



Justice Committee

Oral evidence: [Follow up session on crime reduction policies and Transforming Rehabilitation](#), HC 848

Tuesday 2 December 2014

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Supplementary written evidence relating to this transcript from [Rt Hon Chris Grayling MP](#) and [Michael Spurr](#).

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Members present: Sir Alan Beith (Chair); Christopher Chope; Jeremy Corbyn; Nick de Bois; John Howell; Mr Elfyn Llwyd; Andy McDonald; and John McDonnell.

Questions 1-47

Witnesses: **Rt Hon Chris Grayling**, Secretary of State for Justice and Lord Chancellor, and **Michael Spurr**, Chief Executive, National Offender Management Service, gave evidence.

Chair: Welcome, Secretary of State. I should say that both you in your Department and others outside have been keenly providing us with documents of various sorts, most of them yesterday, or even yesterday evening. You should, therefore, not assume that Committee members have had the opportunity to study the documents, and you should not assume knowledge of them. In general, it is a good idea to let us have things in good time.

Q1 Mr Llwyd: Good morning. May I begin by telling you what a very senior probation officer in Wales told me? Since the split—you know what I am talking about—there have been chaos and confusion for CRC staff accessing nDelius. “Suddenly overnight, half of our experienced professional staff no longer have full access to probation records. This has led to a crazy situation of experienced probation officers having to ask a receptionist to look up case notes and risk-screenings for them. I have not seen any credible rationale for this. Wales Probation CRC appear not to be challenging this with NOMS-MOJ.”

Before I put a further question to you, may I say this? You will be aware of the serious case reviews. I will refer to just a couple of them. The first is Hamzah Khan. The serious case review concluded, “Attention to collating information, showing thoughtfulness and reflecting on the significance of information is less likely to occur in conditions where work load, information systems and frameworks are not conducive to this.” The importance of having shared information effectively and using it to think about what further inquiries should be made is highlighted. Single and multi-agency communication—

Chair: This is becoming a very long question.

Mr Llwyd: The same conclusion was reached in the Victoria Climbié inquiry report and also in the report on Daniel Pelka. All of them say that, when information is not coming through, we are in a very highly charged and risky situation. In the absence of any credible, publicly available evidence on either the safety of implementation of the probation split, or the impact on sentencing behaviour and offending behaviour, what can you say to convince us that it is safe and financially viable for this programme to go ahead?

Chris Grayling: Sir Alan, that is a very broad-ranging question. If I can give you a little bit of a framework—

Mr Llwyd: It is not broad ranging; it is a very simple one. There has been a split. Information is not coming through.

Chris Grayling: May I answer the question, Mr Llwyd?

Chair: Order. We have a question. Mr Grayling can now seek to answer it.

Chris Grayling: I will give you a bit of context as to where we have got to and I will address the questions. I will ask Michael Spurr, whom you already know, to address some of the operational issues. On the documentation, first of all, let me explain to you what you have. You have in front of you, delivered yesterday, the two key documents that I will use tomorrow when I take the final decision about whether we are ready to move to the next stage or not. The first of the two documents you have received is testgate 5. Testgate 5 is the latest in a series of assessments we have done on the operational readiness of the system. You will remember, Sir Alan, that, when I gave evidence to this Committee before, I set out an eight-month period in which we would be dry-running the new systems in the public sector, under the leadership of Michael, to make sure we ironed out any issues that arose with the new structures before we moved to share sale. Testgates 1, 2 and 3 were before the commencement of the new structure on 1 June. Testgate 4 was carried out in September and testgate 5 in November. Testgate 4 was three months into that eight months and testgate 5 was five months into it, and we have now three months remaining until the provisional time for share sale, subject to my decision one way or the other tomorrow. Testgate 5 will indicate to us any further stages we need to complete before that point.

I have also included for the Committee's information a document setting out all the issues identified in testgate 4. What I have done is highlight all the areas that were raised as problems—they are in the left-hand column; the left-hand boxes—and all of the ways in which we have sought to address those across the last two months. I hope the Committee, in looking at those two documents, will see that the progress, which I set out that we intended to make over the eight-month period, has been made, as we addressed some of the inevitable teething problems that would arise in that first period.

Chair: Let me make it clear that we will look at those documents after this session. It is quite unreasonable to expect the Committee to follow—

Chris Grayling: I am not. I am making sure you have that information available to you as a Committee.

Chair: You can still answer Mr Llwyd's question.

Chris Grayling: And indeed I intend to do so, but I am just explaining to you what you've got, and the process we have got to, in that I now have those documents to enable me to take a decision tomorrow.

Q2 John McDonnell: Why so late?

Chris Grayling: This is an ongoing—

John McDonnell: We received them last night. Why did we receive them so late?

Chris Grayling: I am not meant to be studying them in detail until tomorrow when I take the final decision, so you will have, as I sit down tomorrow—

John McDonnell: We have been asking—

Chair: Let us get back to Mr Llwyd's question.

Q3 Mr Llwyd: Would you care to come back before us when we have read this information so that we can have a meaningful discussion about it?

Chris Grayling: We are going to have a meaningful discussion now, Mr Llwyd, as you have asked the question.

Q4 Mr Llwyd: How can we, if we have not read the stuff? How can we? That is rather silly.

Chris Grayling: Mr Llwyd, you have been complaining you have not had documentation from me. I have now—

John McDonnell: You gave it the night before. That is not acceptable.

Mr Llwyd: The night before. A late-night sitting and the night before. Come on.

Nick de Bois: Chair, if it is reasonable, is it appropriate perhaps to ask for a summary, if that is at all possible, to help inform this discussion? The way I read it, there are five or six areas in the middle ground; the rest are green, and there are no reds. At least that might help the dialogue.

Chair: I was hoping that in his answer to Mr Llwyd's question the Secretary of State would address what he now sees to be the position from that document.

John McDonnell: I have not even got a colour-coded version.

Chris Grayling: They were, I think, e-mailed to the Committee last night, so I am afraid I cannot take responsibility for the colour of the printer. They were available to you electronically.

Chair: I have made it absolutely clear that it is not satisfactory to give documents to the Committee too late for them to be properly circulated and read over a couple of days. That opportunity was not made available to us. As I have told you, you cannot assume knowledge of it, and I therefore invite you to answer the question Mr Llwyd asked.

Chris Grayling: I will try to answer the question, Sir Alan. My judgment of what I have seen so far is that very good operational progress has been made. The key question for me, as we go through this, is that every change process has issues within it; every change process has complications, and the whole point of running it for eight months in the public sector was to give us time to address those. I think very good progress has been made between testgate 4 and testgate 5. I wanted particularly to focus on issues of public safety. In testgate 4, as you will see from the documents submitted to you, there was only one issue raised about public safety from one of the CRCs, and I will ask Michael to address that in just a moment. I have been keen to ensure that that particular issue was addressed, but I have also looked more broadly at public safety issues, and there are some facts that I need to lay before the Committee.

Management information we published two weeks ago shows that the number of serious further offences since 1 June is significantly lower than in the corresponding periods last year and the year before, so that is a reassurance for me. I also wanted to be reassured by our operational teams about public safety. The way the testgates work is that they involve detailed interviews with staff and management on the ground, carried out under independent scrutiny by Ernst & Young, to ensure that there are not significant issues or, if there are significant issues, how we address them. That work has been done. As I indicated, within testgate 4 only one issue of public safety was highlighted, and that is referred to in the document there.

Q5 Chair: Is that the one you want Mr Spurr to comment on?

Chris Grayling: That is the one which I will ask Mr Spurr to comment on in a moment. Testgate 5 has not highlighted any such issues. The other point is that I have sat on more than one occasion with the chief inspector, and said to him, "If you identify any issues of public safety as a result of what we are doing, please come to me immediately. My door is open." He has not done so. What to me is an issue of public safety is that at the moment we still have 50,000 people walking the streets after serving a short prison sentence who have a very large propensity to reoffend, and who from early next year will start to be brought into the system. That group of people over the past 12 months have committed 11,000 violent crimes. The core purpose of these reforms is to extend support to that group. That is why this is so important.

I will not sit down until tomorrow and take a final decision, based on documents that have just come to me as well, on whether I am comfortable that we can move forward, but I will say today that I am satisfied that good progress has been made over the last two months. The Committee will be able to see that the difference between the problems identified in testgate 4, and the references we made in that documentation to the progress that has been made since then to address those issues, and testgate 5, which has also been carried out under independent scrutiny, suggests to me that we are firmly on track with the progress

we intended to make across this eight-month period of bedding in a new system and a new way of working.

The last point I would make is something which has been highlighted to me both internally and externally by the chief inspector. A number of operational issues have emerged in the last few months which did not arise from the changes on 1 June. They are things that have been out of sight in 35 probation trusts up to now. Many of the issues that have been raised by our testgates over the last few months are things that have always been there and have always been problems, and which we are now seeking to tackle to improve the quality of the systems.

Q6 Mr Llwyd: Before Mr Spurr comes in, may I make the point that you have had this testgate 5 report since 27 November. Why did we have it last night? We could have had a good look at it last week, couldn't we? Before Mr Spurr comes in, may I ask you one other question? Have there been any changes to sentencing behaviour since 1 June 2014—for example, in relation to the number of requirements attached to community orders for the use of short custodial sentences?

Chris Grayling: I am not aware of changes to sentencing behaviour. Michael may want to say something about the interaction we have had with the judiciary.

Michael Spurr: We have taken feedback from the courts, and there is no evidence I am aware of that there has been a change in sentencing practice. The general feedback is that the arrangements we put in place have been working. It is a major change programme, so inevitably people are having to cope with operating differently, and that is inevitably a pressure for staff. Probation staff have done remarkably well in responding to the changes we have required them to undertake.

In terms of the specific—it relates to your question, Mr Llwyd, around information you quoted to the Secretary of State—one of the requirements of the new system is that, eventually, when we move to community rehabilitation companies being run by different providers, they should have access to the information they need for their cases, and any other access that is necessary to be able to manage public protection risks and so on, but they should not have access to every other provider's cases in a wide range. That is not acceptable in data protection terms. In introducing the new changes, we have been separating access, and that is the point that people make: did that individual CRC member have access to national probation officer cases? The question really is, did they need access to those cases and, if they did, there is absolutely a means of gaining that access, but it is not automatic and will not be automatic in the future for an employee of a provider to have access to the full database of all National Probation Service cases. It is important to put this in context.

If you take Wales, for example, before it became one trust, it would have had different IT systems for the four trusts that were in Wales previously, and they would not have had access to each other's cases. We have introduced one national database for the whole system, called nDelius, so now there is access to the whole system; it is available. What we are doing is making sure that people who need that access can have it, but we do not give it to anybody who does not need it. When we introduced the system, it is perfectly

right to say that there was some concern from probation staff that, where they had had full access before to all cases, as in Wales, suddenly they did not have that. We left it with probation trusts to work out who needed access, and who needed full access, and allowed that to be given from the outset. Not every trust got that right for every individual and we had to correct that.

The case that the Secretary of State referred to was an incident when an offender came to an appointment and that had not been known to the probation officers. That was an issue about ensuring that receptionists, for example, had access to information about offenders. We have taken action to correct all of that. Now everybody in the system will have access to the front page of what is called nDelius, the national case management system, so anybody in a CRC, the National Probation Service or a receptionist can have access to the offender details of anybody who is on the system—front page access. Access to the details of a case and the assessments that have been done will be based on whether that is required. It can be general access. If you are in a community rehabilitation company but you are working on integrated offender management with NPS colleagues, you can have full access to the whole data, but you would not have it if you were in a community rehabilitation company working on unpaid work when you only needed access to the unpaid work cases. That is the issue I think the colleague in Wales was raising. I recognise that it caused some frustrations initially, and we have been addressing those, because it is important.

Q7 Mr Llwyd: Secretary of State, you were saying that Mr Spurr would deal with the remaining risk factor within testgate 5.

Chris Grayling: No, I said that on that individual thing we only found one example. Of the work done on testgate 4 on the ground, we only had one reference back of an expression of concern about public safety, which is referred to in the documents, and it was that: had the receptionist got access to the data? One of the reasons there are limitations on access to the data—I will give you an example: a sex offender—is that the records may well identify who the victim was. Therefore, you would not want everyone across the entire system to have the ability to access that information. What we have done, going back to what I said about the bedding-in period, is ensure that everybody has access to the front page. There was not a national system before; there were 1,600 different IT systems across 35 probation trusts. We now have a system that I think will work well. It will need to be refined as time goes by to improve its functionality and the speed of usage for staff, but they all now have access to the same information, although down to a certain level. Below that level you start to get into sensitive information about cases, which should rightly be limited in access terms to the people who need it.

Q8 Mr Llwyd: You will probably be aware that last year there was an article in *The Guardian* which said that staff would face disciplinary action if they spoke out about the reforms—in effect, whistleblowing. What are you doing to foster an ethos of honesty and transparency in relation to the experience of probation staff and their important perceptions of the safety of probation services following the split, and what feedback have you had from staff on the front line about this issue?

Chris Grayling: The answer is that we have all had extensive discussions with staff on the front line, on the operational side, and on the political side. We have, through the testgates, done extensive interviews with members of staff, and we have regular interaction with the unions, who have free access to place concerns with the operational team.

Q9 Mr Llwyd: Although you declined to appear at the NAPO conference, yourself or your friend, Mr Selous. You both withdrew from that conference. You did not appear at all, because you thought trade unions were childish.

Chris Grayling: I don't think that has anything to do with it. There are regular interactions—

Mr Llwyd: Regular interface with the unions, you said.

Chris Grayling: The unions take part in fortnightly meetings on this project. Michael, do you want to say a bit about that?

Michael Spurr: There is a consultative committee chaired by Colin Allars, who is the director of probation, which brings unions together to talk through issues. Yes, we wanted to engage unions in the processes. It is obviously important to engage unions through that process. I have met with the unions myself on a number of occasions, but it has largely been led by Colin in chairing those meetings routinely.

Q10 Chair: I want to turn briefly to the bidding process. Is it true that bidders were asked to resubmit bids for multiple contract areas rather than single areas and, if so, why?

Chris Grayling: No, it is not true that they were simply asked to resubmit for broader areas. We went through a period of clarification in the summer in which we asked them to clarify a number of points in the bids they had made. They had an opportunity in doing that to revisit some of the assumptions in their bids, but no, there was no moment when we went back and said, "Please can you bid for some more areas?"—none at all.

Q11 Chair: You were keen that voluntary sector providers and mutuals could bid in their own right, but I think it is only in the case of Durham that a mutual bidding in its own right was successful. Were you disappointed that you were not able to award more of the contracts to bidders in their own right from the mutual or voluntary sector?

Chris Grayling: If you look across the range of bidders, I am really pleased with the mix we have. One of the things I set out at the start was that I did not want a whole range of private contractors with simply a voluntary sector subcontractor chain. I wanted the voluntary sector at the top table; I wanted staff groups at the top table, and now in 20 of the 21 contract package areas we have partnerships between the voluntary sector and the private sector, or partnerships between the private sector and mutual groups.¹ The only

¹ At the time of the hearing, in 19 of the 21 contract package areas it was confirmed that a mutual or VCSE was involved in the Tier 1 bid or as a strategic partner. In one of the remaining areas, negotiations with a VCSE provider on Tier 1 involvement were underway (the VCSE organisation had already been confirmed as an

exception to that is Seetec in the south-east. Seetec is a well-known British SME that has a long track record in social programmes with Government, and which won that contract on merit. I am very pleased. In 20 of the 21 areas we have some of the best names in the voluntary sector. If I might take the liberty of picking one example, I am really excited by the partnership between Ingeus and the St Giles Trust. Ingeus have been one of the most successful participants in the Work programme. St Giles Trust are one of the most highly regarded rehabilitation charities. I think they will do a great job together.

Q12 Chair: All the criminal justice experience is with the St Giles Trust, not with Ingeus, isn't it? It is the St Giles Trust on whom that consortium is going to depend.

Chris Grayling: Ingeus have extensive experience of working with people with long-term challenges, the long-term unemployed. If you look at the challenges, what do we want to achieve with offenders? We want to deal with long-term unemployment. We need to get them into work, because that is one of the best ways of dealing with reoffending. We need to tackle addiction problems, which is one of the reasons I am delighted to see Addaction at the top table in the Purple Futures consortium; they have real expertise in that area. It is about bringing together the skills that are there. I have always said that this is about bringing together the best of the public, private and voluntary sectors, and I think we have some really good partnerships. It is an exciting opportunity now to tackle the under-12-month group, who get nothing at the moment and have the greatest propensity to reoffend.

Q13 Chair: There are some areas, including my own, where the prison provider and the probation services provider are one and the same. There are potential benefits to be had from that, but do you recognise that there are also potential conflicts of interest?

Chris Grayling: I do not really see why there would be a conflict of interest. It is a question I have seen raised before.

Chair: The company might get more benefit from somebody being in prison than being in the community.

Chris Grayling: I am not so sure. You have been discussing this morning the challenges of a prison population that is higher than it was projected to be, because of the rise in the number of sex offenders. I do not see that anyone in a provider like Sodexo is going to say, "If we can get them to reoffend, they are going to be coming back into our prisons." I tend to look at the opposite view. You will know from your visits to HMP Northumberland that the model in development there, and one of the reasons why we went ahead with the privatisation of that prison, is a very exciting plan to bring work to the prison, to integrate the Sodexo supply chain into the prison workshops. I think it will provide a real opportunity for a through-the-gate service; if Sodexo and NACRO together are providing the rehabilitation support post-prison and the through-the-gate resettlement planning, it is going to be very interesting to see how that joined-up approach works by comparison with the rest of the country. Personally, I think it has great potential.

integral part of the supply chain in that area).

Q14 Nick de Bois: If in the event of a relationship breakdown between partners that may cause some difficulty, will the MOJ have—I hesitate to use the phrase—a reconciliation process? Will they stand away from that, or is there a mechanism for them to engage with the partners to see if there is any potential for conflict resolution, should it arise?

Chris Grayling: There clearly needs to be. We have contracted with the totality. The benefit of not having a prime sub-model—indeed, in these contracts there will be subcontractors who do specialist work—is that, if there is going to be material change in the subcontractor chain, it has to be brought to us for discussion and approval, and we have the right to say, “No, that is not acceptable.” By having these core partnerships at the top table it is not something where one partner can simply walk away, leaving the other in place without any involvement from us at all. Michael might want to say a bit about this because it will fall to his area to address.

Michael Spurr: Absolutely, for the reasons you gave. We have transparency of supply chains and a requirement for any change in supplier chain to be discussed with us, which is actually about protecting the third and second-tier providers as well as those at the top. We have had experience of partnerships coming together to deliver contracts for us then falling out, and we have engaged with what that means for our contract. We have to manage that.

Nick de Bois: You have a right to do that. They cannot shut you out. That is the point I was getting at.

Michael Spurr: Exactly.

Q15 Mr Chope: May I ask you, Lord Chancellor, about value for money? Dame Ursula Brennan told us on 28 October that, if the Transforming Rehabilitation programme delivers a significant reduction in reoffending, it will provide savings which will far outweigh the costs of any payment by results expense. How are these savings going to be calculated?

Chris Grayling: In the case of Welfare to Work and the Work programme there is a very obvious cashable saving, that somebody moving into work saves the benefit payments, and you can make a correlation between the two—what is called the DEL/AME switch. You cannot do that with this programme; so our approach all the way along has been that we have a budget to spend. What we are saying is that we are not going to spend any more than that, but part of it is going to be incentive based. You are only going to get the full payment if you deliver the results in terms of reducing reoffending. In terms of value for money, we are getting more for the same amount of money, rather than committing to deliver a substantial additional cost to Government if the providers are very successful in trying to net the two across.

The value for money on this comes, to be frank, from any improvement in reoffending, because any improvement in reoffending beyond what we would otherwise have been able to expect from the existing system will reduce pressures on the justice system, on the prison system, and on the benefit system, and it is my desire and hope that we will see the

prison population fall over the course of the next few years. In time, that will allow us to reduce capacity in the prison estate, but we have consciously not tried to cost that into the system, because otherwise you are saying, “We will close a prison by 2017 in order to deliver the savings from this.” Then something untoward happens, such as Jimmy Savile, and you get a rise in the number of sex offenders. What you are doing in that case is having a system that can absorb a growing pressure rather than needing extra money, so we have not tried to cost specifically the savings we will get, but the value for money equations that have been done exhaustively by the analysts in our Department and by the Treasury show that, in terms of value for money for the Department and for society as a whole, any improvement in reoffending is beneficial. The projected benefits of reductions in reoffending in the scenarios in the business case show a very substantial value for money element. What this does not have in terms of the business case are any value for money issues. It is a very strong case.

Q16 Mr Chope: You spent some £15 million on consultants. Did the consultants advise on any of those issues relating to value for money?

Chris Grayling: It depends on your definition of what a consultant is. I think it is important to say that we have had involvement from management consultants offering advice. I mentioned that Ernst & Young have been doing the independent assessments of the testgates for us. But that umbrella can very often include temporary IT staff whom we bring in for a project rather than having a fatter Department waiting for a project to come along, so numbers to do with external support include temporary staff and temporary skills, such as IT skills which we need, as well as the professional advice that you get for the analysis of the testgates.

Q17 Mr Chope: Would you put more of this information, which we collectively as taxpayers have paid for, into the public domain?

Chris Grayling: Yes. The main restrictions over recent months have been that we are in a commercially confidential bidding process and I have to maintain the integrity of that process. I have to be mindful of what can or cannot be released. We are also now being judicially reviewed by the trade union, which adds additional complexities. I accept your comments about timeliness, Sir Alan, but I hope you will accept that I have tried to give you the most up-to-date documentation, the documentation upon which I will take the decision tomorrow about whether we can move to the next stage. The key issues for me have been that testgate 4, as I would have expected, identified a number of issues in the system, not all of which are down to the changes on 1 June, and I want to be reassured that those have been addressed. I have commissioned, and just received, the analysis of what has been done to address those issues. That is the document before you now, and I think that is the sensible way to approach this.

Mr Chope: Last year you were predicting that there would be a six-year fall in the number of prisoners. This year—in fact in the last few days—you said that in the next six years there is a predicted increase in the number of people in our prisons. Part of

that category of people in our prisons are foreign offenders.

Chris Grayling: Yes.

Q18 Mr Chope: Obviously, if they can be resettled in their home countries and rehabilitated there, they will not be reoffending in the United Kingdom. What progress are you making in ensuring that an increased number of foreign prisoners go back to the countries from which they originate?

Chris Grayling: We are making some progress but not nearly as much as I would wish. I have to say that it is a real challenge for us, not least because the countries we try to send them back to do not want them, for obvious reasons. If you are a country in another part of the world and there are 100 of your nationals in UK prisons, you do not want to find 100 prison places for them at your expense, but we are moving forward. We have negotiated more prisoner transfer agreements. We have just opted back into the European prisoner transfer agreement, and I think we will see particular progress after 2016 when Poland becomes part of that agreement. They have currently the largest population of foreign national offenders in UK prisons. I would love to say it was easy. We have a compulsory prisoner transfer agreement with Albania, for example, but you still have to go through a convoluted process with the Albanian courts to move prisoners back there. I would be lying if I said to the Committee that this is somewhere that we are going to make easy progress.

Q19 Mr Chope: How are we going to rehabilitate those foreign prisoners in our own country?

Chris Grayling: Those that remain here have the right to remain here, and some will be deported at the end of their sentences. Indeed, one of the measures I have taken over the last few months is to end the situation where people who are subject to deportation are released on temporary licence or put into open conditions, because it clearly is an invitation to many of them to disappear if they know they are going to be deported at the end of their sentences. I have looked at ways of ensuring that we have a process in place to move people out, but if they have a right to stay in the UK they will be included in the system of through-the-gate resettlement and rehabilitation support when they leave, along with British prisoners.

Q20 Jeremy Corbyn: You said you were making the decision tomorrow. Are you going to do that irrespective of the judicial review, and when will you be making a statement to the House?

Chris Grayling: The judicial review is next week. We will provide full details of that decision and the decision-making process to the court, and we will obviously inform the House.

Q21 Jeremy Corbyn: Should you not await the judicial review first?

Chris Grayling: No, because we will not by that point have completed the contracting process. We will simply be making a decision to move to the next stage.

Chair: But the judicial review might, if it has a particular outcome, order you to go back to the process.

Chris Grayling: At the moment we are in the slightly strange position of being judicially reviewed over a decision that we have not taken. I think it is probably sensible, if the court is going to consider these matters, that it is a judicial review on a decision we have taken, and I think the court has indicated that it would be helpful if that were the case.

Jeremy Corbyn: But it is a judicial review of the process leading up to the decision making. There is nothing wrong in that at all.

Chris Grayling: No. The judicial review is about the decision.

Jeremy Corbyn: The decision is a lot of things, isn't it?

Q22 Chair: May I probe a different point? If because of all these pressures on the prison system you are unable to locate prisoners in the appropriate place for their return home or the appropriate place for their rehabilitation, what does that do to your financial relationship with the CRCs? Can they turn to you and say, "You have not put this prisoner where they need to be for us to deliver our service; therefore you should have the financial penalty—not us"?

Chris Grayling: I will ask Michael to say a little bit about this. It is worth saying, and you probably picked it up earlier, that we currently have around 2,000 spare places in the prison system—

Chair: But they are not necessarily where you want them.

Chris Grayling: But also, over the next four months, we have four houseblocks due to open, we have the re-roling of Warren Hill, Downview and the rest—

Chair: Yes, we had this in the previous session.

Chris Grayling: So you have a concept that there is actually, right now, slack in the system, which enables us to make the transition, but Michael might want to say a bit more about how we do that.

Michael Spurr: It is important to say that I am confident we can have the majority of prisoners, even under pressure, in the right prisons, primarily because short-term prisoners will be held in local prisons and will not be moved out. The majority will stay there, because they serve literally a matter of weeks. We also have clear contractual arrangements in place to address issues, should we not be able to manage as many people back to their localities as we would want. Specifically, the community rehabilitation company is required to provide a basic resettlement service to every prisoner who happens to be in the prison. There is a basic service. Even if it is not going to go out to your CRC, when the individual is discharged you have a requirement to provide a basic resettlement service. We also have what is called a rate charge, which means that the home CRC can

request additional work to be done with a prisoner who is not in the prison they are looking after but is coming back to them—for example, additional work on drugs, which will be delivered by the in-house prison CRC for a rate of payment. Those arrangements are specifically to ensure that, even if a prisoner is in the wrong prison, it will not mean that they do not get a service to support them going back into the community.

Q23 Chair: Can that be made to work? Are there enough staff in place for that purchased facility to be there?

Michael Spurr: That will be for the CRCs to work through. They will have their own staffing models to respond to that, and I have no doubt they will respond, because there is a mutual interest in making sure that that works between the CRCs. There is benefit for them because it is likely in some parts of the country that CRCs will deal in some cases with people from different parts of the world. That is particularly true, for example, in the women's estate just because of the number of women's prisons, so we will be expecting and requiring mutual support to be able to deliver that, and there is gain for the company. I do not expect any resistance in their doing that, because there is a gain for them in operating in that way.

Q24 Chair: May I turn briefly to the position which has arisen in respect of the chief inspector of probation, who has—

Chris Grayling: Sir Alan, before you move on, there are a couple of other points that I thought would be raised and which I would like to set out for the Committee very quickly. There has been a degree of questioning, raised, as you will see, in the documentation, about work load, and I want to make a couple of very quick points, if I may. First of all, for the Committee's information, there are currently 500 more qualified probation officers in post today than were in post on 1 June. It is important that you understand that in the context of the discussions about the changes.

The second point is to put on record the fact that there have been work load pressures in the courts, in particular where we have tightened up the process. We are now looking to complete reports on offenders in court within a very short period after the case, in a way that has not been done previously. That has certainly ramped up the pressures on staff in the courts, and it is one of the places where people have been saying, "We have tough challenges." Michael and the team have been working hard to make sure that we shift resource around to cover that.

Chair: That is a National Probation Service responsibility.

Chris Grayling: That is a National Probation Service responsibility. I just wanted to make that clear. That is something Michael and the team are very much aware of and I am very much aware of, but it is the case that, today, there are 500 more probation officers than there were back at the start of the reforms in June.

Chair: As I thought, you have generated a supplementary question. Mr McDonnell.

Q25 John McDonnell: As you have raised the issue of work load, you, like us, will have received a letter, heavily redacted, from NAPO, only in the last 24 hours, which has received publicity today and which links the deaths of two people to the heavy work loads on probation officer staff. Because that letter has come in so late, I understand that you will not be able to give us a detailed response today, but may I ask if you will be undertaking an independent investigation of these two particular cases, and when you will be reporting back on them?

Chris Grayling: First of all, there are always serious further offence reviews, but it is really important to be very clear about this. There will always be serious further offences, however we put together the system. It is to be regretted. Every serious further offence is one too many, and it is something we and the staff will always work to try to prevent, and I hope as time goes by that we will see fewer serious further offences. However, it is really important to be clear that the number of serious further offences since the reforms began in June is lower than it was—down from 181 to 151.

Q26 John McDonnell: With the greatest respect, Secretary of State, these are two specific cases we are asking you about. Because they have been specifically related to the increase in work load as a result of the changes, I am simply asking how you will investigate them. Will it be an independent investigation, what will be the time scale and when will it be reported on?

Chris Grayling: They will already be subject to serious case reviews, but I have to say that the trade union has, on occasions, put forward information in a way that has not given either the full context or sometimes even the accuracy of the situation.

John McDonnell: You cannot assess that in these cases. You have simply been—

Q27 Chair: Can we give you the opportunity to clarify that by writing to us after the session?

Chris Grayling: Yes.

Michael Spurr: Yes, there are serious further case reviews being undertaken.

Q28 John McDonnell: On these two cases?

Michael Spurr: Yes, because the two cases cited are cases of murder—alleged cases of murder, because they have not been through the criminal justice system—and we will always do a serious further case review. Those reviews are disclosed and published. We go through a proper process. We have to wait for the outcome of any criminal process, and then we work with victims and disclose the reports to victims. Therefore, we go through a process. We can write you a note about that.²

Chris Grayling: However, I would say that I am not aware—and at least one of these incidents was two months ago—that the union has raised these concerns with us before today.

John McDonnell: We will await your written response.

Q29 Mr Llwyd: May I ask about the 500 new probation officers? Are they fully-fledged probation officers or are they at the lower grade?

Michael Spurr: I think the figure the Secretary of State was quoting was the one that we published in the statistical release, which shows that there have been 500 additional probation operational staff since January.

Q30 Mr Llwyd: Yes, but they are not probation officers, are they? That is the point.

Chris Grayling: They are all qualified.

Michael Spurr: They are professional staff, including probation service officers. Since those figures were released, which is what I think you were referring to, we have recruited 274 additional probation trainees, in addition to the figures that were released in our statistical return. That is an additional 274 probation trainees who will work as probation service officers and gain training to become full probation officers, and we are looking to appoint a further 200 in January and another 200-plus in March.

Chris Grayling: As I was saying, probation service officers and probation officers both do the same qualification. They all have that same qualification.

Michael Spurr: They start by going through an NVQ process, and then probation officers progress to graduate level.³

Q31 Mr Llwyd: But they would not be capable, for example, of doing a detailed risk assessment early on, would they?

Michael Spurr: Probation service officers have often done assessments. Indeed, in many trusts they were the people, prior to the changes, who did the assessments at court. There were different arrangements for the grades of staff that operated, depending on which trust you were in, but it is certainly the case that probation service officers did assessments, and did assessments at court.

² With reference to Questions 24, 29, 30, 31 and 32, see subsequent correspondence from the [Secretary of State](#) and [Mr Spurr](#).

³ The Probation Qualification Framework sets out the training that must be completed in order to become a qualified Probation Service Officer (PSO) – VQ Level 3 – or Probation Officer (PO) – a university degree plus VQ level 5. The new probation staff referred to comprise both PSOs and POs. PSOs are required to complete the Level 3 qualification within 12 months of appointment.

Q32 Mr Llwyd: We learn that further probation officers will be employed. In January 2013, my understanding was that the complement of staff was about 17,900. It is now down to 16,300, so we are playing this weird merry-go-round again with probation as we are with the prison officers.

Chris Grayling: We have taken 35 organisations, slimmed them down and put support services into a shared service centre. Of course there will have been a drop in staff, but the drop in staff has taken place. As we have just said, we have 500 more operational probation officers than we did at the start of the reforms. We certainly have fewer people doing HR, and fewer people doing back-office support, because we have brought them all into service centres.

Michael Spurr: Probation staff numbers have reduced over the spending review period. That is clear; it is out there in fact. The case load for probation through that period has also decreased by 20,000-plus cases, so that is quite important in context terms. In creating the new arrangements, we have taken work force planning from 35 different trusts. The reason I made the decision to go out and recruit 1,000 new trainee probation officers is that my own view is that trusts have been too cautious in what they are planning in terms of training for probation officers, because it can take up to two years to get the training completed. They were making their own judgments at an individual level. I have made a judgment for the system as a whole and gone out and said that we are going to recruit those people. That, I think, is a positive, but the reduction does reflect a period of time when the case load in probation has been reducing.

Q33 Chair: I want now to return to the case of the chief inspector of probation. You were not under an obligation at the time, although you would be if it happened now, to notify us of declarations of interest made by somebody we then interviewed in an appointment hearing. Would it not have been better if you had done so?

Chris Grayling: I followed the advice given to me as per the Cabinet Office guidelines. I think the real material change has taken place literally in the last few days, when it was announced that the chief inspector's wife had been promoted to run the Sodexo justice services division. That clearly raises questions. The Committee will understand that they are questions I have to deal with quite carefully and sensitively. I understand the issues; the chief inspector understands the issues. We have to work this through carefully. I will obviously keep the Committee informed, but I assure the Committee that I well understand the concerns that have been raised.

I have to say that I have the highest regard for the chief inspector; I think he is a man of great integrity. I think he has done the job very well so far. It is a shame that this issue has arisen, but it has arisen and it will have to be addressed. It will be addressed and I will keep the Committee informed as it is addressed, but you will understand that there are also some legal and HR complexities to discuss as to how we address it with him and with Sodexo, and what we do next.

Q34 Chair: The view expressed about Mr McDowell is, of course, the view the Committee took when it fully endorsed his appointment. Quite what view it would have taken of the interest issues had it been informed of them at the time, and which were different from the ones that have arisen now, it is impossible to say, but, as to his suitability for the job and his integrity, the Committee was in no doubt whatsoever. What is the date by which this matter must be resolved?

Chris Grayling: From my point of view it needs to be resolved before the time of the share sale. Assuming I take the decision tomorrow to move ahead with the share sale, we will set a date for that. At the moment, he is inspecting a public service that is run by Michael on my right, and his job, and the job of his team—bear in mind it is a team; it is not just him—is to hold the feet to the fire of the team who are working there at the moment. Clearly, if we go ahead with the share sale as planned, on the date that happens there will clearly be a conflict, and I think it has to be resolved by then. I think everyone involved will want to get it resolved quite quickly, and we will work to do so. I will ensure that the Committee is kept fully informed.

Q35 Jeremy Corbyn: When did you become aware that the chief inspector's wife was involved in the Sodexo contract?

Chris Grayling: I cannot remember exactly. I discovered the promotion 10 days, a fortnight, ago.

Jeremy Corbyn: Do you not think some action should have been taken immediately, because there is clearly an enormous conflict of interest? You are getting advice from the chief inspector, whose wife has a pecuniary interest in the whole service.

Chair: I do not think it is reasonable to ask the Secretary of State to speculate further, as long as he has recognised—

Jeremy Corbyn: I asked him when he knew and what action he took.

Chair: Yes, indeed, and then—

Chris Grayling: The issue could only arise at the point we announced preferred bidders, because, up until a day or two before we announced preferred bidders, I kept out of the process of deciding who the preferred bidders should be, as I did three years ago with the Work programme. I think it is right and proper that politicians do so. I did not know who had won, I think, until 24 or 48 hours before we announced who the preferred bidders were. Shortly after that, the issue was discussed, because Sodexo had won. Until the point they were a preferred bidder, the issue was not on the table.

Q36 Andy McDonald: Secretary of State, is that good enough? This person was on the scene. It was not a matter of a promotion 10 days ago.

Chris Grayling: She was promoted 10 days ago from a more junior position.⁴

Q37 Andy McDonald: Shouldn't that have been known? Did you know that she was in that position before 10 days ago?

Chris Grayling: Yes, I knew before 10 days ago that she was in that position. We were having a discussion with the Committee before 10 days ago, but what has changed in the last few days is that she has been promoted to being in charge of the overall business.

Andy McDonald: Oh, come on.

Q38 Chair: There is another related issue, which is the report that you have asked HM inspector to produce on the model.

Chris Grayling: Yes.

Chair: Does that not produce a conflict of interest of its own?

Chris Grayling: I regard the chief inspector as a man of integrity, who will do the right job, and will hold the Department's feet to the fire. He will publish a report that tells us things we need to do. He will publish a report telling us things we do not do. I would not for a moment doubt his integrity. I think we have to be very careful here. There are many people in and around public life who are married to each other. What we cannot do is assume automatically that, because somebody is married to somebody else in a related area, their own integrity and their ability to do the job is somehow in question—

John McDonnell: It is about being transparent, and you failed to inform the Committee—

Chair: Order. One person at a time. I think we have dealt with the fact that we would wish to have been informed about the earlier and different, more limited, conflict of interest, but a much more significant one has now arisen and that is what we are talking about.

Q39 Mr Llwyd: May I say, and I think I speak for the whole Committee, that nobody is doubting the integrity of the gentleman, nor, indeed, his wife, but in order to gain public support these kinds of things must be done very carefully, openly and completely transparently; otherwise there will be question marks out there and there will be regrettable consequences? That is the point.

Chris Grayling: And I accept that. The point I am bringing up now is that we have to work through what the solution is to this. You will appreciate that I have some legal and HR issues to deal with, whether it is on the chief inspector's side or on the Sodexo side. My assurance to the Committee is that I will inform you of where I get to immediately I do so, but you will also understand that I have to deal with these things in an appropriate way.

⁴ The Secretary of State was informed that Mrs McDowell was due to be promoted. The date of the promotion is a matter for Sodexo Justice Services.

Q40 John McDonnell: You told the Procedure Committee, which I thought was commendable, that you wished to ensure that parliamentary answers were given with sufficient context to enable the public to understand the full picture. When it comes down to the use of national data, for example, on suicides, suicides in prison have gone up 69% within a limited period of time, yet when you were before us last time you said, “We are living in a society where the suicide rate is rising; indeed, in the community the suicide rate is rising, so it is a broader social challenge.” In fact, the suicide rate in the broader community has been falling. Does that not act contrary to your assurance to the Procedure Committee that your parliamentary answers would be given in sufficient context? The same was said about staff-prisoner assaults, where again you were fairly selective in the context in which you placed them. How do you account for the way in which you are responding to the questions, because you seem to downplay the public statistics that might be indicative of a serious problem within the system? A 69% increase in suicides is not just a serious problem; it is a crisis.

Chris Grayling: My understanding—and if you know better, Mr McDonnell, please correct me—is that the suicide rate among the group we are talking about, young men, is rising and has risen—

Q41 John McDonnell: With the greatest respect, you are at it again, Secretary of State. You said, “We are living in a society where the suicide rate is rising; indeed, in the community the suicide rate is rising.” That is the context in which you responded. You did not talk about a specific category. You tried to portray it as a general increase in suicide rates within society. That is not the case, is it?

Chris Grayling: My understanding is that, among the people we are talking about, the suicide rate in the community—by “in the community” I was also talking about the community within the justice system—has risen. But let us be clear on the suicide rate. Any suicide in prison is unwelcome and unwanted. We experienced, over a period of about three quarters, a blip upwards in the number of suicides. I am delighted—up to a point, because any suicide is one too many—to see that the rate in the last period has returned to what appears to be the historic level for these things. I regard any historic level as too high, but I am glad to see it has come down. I am touching wood and keeping my fingers crossed that that continues. Michael and his team in NOMS have been working very hard to make sure that is the case.

Sometimes it is the case that you get upward ticks in the suicide rate for which there is no obvious explanation. We have looked very hard to see whether there is a common factor in the suicides we have seen in prisons. They have taken place in prisons where there have been staff reductions. They have taken place in prisons where there have been no staff reductions. They have taken place in prisons where we have seen excellent inspection reports. We have seen suicides in places where there have been poor inspection reports. Parc, for example, in south Wales, which is run by G4S and therefore has not been affected by the benchmarking changes we have pushed through, is regarded by the prison inspector as one of the best prisons in the estate. It had a rave review in September for its YOI wing. It has had three suicides. Every one of these is tragic; every one of these is to be regretted. I am pleased that the number has settled back down again. I hope upon hope

that it continues to be so, and we will work very hard to that effect. But it is still my understanding—you will correct me if I am wrong, Mr McDonnell, and if I am wrong I apologise—that the suicide rate among the group of people we are talking about in our criminal justice system, young men typically, is much higher than it was a generation or two ago.

Q42 John McDonnell: That is not how you contextualised it last time, because you put it in the context of wider society.

Let us go on to the prison population. You told the Committee when you appeared last time that you could not have anticipated that the prison population would increase, and thus retained sufficient prison staff to deal with them safely under normal regimes. Yet, when we look at it, the increase was within the range predicted by your own Department. You cut the staff, it causes a crisis of safety within the Prison Service itself, and you argue that you could not have predicted that. Your own Department predicted it, because it was within the range.

Chris Grayling: The biggest change that has taken place over the past year or two is to sex offenders. It looks very clearly to me and our analysts that it tracks very much from the heightened awareness over the last couple of years, which started with Jimmy Savile and continued with other things. There is a much larger flow of sex offenders coming through the courts now. If you talk to judges in the courts, if you talk to lawyers in the courts, they will all tell you that they are dealing with far more sex offenders than they used to. I have had judges say to me that it is non-stop. I think the increased number of sex offenders—

Chair: But the Department did not have that in mind when they predicted a range that included an increase.

John McDonnell: Exactly.

Chris Grayling: The Department predicts a wide range. It gives a mid-range assessment and there is nothing that I saw, or we saw, in the projections up to that point that suggested we were going to get the rapid increase that we had, and we moved quickly to address it.

Michael Spurr: I have spoken to the Committee previously on it. There are over 900 additional sex offenders in the system.⁵ As I mentioned earlier, when it went up last autumn from the then projections, it went above the high projection, so it was outside the range for a period. The projections were reworked, and that is quite important to understand. At the time it happened, in the autumn of last year, it went up sharply to a much greater degree than I think it is fair to say we could have anticipated.

John McDonnell: But it was within the range, so you made the wrong call. You went for the middle range on cost grounds, and you made the wrong call. As a result of that, you put staff and the prisoners themselves at risk.

⁵ There were 853 more people in the prison estate for sex offences between 30 September 2013 and 30 September 2014.

Michael Spurr: I do not accept that we put staff and prisoners at risk. We responded to a sharp rise in the prison population that could not reasonably have been anticipated at the time it happened.

John McDonnell: But you did. It was within your range.

Michael Spurr: It had run for three years at or below the medium projection. It was not unreasonable, and we had additional places coming on stream.

Chris Grayling: May I make one more point to Mr McDonnell on this? We produce a low projection as well as a high projection, so you could equally well argue that we should close a whole batch of prisons because we are going to have far fewer people in them.

John McDonnell: No. You could equally argue safety first. Safety first. Instead you did not. You made the wrong call. Prisoners are now committing suicide as a result of the breakdown in relationships with staff. You cut the staff, and as a result of that there is an increased number of assaults on staff. You made the wrong call.

Chris Grayling: We made a judgment based on the best advice available to us on what the prison population would be. We have published ranges from low to high. If you are saying we should have planned for the high, we could equally well plan for the low. The reality is that we took the best judgment that we could, based on the evidence available to us. We stand by that.

Chair: The question has been asked. The answer has been given.

Q43 John McDonnell: Do you plan to recruit a new chief inspector of prisons when Nick Hardwick's original tenure ends in July 2015 and, if so, what is your timetable to do so?

Chris Grayling: We will provide information to the Committee very shortly about that. We are going to be moving ahead soon with that process, and I should put on the record that people who say that Nick Hardwick has been excluded from the process are wrong. He is perfectly open to apply for it.

Q44 John Howell: May I turn to the civil legal aid reforms? It will probably come as a blessed relief after the discussions before. The National Audit Office criticised the MOJ over the sustainability of the civil legal aid reforms. I think it said that there had been a failure to achieve a "robust understanding" of the market. How are you ensuring that the MOJ is not going to make the same mistake again?

Chris Grayling: The NAO's position is a slightly strange one on this; they criticised the way we handled the reforms but accepted that we had saved about £300 million a year, and there had been corresponding costs elsewhere in the system of about £3 million a year. The report showed very clearly that we had met our financial objectives in taking what was a very difficult set of decisions. I accept that, inevitably, when you take a difficult set of decisions like that, there are some consequences within the system. We are working hard to make sure we address those within the tightened financial constraints we have. For example, we are in the process of stepping up the advice service we offer for individuals in

the civil justice system. We are also monitoring very carefully the issue of litigants in person. At the moment, we have not seen evidence of the kind of adverse effect on the system of litigants in person that is being suggested in some quarters, but we will maintain a proper view over that and do what we can to ease pressures if they arise.

Q45 Chair: May I encourage you to have a look at the evidence we were given yesterday from senior judges, which covered quite a lot of ground about litigants in person?

Chris Grayling: We will. Indeed, we have had those conversations with them, but we also look at the data on length of cases—

Chair: Indeed. It was all those issues and, as Mr McDonnell would say, the context of the figures that had been used. I merely draw it to your attention as extremely valuable evidence.

Chris Grayling: I should be clear, Sir Alan: I am well aware of and recognise the pressures on the system. A change of the scale that has taken place would be very unlikely to have no effect whatever, and it would be very unlikely that it did not cause challenges for us to meet, but it was taken for financial reasons and it has delivered the financial results. What we are trying to do is make sure we can refine and tweak the system as it is to try to ease the pressures that a big change like that creates.

Q46 John Howell: Let me pick up on that point. Would you like to say a bit about the research that you are doing on the impact on litigants in person, on the family courts?

Chris Grayling: Yes. This research has now been published. It was published a couple of weeks ago. Sir Alan, I know that you wrote and asked when it was going to be published. There was not a delay at ministerial level; of that I can assure you. I had no involvement at all in that research until literally a few days before it was published. There were various to-ings and fro-ings between the team doing it and the analytical team on matters related to methodology and the rest, but there was no political delay in the publication of that report.

Q47 John Howell: What about the MOJ anticipating a move to a public defender service? Is there any move towards that?

Chris Grayling: No. I hope we have resolved the issues of the Bar. I have no desire whatever to replace the independent Bar. I think there are genuine challenges for the independent Bar, most particularly the big growth in the number of advocates available to do work in the criminal courts. Sir Bill Jeffrey's report highlighted the scale of that increase, and I think it poses a real challenge for the sustainability of independent criminal advocacy in this country. That is something that we are now working through. I have teams of officials working with the Bar Council. We are also working with Sir Brian Leveson on the work that he is doing to look at process and how we create a more sustainable system. It is undoubtedly a challenge, but I have absolutely no desire to replace the criminal Bar. The public defender service performs a role in different parts of

the country, but I have no desire to replace the independent Bar with a public defender service in the way that the Crown Prosecution Service now operates.

Chair: Thank you very much, Secretary of State. Thank you very much, Mr Spurr.