of a victim who had a medical examination in August 2017, having reported a rape. Delays through the police investigation—so not your responsibility in a sense, but overall it is a big problem—meant the case was finally charged in April 2021, but the trial date is set for May 2022, so that will mean she has had five years since she first reported and only a year's delay in court, but on top of other delays. That case was not listed and delisted, but there are other examples where they have been. When something is delisted and relisted, does the clock start again from your point of view, measuring your bit of the system?



## HOUSE OF COMMONS

**Antonia Romeo:** No. Once it is a receipt, it is in the system.

Q121 **Chair:** It is a receipt, just to be absolutely clear. Are you going to do anything to try to look at that? We have talked a bit around this subject, but when someone has had a long delay in getting a case to court, you have that overview of the system—I know you are responsible for this bit of it—so is there anything you can do without interfering with judicial integrity and independence to try to make sure those cases then get dealt with quickly? It is very hard.

I cannot talk about the case, but I have a witness who had to wait so long they keep coming to my surgery and saying, “I think I am just going to give up. I do not want to have this hanging over me”, when they had a very violent assault from an ex-partner.

**Antonia Romeo:** It is difficult, as you have noted, because of listing being a judicial function, although I know the judiciary is very focused on this as well. Things like measures in scorecards, like cases outstanding over 12 months, should help with that. I know it is not particularly helpful to an individual victim in this terrible position, but none the less, overall, it means that those people who have had the longest waits will be prioritised and that is really important.

**Chair:** It is a very difficult issue to resolve. We recognise that. We all recognise what you said about feeling sorry for victims, but in the end—we discussed beforehand whether we would raise individual cases and we have to be careful about doing that—we have had some heart-breaking experiences as constituency MPs talking to people and from colleagues around the House on this issue. I am sure that is in your mind, but we urge you to keep pushing hard to resolve these challenges.

Thank you very much for your time. A transcript of this session will be on the website uncorrected in the next couple of days and we will be producing a report in January or February. Thank you very much.