



Justice Committee

Oral evidence: Young adult offenders, HC 397

Tuesday 12 January 2016

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Written evidence from witnesses:

- [Black Training Enterprise Group](#)
- [Maslaha](#)
- [Youth Justice Board](#)
- [Ministry of Justice](#)

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Members present: Robert Neill (Chair), Richard Arkless, Alex Chalk, Alberto Costa, Philip Davies, Mr David Hanson, John Howell, Dr Rupa Huq, Victoria Prentis, Marie Rimmer.

Questions 57–177

Witnesses: **Lord Harris of Haringey**, Chair of the Harris Review, and **Dr Deborah Browne**, Secretary of the Harris Review, gave evidence.

Chair: Lord Harris and Dr Browne, welcome. It is very nice to see you. Do colleagues have any interests to declare, in the way that there always are down here?

John Howell: Yes. I am Lord Harris's vice-chairman on the APPG on policing.

Q57 Chair: Lord Harris and I have probably debated things across chambers more often than we would like to remember. You are particularly welcome, Toby. A lot of us are very grateful for the work that you did on the report, which is immensely helpful. Did the Government take your report seriously enough, or not?

Lord Harris of Haringey: There were some very fine words in the Secretary of State's introduction to the response, which I welcome. I certainly welcome the ringing declaration by Michael Gove that, "When an individual enters the prison system they are placed in our care. Offenders are rightly sent to prison as a punishment, not for further punishment. The State has a duty to ensure that everyone deprived of their liberty as a punishment for crime, is kept in a secure environment and held in humane and decent conditions." There was also a clear promise that reducing the rates of violence, self-harm and death was seen as a ministerial priority. There was an explicit acknowledgment of the importance of highlighting the prevention agenda.

What was disappointing was the rejection of some of the central recommendations of the report, including the fundamental concept at the heart of the review: that there should be a suitably trained professional who had personal responsibility for the journey of each individual prisoner through the prison system—what we described as the custody and rehabilitation officer. That person would have a small enough caseload for him or her to know personally each of the prisoners for whom they were responsible. They would then have the job of ensuring that they had the necessary health and social welfare, security, training and rehabilitation issues met.

Frankly, while the Secretary of State has committed himself to a rehabilitation revolution, it is very difficult to see how that will succeed without individually owning the individual journey of the individual prisoner through that rehabilitation process. They missed the central point.

When you call them, the Government will say that they accepted the majority of our recommendations in their response and, yes, quite a number of them have the word “agreed” by them. But when you read the description of what “agreed” means, it sounds very much as though they have rather missed the point. For example, we made a recommendation about the increasing professionalisation of prison staff and that that should be reflected in remuneration. The response said, “That is agreed,” but it defines “agreed” by saying, “The Prison Service Pay Review Body...is required by its terms of reference to take into account the need to recruit, retain and motivate suitably...qualified” people. It does not say what “suitably” is and what level of professionalism can actually be increased.

We made some recommendations about the provision of a sufficient number of safer cells to meet the needs of those requiring additional protection. All that is said is, “Maintenance of safer cells to the agreed standard forms part of the prison maintenance programme.” That is not quite the same as saying that you should do an assessment of how many safer cells you need and then see whether it is happening.

The other great frustration is that there are a number of recommendations that they say have been agreed and are already adopted. The purpose of the recommendations was that we did not think that existing policies were working. NOMS, which I assume drafted those sections of the response, is saying, “We have a Prison Service instruction; therefore, it must be all right.” Our finding was that often Prison Service instructions are not properly resourced, and there is certainly no mechanism for ensuring that they are being delivered. It misses the point.

Q58 Chair: As a former Prime Minister said, “Just because you pull the lever, it doesn’t mean it happens.”

Lord Harris of Haringey: Exactly.

Q59 Chair: That is very helpful, Toby. Frankly, it is not very satisfactory, from your point of view.

Lord Harris of Haringey: It is obviously for the Committee to decide whether or not it is satisfactory. I am certainly frustrated that after a very exhaustive process in which we took evidence from a very wide range of organisations, examined in detail 87 tragic cases of

young people who had killed themselves in custody, carried out research and ended up producing probably one of the largest, most thorough independent reviews of penal policy for probably a generation, so much of it seems to have been sidelined.

Q60 Chair: What is your take on the ability and competence of NOMS, particularly around young offenders?

Lord Harris of Haringey: There are some very good people in NOMS who are clearly determined to do the best for people who are passing through the prison system. However, we found their management of what happens in individual establishments almost dysfunctional. There is the sense that, “We have put in the Prison Service instructions; therefore, this will happen,” without having in place a mechanism for determining whether or not it is taking place, or even whether it would be possible. There is an issue about leadership from NOMS, in terms of leading the whole system and where it is trying to go, and there is an issue about their management structures, in terms of whether or not they have the capacity to deliver the things they say they are delivering. To be honest, I do not know how the senior management of NOMS can assure themselves—or, indeed, Ministers—that what they say should be happening is in fact happening.

Q61 Chair: The logic is that the senior management of NOMS is out of touch.

Lord Harris of Haringey: At a number of our hearings, we raised issues and the immediate response was, “Well, that shouldn’t be happening. Where exactly did you see that? Let’s investigate it and deal with it,” rather than recognising that what we were describing was something that was systemic. For example, we described the problem we had been told about by medical staff, including a member of our panel, of prisoners not receiving the medical advice and support that they needed because there were not enough prison staff to accompany them, to escort them to the medical staff. That should not be happening. NOMS centrally says that it should not be happening, yet the fact that we came across it so often suggests that NOMS does not have a grasp of what is going on there.

Q62 Chair: Yes. It is talking the talk and not actually delivering.

Lord Harris of Haringey: Indeed.

Q63 Chair: I understand that. INQUEST, in particular, has a lot to say as an organisation about the lack of scrutiny and accountability at parliamentary level and at other levels around that. I wonder what your take is on the non-implementation of recommendations—not just yours, but others that have come up in the past as well.

Lord Harris of Haringey: One of the most striking things is that each death that occurs in prison custody is a failure by the state to protect the young people concerned. It is a breach of article 2 of the European convention. Irrespective of your views on the European convention, what is significant is that that failure is made all the greater because the same criticisms have occurred time and again. Lessons have not been learned, and not enough has been done to bring about substantive change. That is the real problem. These things have been said time and again. Indeed, when I was asked to start the review process, my initial reaction was, “What is there to say? It has all been said before.” In fact, we found quite a lot of extra things to say during the exercise, but many of the core issues and problems have been identified over the last 10, 15 or 20 years.

Q64 Alex Chalk: Can I turn to the issue of the varying maturity of young adults? In their response to your review, the Government stated that they considered that they ensured that their services took into account the special needs of prisoners with varying levels of maturity. How do you respond to that?

Lord Harris of Haringey: The section on maturity in the response is quite positive. The overwhelming evidence that we received from other organisations was that you have to recognise that the human brain continues to develop—in different ways, for different individuals—right into people’s mid-20s. Many of the staff we spoke to in establishments talked about the problems of rashness and impulsivity among some prisoners and about some prisoners not understanding that if they behave in this way there will be consequences, and what that means, right the way down to young adults not quite grasping that, if you have a phone card with only so much credit on it and you speak to your mum for too long on a Sunday, you won’t be able to speak to her again for another week, or whatever the period is. There is that recognition.

We were aware that NOMS were developing a tool to assess the maturity of individuals. NOMS did not tell us about it officially, so we were peering at it slightly at arm’s length. For example, it was not included in their formal submission to us. The work was then at an early stage. I am encouraged that the response says that they now feel that that work has developed to a state where they will be able to publish something in two or three months’ time, with a view to implementing something in the autumn, but obviously we have not seen that. I was disappointed that there was not preparedness to write into statute a legal recognition of maturity. We were promised that there would be some guidance on the writing of pre-sentence reports that would focus on the issue of maturity, and that is positive, but set against that was the Government’s rejection of our proposal that a full pre-sentence report should always be carried out if a young person is likely to be given a custodial sentence.

Q65 Chair: What was your take on the rationale behind rejecting the proposal that there should always be a pre-sentence report?

Lord Harris of Haringey: I am very cynical about these matters. Governments are sometimes reluctant to change what exists unless it happens to coincide with something where they want to put legislation through Parliament. I am sure that it is technically quite complicated. However, the principle that the law simply recognises chronological age and does not recognise that some 18-year-olds have the maturity, strength and capacity of 25-year-olds and some 25-year-olds have the maturity of a 16-year-old rather misses the point. They say of course that judges should have discretion, and I support the principle that judges should have discretion, but I am sure it helps judges if they have a piece of statute that says, “This is something that we should be taking into account.”

Q66 Alex Chalk: Probation officers can already take maturity into account when they make a recommendation. That is still part of it. I am slightly unclear about what you are proposing that goes beyond, first, the discretion that the judge has to order a PSR, and, secondly, the discretion that the probation officer has to take maturity into account. If they have someone before them who is profoundly immature, they can put that into the PSR, so what is the problem?

Lord Harris of Haringey: There are two problems. First, we came across a number of instances where clearly it was not taken into account, or where what seemed to us perverse decisions were taken. There was one tragic case when the judge took the view that a young person was so vulnerable that the best place for them to get the help they needed was in prison, where clearly they did not get it. Tragically, the young person concerned died shortly afterwards. We felt that, if it is incorporated in statute, it moves up the agenda in terms of considerations by the judge when making that decision.

On the question of the pre-sentence report, we were aware of and received evidence on the move that followed Lord Justice Leveson's review of the way in which the courts are administered and operate, which suggested that the preparation of full reports should be the exception rather than the rule. We were told that more and more frequently these reports are essentially oral, on the basis of a consultation that takes place in the bowels of the courtroom on the morning of the case being heard. That is very different from highlighting and then having the opportunity to research some of the issues that may be raised by the young person. Yes, it is something that can be taken into account, but we have doubts that it can be in future, given how brief some pre-sentence reports are.

Q67 Richard Arkless: Given the differences that you found, would you agree that younger adults up to the age of 25 should be treated differently, as some witnesses to this inquiry have suggested?

Lord Harris of Haringey: Many of the submissions that we received pointed out—in the end, this was our conclusion—that all young adults in custody are potentially vulnerable. Their maturity varies, irrespective of their chronological age. Therefore, our feeling was that each individual should be considered on his or her merits and in the context of a proper risk assessment. The skills needed by staff to deal with the issues around an immature young adult are very different from those for dealing with a mature prisoner—an “old lag”, in the parlance of the '70s. That is a very different skillset. It is important that that is recognised and that vulnerable young adults, in particular, are placed in circumstances where they can be provided with the right mix of supports, to assist them through a journey of what we hope will be rehabilitation.

Q68 Richard Arkless: On a case-by-case basis.

Lord Harris of Haringey: Essentially, it would have to be on a case-by-case basis. However, given that our general conclusion was that most young adults are potentially very vulnerable in a prison situation, you need to concentrate your resources on trying to resolve those problems.

Q69 Alex Chalk: Can I probe a little about what that means? The court has before it a young man who is 20 years old and has a number of previous convictions. It decides that he is profoundly immature—he is bad at decision making, hangs out with the wrong crowd and is liable to peer pressure—but that he has to go into custody, because he has breached endless previous community orders and has not learned. There is no option. What do you say that finding of immaturity should translate into in terms of his experience in custody? What does it mean?

Lord Harris of Haringey: It means that more will have to be wrapped around that individual.

Q70 Alex Chalk: What does that mean?

Lord Harris of Haringey: It means, for example, that they may need to be more closely supervised. Somebody should be assessing what will help to address those maturity, understanding and education issues. Sometimes there may need to be a significant adult who can act as a mentor and supporter to that individual. Those are the sorts of things that are going to be needed. There will be a need to try to put all of that in place around the individual.

It may also mean that you need to think very carefully about which establishment the individual goes to. As a general principle, you would want vulnerable young adults to be placed in establishments nearer their family, to facilitate family visits and things like that. One reason why we suggested that there should be a dedicated unit in NOMS overseeing young adults was that we think that at the moment those decisions are too dispersed. There is nobody centrally taking a grip on it and saying, “The particular problems of this young adult suggest to us that they need this sort of establishment. We have places available here. Which is the most appropriate? What else do we need to do to provide support in that establishment?” The Government have said that that is not necessary, but part of the success of what the Youth Justice Board—you will see them later today—has been able to do is that they centrally consider individual cases in that sort of way.

Chair: Ms Rimmer, do you have a question?

Marie Rimmer: I do apologise; I have misplaced it.

Lord Harris of Haringey: It is this new technology.

Marie Rimmer: I was carried away listening to you. I am sorry about this.

Q71 Chair: I get the sense again that NOMS are remote all the time. It comes through to me consistently that there is a lack of join-up between their management and what is happening.

Lord Harris of Haringey: We saw a disconnect, both at prison level and nationally. In prisons, there are some governors who you feel instinctively have a grasp of everything that is going on—there is good leadership. What they say to you when you first visit the prison in the morning and have your discussion is reflected in what you see later on. With other governors, it is rather different when you go around. They tell you a wonderful story; when you go around, it does not feel or look the same. I remember one group of young adults in prison saying, “It’s all different when the governor’s on the wing.”

Q72 Chair: That says it all, doesn’t it?

Lord Harris of Haringey: You see the same sort of disconnect at senior level in NOMS. They are quite clear about what ought to happen; it is in Prison Service instructions. It is a question of what is in fact happening. They do not have in place the structures to tell them what is going on. For example, they do not have a mechanism for knowing how many hours prisoners in a particular establishment are getting out of cell. If that prison is regularly in lockdown, they do not have the data. They do not have data centrally on how many safer cells are available in particular prisons, although we are told somewhere in the response that of course that is something that should be assessed on a regular basis. They do not know, so how can they manage it?

Q73 Marie Rimmer: I apologise; I was listening intently to your responses. Lord Harris, what could be done to strengthen the custody threshold, to prevent young adult offenders from being sent to prison for offences that might be dealt with much more adequately in the community?

Lord Harris of Haringey: There are a number of issues that need to be looked at. First, you assume, but it may not always be the case, that magistrates or judges are aware of the full range of alternatives available in a particular locality. We heard some very good examples where panels of magistrates and so on are listening to what is available at local level and, therefore, instinctively know what is available as an alternative; but we also picked up that that was not always the case. It is about making sure that there is awareness of what alternatives there might be and of what is most appropriate in an individual's case. Prison should be the last resort. Sometimes prison will be necessary and appropriate, because of the nature of the offence and of the individual, but it should be the last resort. It is a question of making sure that all the relevant alternatives are looked at.

The other part of this is that by the time somebody appears before the court the intervention may well be too late. The important thing is that, as a society, we intervene much earlier to resolve the problems. We heard of tragic cases where the mothers of young people who had died in custody said to us, "We knew there was a problem. We kept telling the authorities. We couldn't get the support that our son needed under these circumstances." That may have been mental health support. There are all sorts of issues about the availability of CAMHS. There is also an issue about the transition from the under-18 mental health service to the over-18 mental health service, where quite a good level of support that might have existed under 18 suddenly stops or dissipates because of the chronological change that takes place the instant you are 18.

Q74 Marie Rimmer: How much do you think the unavailability of CAMHS has to do with this? We see that hundreds of young people have repeatedly been given custodial sentences for theft. They go in and come out. The public do not accept that and say, "He's out again. He's thieving again. He's back in. What is going on?" What could be done? Can you help us with this?

Lord Harris of Haringey: Obviously there will always be individuals who do not fit this pattern, but what often seemed to be the case was that there was a pattern of poor behaviour—maybe mental health issues or poor school attendance—occurring from a very early age, often from 11 or even earlier. The right intervention at that stage to resolve those problems, which might be family or personality problems—all sorts of things—could have meant that the individual never ended up in the courts in the first place.

The Government's statements that they are going to invest more in this area are welcome. We have to see how it works out. There could be far greater links into schools, because often it is the teacher, at primary or secondary school, who will identify the issues. In some instances, they may have a more realistic view of the young person than their parent has. I recall years ago being a governor of a primary school where the head teacher had extremely trenchant views about some of the children in her care and said, "We just want rid of them, because they're just going to cause trouble." I am sure that solved some problems for her school, but it did not solve the problems of that individual. It is where schools and parents go for help at a very early age that is important.

Q75 Marie Rimmer: The Government's troubled families programme should do something like that. It will probably need to be looked at, to see what the outturns have been. How can we deal with young people who are at that stage now and will continue through life like that, unless something is addressed? What can we do?

Lord Harris of Haringey: We saw the model of the Government's troubled families programme as very valuable. Bringing together all the different agencies of the state and focusing on a particular family that is costing the state a fortune in other contexts to try to resolve the individual elements of the problem is the right thing to do.

We suggested that, in parallel to that, there should be a troubled adolescents programme that would do the same sort of thing. The Government say, "The troubled families programme is going to do that." We looked at some research from elsewhere in the world that said that very early intervention can be properly cost-effective. That might be intervening in the relationship between the mother and the child when the child is just a few months old. Getting that right pays a dividend to the state throughout that child's and that family's life. It is about targeting resources at the individuals or families concerned at an early stage. That is what the troubled families programme is designed to do for families. Let us make sure that it is targeted at adolescents and children, at the time when an intervention could make a real difference.

Q76 Philip Davies: Can you tell me what proportion of young adult offenders are sent to prison for a first offence?

Lord Harris of Haringey: I do not have that figure. Do you have it, Deborah?

Dr Browne: No, I do not.

Q77 Philip Davies: The thing that troubles me is that we seem to be running away with the idea that young adult offenders are being sent to prison willy-nilly for minor offences and for this, that and the other. I am surprised that, given that you have done all of this thorough research, one of the things that you did not even consider looking at was what proportion of these people were being sent to prison for a first offence. We can safely say that the figure is very low. The idea that a young adult offender gets sent to prison for theft as a first offence is for the birds.

Is it not therefore the case that, when a young adult offender gets sent to prison, it tends to be because the courts have tried other things such as community sentences—often, community sentence after community sentence after community sentence? They are sent to prison only when the courts and everybody else have got tired of trying alternatives and find that there is no alternative but to send them to prison. Is that not the reality of the situation?

Lord Harris of Haringey: I think you are putting words into the mouth of the report that are not there. Nowhere have we suggested that a stream of young people are sent to prison for minor offences. Three quarters or so of young people sent to prison are sent to prison for violent offences. We are not pretending otherwise. Prison might be the right response in those circumstances. What we are saying is that, if an appropriate intervention had been done with those individuals before they became violent, it might have resolved the problem, avoided the violence and avoided their ending up in court.

Having said that, there are some instances in the 87 cases we looked at where it is difficult to understand why the young person was imprisoned for the offence concerned. Obviously, we cannot and did not attempt to go right the way through that aspect of their history, but our point is that early intervention is much more likely to be effective. Often the problem is that the alternatives to prison that are applied are applied too late. If you keep sending off for community response somebody who already has the psychological problems that lead them down a particular course, it may well not work, but if you had dealt with that four or five years earlier, it would no doubt have been a helpful thing to do.

Q78 Philip Davies: I am trying to clarify what your point is. You accept that, largely, when the courts send people to prison, at that point that is the appropriate thing for them to do. They have tried other alternatives. It is not a first offence and they have tried everything else, or the offence is so serious that there is no alternative but to send them to prison.

Lord Harris of Haringey: We are quite clear that there is a significant number of people for whom prison is the right response. The question is whether there should have been an earlier appropriate intervention: early enough to make a difference. The difficulty—it is obviously a difficulty for this Committee—is that that intervention might well be before they encounter the criminal justice system for the first time. That is why we talked about schools and the importance of intervention at that stage. We are not suggesting that prison is full of people who should not be there. We are saying that there are some instances of that, but we are also saying that the right intervention, at an early enough stage, could have prevented it.

Q79 Victoria Prentis: You are preaching to the converted about early intervention being both better and cheaper. I want to press you further on something Ms Rimmer touched on earlier. What about people who are already at this point? Is it a point of no return? What hope can you give people who were not intervened on early and are now at a critical stage in prison?

Lord Harris of Haringey: The bulk of our recommendations were addressed at precisely that client group. We were saying, “Once they have entered the system, what do you do with them?” The Secretary of State’s intent is that they should be rehabilitated. In fact, you can go back 100 years, in terms of objectives stated, and people always say that. We were talking about a very full assessment right at the beginning that is kept under constant review. Somebody would then own the journey of that young person or individual through the system.

Q80 Victoria Prentis: Do you feel that, with that, there is hope for these young people?

Lord Harris of Haringey: That was our central recommendation, so we like to think that it would have made a real difference. It means a step change in what is done at the moment. As we were going around, we were told quite graphically by one prison officer that in the old days—I am not quite sure how long ago he envisaged the old days were, but he was not that old himself—it was possible to sit around the table having a cup of coffee and talking to a number of young prisoners, and you had a very good sense of where they were and whether they were progressing. Now, he and a colleague oversee a wing with about 100 people in it, so there is no way that you can have that personal interaction.

Our concept was a small enough caseload, with somebody whose responsibility personally was to make sure that they were getting the education, the rehabilitation, the education and, maybe, the healthcare that they needed, and to sort it out when it did not happen. There was something called the personal officer scheme that operated in prisons. It still exists in a rudimentary fashion, but it was very variable in the way that it operated, and they were not people who had the responsibility to sort out some of the problems. They were prison officers who would say, “I am the personal officer. This is where you go.” We came across instances of young people who tried to see their personal officer and were told, “I am just too busy. I can’t see you at the moment. I won’t do it.” It is the idea of having someone who knows the individual concerned and is then able to act to deliver something effective to try to resolve that individual’s problems. That is the only way you will successfully rehabilitate them. At the moment, rehabilitation largely fails.

Q81 John Howell: Can I bring you on to the question of self-harm? There was a bit of a spat between you and the Government over your three-stage recommendations on that. The Government took the view that older people were more likely than younger people to self-harm, so they rejected your suggestion of three additional safeguards for younger people. The first point that I would make on that is that surely this is about achieving proper assessment and support for young people. Secondly, what was your reaction to the Government’s response?

Lord Harris of Haringey: It bordered on the fatuous. We were set a series of terms of reference that required us to look at 18 to 24-year-olds. We were conscious that the rate of self-inflicted deaths among the 25-to-35 age group is higher than that for 18 to 24-year-olds, but they asked us specifically to look at that age group. Our recommendations focus on our terms of reference, although we say explicitly in the report that in fact many of our recommendations could usefully be applied to vulnerable prisoners of any age group. The approach that you assess in detail their needs, circumstances and vulnerabilities and then keep track and follow them through seems to me to be an approach that would work whether the prisoner was 18, 28, 38 or 78. The same set of principles should apply to all of those.

Q82 John Howell: So there is nothing about the younger age group that requires that detailed approach to staffing and assessment that does not apply to any other group.

Lord Harris of Haringey: The additional factor is the maturity factor. Young adults, with the issues around the developing brain that they have, may not understand the consequence of their actions. There is clearly evidence of increased levels of violence in establishments that focus particularly on those age groups. There are some specific issues that relate to young people—issues around maturity—that require specific attention, but the approach could be similar for all age groups. In some instances, it could be more light touch than in others, but for young people there would be those added issues.

Q83 Dr Huq: On the subject of self-harm and rejected recommendations, another one that the Government shooed away was the idea of consent for the sharing of medical information, which sounds like perfectly sensible, joined-up thinking, to identify self-harming histories and mental health issues and to nip them in the bud. Would you say that consent for information sharing is a particular issue for young adult offenders?

Lord Harris of Haringey: What the Government specifically rejected was our proposal for a statutory duty of collaboration. They acknowledged some of our recommendations about a consistent approach through the criminal justice system to gaining consent. They accepted the principle that consent for sharing of information should be sought right at the beginning of the process and should be revisited at regular intervals. They also accepted that they should have dialogue with health organisations about the guidance that is given. Of course patient confidentiality is an important central principle, but you also have a statutory duty as a clinician, if you think that it would protect the life of a young person, to share information appropriately. That should all be clarified.

The reason that we suggested there should be a statutory duty of collaboration was simply to raise this up the priority list, to make sure that it happened. For example, we came across too many instances of failure to share information even within the prison system, particularly when an individual is transferred from one establishment to another. The data were not shared. Even the fact that somebody was on an open ACCT was not passed on adequately. That is a considerable weakness. Under those circumstances, we felt that that sort of duty of collaboration would be helpful and important.

Q84 Chair: Basically, that is poor management, isn't it?

Lord Harris of Haringey: In terms of the way the prison system operates, yes, it is poor management. This is another example in the Government's response, presumably drafted by NOMS, where they say, "This has already happened. It is existing policy." The reason we made the recommendation was that the existing policy is not sufficient. There were quite a number of occasions in the 87 cases we examined where that information was not passed on or was not passed on adequately.

That is management. There is also a question of culture between different professional groups and whether they can share with non-professional prison officers. Of course, if you raise the professionalism of prison officers, particularly of custody and rehabilitation officers, and make them on a par, there will be much more willingness to share information and data.

Q85 Chair: I get the sense that, essentially, you are saying that NOMS advised Government badly on these matters.

Lord Harris of Haringey: In the course of our review, we found that NOMS were incredibly defensive. I would have hoped—indeed, I suggested this to senior people in NOMS—that they would regard the review that I was leading as an opportunity for various issues to be looked at and considered, whereas their response was almost universally defensive, in terms of saying, "We don't want anyone to disturb the way we do things at the moment." That comes across in some of the specific responses to the recommendations that we made.

Chair: Mr Chalk?

Alex Chalk: I don't need to ask any questions at this stage.

Chair: Does anybody else have questions for Lord Harris?

Q86 Victoria Prentis: Can I deal quickly with families? You identified families as an important source of support, and I know that is something the Prisons Minister feels very strongly about at the moment. Would dispersal—the possibility of dispersing young offenders more widely within the Prison Service—help with family interaction, in your view? Would the benefits outweigh the problems that might follow from that?

Lord Harris of Haringey: It is quite clear that the proximity to their family of where a prisoner is located is very important, where family contact is a crucial element. We came across some examples where people were required to make a two-and-a-half-hour journey to visit their family member for what was supposed to be a two-hour visit, which was then curtailed to an hour because of problems in moving prisoners around the prison concerned, or even cancelled at the point when they got there. That is not helpful. Again, we were told by young prisoners that they recognise the burden that they are placing on their families with those long journeys.

Proximity is important. It is also important—this is a question of balance and looking at the individual—to make sure that the young person concerned is getting the nature of support and so on that they need. We were not really asked the exam question whether or not you should move away from YOIs and place people in general prisons, but we suggested that there should be small units.

Q87 Victoria Prentis: That is more or less what I am getting at. That is my next one. We would love to have it as an exam question, just to get your view.

Lord Harris of Haringey: In that case, I will give you my view. Our feeling was that a hard and fast rule was not necessarily appropriate. If you had a central unit, which has been rejected, that could look at the totality of cases and have an overview of what was available around the system—what specialisms were available where, what could be delivered where and so on—you could strike that balance for the individual.

Q88 Victoria Prentis: To press you on that, do you mean that it is an individual decision?

Lord Harris of Haringey: It should be an individual decision about that prisoner. We thought that it would be useful to consider having specialist wings within more generic prisons, where you could provide more services and there would be a degree of separation, but at the same time the ethos of an adult, more mature prison would be there, without, to put it crudely, the testosterone factories of some young offenders institutions, where there are very high levels—

Q89 Victoria Prentis: And the gang issues.

Lord Harris of Haringey: And the gang issue. NOMS was curiously blind about gangs in prisons. The Government response is that they are going to look at it. When we went around institutions, prison officers would say, “These activities can’t happen at the moment because we can’t move this group of prisoners at the same time as that group,” yet there was no guidance on how to manage that. Similarly, there was no guidance specifically on bullying, yet in very many—I will not say all—of the cases that we examined there was an element of bullying. We raised that as an issue, but NOMS seemed blind on it. The individual consideration would be helpful.

Bullying brings me to the other point, which is that families need a way of relaying their concerns to the prison system.

Q90 Victoria Prentis: You suggested a telephone line.

Lord Harris of Haringey: We suggested that. We suggested that it should be a 24/7 advice line, properly audited. At the moment, if a family are concerned and they try to ring the prison, they have to ring the switchboard. They do not know whether the message gets through. A centralised system where there was an audit trail to establish who took the message, what they did with it and who was responsible for it would be a better solution, but that has been rejected. We suggested that both for bullying and for concerns more generally. The recent tragic case of—

Q91 Chair: Does this involve a cost of any significance?

Lord Harris of Haringey: There is a cost, but it is quite minimal.

Q92 Chair: It is not a lot, is it?

Lord Harris of Haringey: It may be a more efficient way. If a call comes into the switchboard, you can imagine people saying, “Who should we refer this to? What should we do?” and the amount of time that involves. If there was a proper way of relaying that and feeding it in, it might make more sense.

Q93 Victoria Prentis: Can I bring you back to the exam question for a minute? Can I summarise what I think is your view? Tell me if I am wrong. You think that these young offenders should be looked at carefully, to see where they should be placed, but there may be a role for dispersal, for some young offenders, within the adult establishment.

Lord Harris of Haringey: You would need to assess what their needs were and whether placing them in an adult establishment would be right for them. You would have to weigh up—this is why it has to be an individual decision—issues about proximity, their rehabilitation and education needs and how you bring those together.

Q94 Alex Chalk: You are not calling for the abolition of young offenders institutions as a wholesale step. You are saying that they should be part of the options available in individual cases.

Lord Harris of Haringey: Yes. We did not make that recommendation.

Q95 Alex Chalk: And you would not make it now.

Lord Harris of Haringey: No.

Q96 Marie Rimmer: Did you form any opinion on educational establishments and provision within young offenders institutions? I am interested in the pre-sentence report meeting the individual’s needs and where they are. It seems to me that not enough attention is given to meeting the educational needs of young people.

Lord Harris of Haringey: Quite a lot of resource is spent on education within prisons. On the basis of the discussions that we had in prisons, it did not sound to us as if it was necessarily meeting individual needs. We had young people say to us, “Look, I am 22. I

don't want to be treated like a little kid back at school," although they may have issues that require literacy or numeracy skills. It is about tailoring it to the individual's needs and what works for them.

Some governors were very frustrated by the fact that most of the provision is now centrally procured by NOMS and they cannot necessarily tweak to the extent they would like. The Secretary of State is currently looking at this, in terms of more autonomy for prison governors. There is an issue about meeting the needs, rather than saying, "We have this package, which has been bought in centrally. Either you take it or you don't. There is nothing that is going to look at your needs." If you are 22, you want to feel that somebody is providing what is in your interests—what meets your requirements to move forward—rather than something that says, "You need to go back to school and go through reading lessons," or whatever it might be.

Q97 Marie Rimmer: Have you come across any research into the outcomes of young people, where there has been personal support, their talents have been recognised and they have come out different individuals, from bringing out that talent? I know of a young man who went through a very long sentence. He ended up reading and enjoying Shakespeare, although he could not read on entrance. It is that kind of thing—to change the whole personality.

Lord Harris of Haringey: I am not sure about research; Deborah may know. I can point to a number of examples, which were quite inspirational, either of organisations doing work with individuals that really made a difference and transformed lives, or of individual prison officers. I recall one visit where there was a prison officer who was clearly totally devoted to it, and was working one to one, and being given the freedom to do so by the prison management in that particular case, to work out and to resolve some of the issues. Clearly it can make a difference. There are wonderful examples where it has. I am not sure about research.

Q98 Chair: Are there any thoughts on that from your end, Dr Browne?

Dr Browne: I would reiterate what Lord Harris said. We came across lots of quite inspiring examples, including some young people we spoke to who had been lucky enough to go through an education programme, come out the other side and say, "Now I've got this," while they were in custody. It seemed transformational.

Q99 Chair: We are very grateful to both of you, as ever. It was good to see you again, Toby. Thank you very much for your time and your assistance to us.

Lord Harris of Haringey: Good luck with the rest of your inquiry.

Examination of Witnesses

Witnesses: **Baroness Young of Hornsey OBE**, Chair of the Task Group producing the Young Review, **Jeremy Crook**, Director, Black Training and Enterprise Group, and **Raheel Mohammed**, Director of Maslaha, gave evidence.

Q100 Chair: Welcome, Baroness Young and Mr Crook. It is good to see you again. I know that you have spoken to us informally, Baroness Young. Now we are doing our formal evidence session, so I am very grateful to both of you for your help and assistance, and to Mr Mohammed who will join us fairly shortly.

Baroness Young of Hornsey: He has just nipped out.

Chair: We take it as no discourtesy at all. We will move on. I am sure that he will join us.

Q101 Dr Huq: I think that I vaguely knew you as Lola Young, when you were an academic. I do not know whether that is declaring an interest.

Baroness Young of Hornsey: Yes, that is me.

Dr Huq: You were an external examiner at the institution I worked at. I do not know whether that counts as declaring an interest.

Baroness Young of Hornsey: To be discussed.

Q102 Dr Huq: It was a long time ago—20 years ago or something. We know that young people are overrepresented in the criminal justice system, young BAME people even more so, yet in the last staff survey of NOMS, from June, only 7% of staff self-identified as BAME, although the MOJ refuted that and said that not everyone answered the survey. I have a very broad, open question first of all. How would you characterise the MOJ's and NOMS's governance of equality issues relating to ethnicity and religion?

Baroness Young of Hornsey: First, thank you very much, Mr Chairman—I believe that is what you say at this end of the corridor—for inviting us along to give evidence this morning.

Thank you very much for your question. Staffing was one of the issues that we discussed. It was raised with us and obviously we wanted to raise it. I want to say at the outset that it is not simply a question of counting numbers and saying, "Because this proportion of BAME young people are in the system, you should have this proportion on the staff." What we want are really good, professional staff who know how to deal with a variety of experiences and have a deal of cultural competency. That is what we do not have at the moment. I do not have to hand the figures for the representation of BAME people within the staffing of the criminal justice system, but it seems clear that if you look right across the board, from the policing end all the way through to sentencing, through prison, until you come out again afterwards, there is a dearth of BAME staff and practitioners in the system.

Interestingly, there are a number of BAME organisations based in communities that try to establish very good relationships with some of the young people and help them when they come out of those institutions. In addition, at some of the places we have been to, some strides have been made, in terms of diversifying within the chaplaincy, for example. There are some very good imams who have been able to make really good input into defusing some of the difficult situations that can arise in prisons. Another example we came across—I think it was at The Mount—was a programme for black self-development being developed by a staff member, which specifically targeted young black men in the prison, to help them to address their offending behaviour. It recognised the perceptions and

experiences of racism and discrimination that they had, but tried to build resilience and self-questioning about their criminal behaviour and so on.

With regard to NOMS and the MOJ, we have had a lot of support for most of what we have been trying to do. Indeed, we cannot work without their institutional backing. Within NOMS, we have found that equalities is an area that they are looking at and addressing. We want to help them to do that in a constructive way. I do not know whether Jeremy or Raheel want to add anything.

Jeremy Crook: The current NOMS equality strategy identifies the lower number of black and Asian staff as a challenge that needs to be addressed. In London about 25% of the staff are from BME backgrounds. That is the best in the country. Outside London it gets a lot worse than that. Of course, London should be near 40%, in terms of ethnic minority profile. There are issues around progression of ethnic minority staff in NOMS, which has been identified as a challenge and an action in their current strategy. It is very important that that is addressed.

Q103 Dr Huq: In your evidence, you state that preventive measures and interventions are particularly pertinent for young black people and Muslim youths, because they enter the CJS at a faster rate than their white peers. Do you have any idea what sort of measures are likely to have success with those two groups?

Baroness Young of Hornsey: Some of the things that I have already mentioned, such as self-development courses that look specifically at the predicament they are in, with regard to the external influences on their lives and why they have ended up in this particular situation—

Q104 Dr Huq: Is it leadership skills and stuff like that?

Baroness Young of Hornsey: Yes. It is about self-reflection. It is about looking at issues around masculinity, for example, and how it is possible to be a man in lots of different ways, not necessarily exhibiting in specific ways. It is about looking at and acknowledging racism and discrimination—not saying that it is an excuse or a justification, but looking at how it impacts on their lives and how they address that. It is about looking at the very basic issues of literacy and numeracy and at employment.

Nobody is saying that that is the single answer. There are other examples of good practice that we see around the country. As in a lot of these areas, the problem is that there is a lack of cross-departmental working. That also affects mental health issues, for example, which are predominant among young men in some of those communities.

The problem around employment is another big issue that is not really addressed. When we look at unemployment among young black and Asian/Muslim men, in some geographical areas it can be really high. When we think back along that route, there is also education; often quite poor educational experiences have been had. It is about looking at all those issues—not disregarding them, but at the same time not seeing them as an excuse—self-reflecting and trying to enable those young men to develop the resilience and desistance that they need to see them through.

Q105 Dr Huq: To what extent is it possible to do more early intervention programmes to stop black people and Muslim people at risk of becoming involved in these issues?

Baroness Young of Hornsey: There is a lot to do with the educational system. One of the slightly frustrating things that was part of the impulse to do this work was that these issues have been around for a long time. We have known about underachievement educationally in certain sections of these communities. It is not uniform across all the different categories. One point I would like to make is that we talk about BAME, but it is a huge category of people; within that, there are lots of divisions and differences and there is a lot of variety. We should not be stigmatising whole communities as being totally criminalised because of what has been happening. None the less, there is an issue we need to look at.

In the educational system, a higher proportion of black boys, in particular, go into pupil referral units and are expelled, so it goes way back. Some of the early interventions Lord Harris talked about are not necessarily culturally specific, but it is necessary to take into account cultural specificity when you are dealing with those particular groups.

Q106 Chair: Again, this is pre-criminal engagement with the criminal justice system. That is the point you are making.

Baroness Young of Hornsey: Absolutely.

Q107 Chair: How do you characterise NOMS's response to Lord Harris's report and to the work that you did, Baroness Young?

Baroness Young of Hornsey: We found NOMS's response to our report quite positive. We have developed what I feel is a good working relationship. In producing their equality strategy, which was not published but was produced in October last year, they took on board a lot of the issues that we raised and the strategy referred to the Young review in its initial phase. We are continuing to work with them. They have a space on the advisory group that we set up last time around, during the interim phase, and will continue to do so. The same applies to MOJ officials. We have found quite a strong working relationship. That is not to say that we get everything we want, when we want it. There is obviously a deal of negotiation to be done, but we feel that that is working quite well. We also have a standing item on the agenda for the equalities sub-committee that is specifically around the Young review.

Q108 Victoria Prentis: How do you think the Government's policies on dealing with gang activity are going?

Baroness Young of Hornsey: This is a very tricky one, although I could say that about all of the issues. I want to bring colleagues in on this particular issue, as I am trying to explain something that is quite complex. Nobody is denying that there is an issue around gangs. Particularly as a Londoner, one feels this acutely. It also affects other urban areas and is very troubling.

People have looked at why young men, in particular—but increasingly, young women—are attracted into gangs. There is all the material about substitute families, substitute structures and so on, plus careful grooming on the part of gang members. On the other hand—or on another hand, one might say—when we talked to young people from some of those black communities and the people who have been working with them around the country, the sense was that, whenever two or three young black men are gathered together, it constitutes a gang, in a way, in the eyes of authorities. They felt stigmatised by the idea

that somehow, if there is a big group of young black men gathered together, that will be viewed as a gang and logged as such, whereas if you are not black—if you are a group of young white people or white boys—you will not necessarily be considered as a gang in the same way.

Q109 Victoria Prentis: But there is clearly a problem within prison establishments—particularly the YOIs, because people seem to grow out of their dependence on gangs—as to whether prisoners can be moved around prisons, because of the different gangs within the YOIs.

Baroness Young of Hornsey: Yes. I am not denying that that is a very real issue. Jeremy has done some work in this area.

Jeremy Crook: There are issues in some YOIs around gangs and postcode location, which escalate sometimes in some institutions. Even if a young person is not in a gang when they enter the institution, they may have to be categorised into one postcode or another and affiliate with one group of young people, rather than other groups. That is an issue.

From our point of view, the stereotypes of the young black male gang association and the young Muslim male extremism association become quite prevalent and all too often colour and taint the way people are dealt with in the criminal justice system. Research shows that a large number of young black men who are in contact with and are charged by the police are not in gangs at all. The assumption is that they are in gangs, but they are not on any gang register that the police hold. Research coming out in the near future will highlight the fact that we have to be very careful about the association of young black men and gangs in the criminal justice system, because clearly often it is not a factor in a young person's journey to the criminal justice system. Although in certain parts of the country gangs are a serious issue and need to be dealt with, they cannot be the all-pervasive issue that influences the way people are supported.

Q110 Victoria Prentis: Even though for the small number of young people who are in the end incarcerated it is clearly a very significant issue. Would you agree that the gang culture in YOIs is a significant problem?

Jeremy Crook: In some where we have been and have spoken to young people and officials, it is definitely an issue.

Q111 Chair: It sounds like you are downplaying it, Mr Crook. Our evidence was very strong that this was a real, big issue and was one of the most significant issues.

Baroness Young of Hornsey: Yes. I am not trying to dodge the question or the issue, but our focus has been on 18 to 24-year-olds, so we have necessarily been looking at YOIs.

Q112 Victoria Prentis: That is what we are looking at, too.

Baroness Young of Hornsey: Absolutely.

Chair: It is exactly the same area. The evidence that we have had from people is that this is not a minor or tangential issue; it is fundamental.

Q113 Victoria Prentis: It is affecting the regime, as they call it, in YOIs on a day-to-day basis, every minute of their lives, because different groups of prisoners cannot be released with others and cannot be free to associate with others. Is that not your experience?

Jeremy Crook: In one institution, one of the prison officers who had been there 20 years said, “We have a real problem getting young men to come out of their cells to do any educational classes, so they can spend 20 hours a day in their cell.” Then on the news you will hear that there is a big issue of violence in that particular institution and that young men are scared to come out of their cells to go to educational classes.

Q114 Victoria Prentis: But that is the evidence that we have received.

Jeremy Crook: Yes, there is definitely an issue—

Q115 Chair: That is ducking the issue again, Mr Crook. Gangs are a real issue, aren’t they?

Jeremy Crook: Gangs are a real issue, but I am also saying that young men who are not in gangs will go to some institutions and then become affiliated to a postcode.

Q116 Chair: They may join gangs when they are there.

Baroness Young of Hornsey: In part, because of the expectation.

Raheel Mohammed: Can I come in here?

Q117 Chair: Mr Mohammed, I would be grateful for your take on it.

Raheel Mohammed: Our research has focused on young Muslim men in London and Leicester. The feedback that we have had from them is that they group together and are sometimes seen as a threat, but they may be seen as a threat purely because they are seen as being too religious. That becomes a factor. When people talk about gang culture, it depends on who is saying that. For a young Muslim man inside a young offenders institution, it may be a group of people who provide support, but a prison officer may see them as a threat. We have had interviews both from people in probation and from the Crown Prosecution Service saying that groupings of young Muslim men are seen as a threat. The factor of religion comes into that as well.

Q118 Chair: It can be seen as cutting them off, either deliberately or inadvertently, from their fellow inmates.

Raheel Mohammed: The instances we have heard of are things like somebody who wants to pray in his cell asking for a Muslim cellmate, because the non-Muslim cellmate has the television on every time he is praying. That causes more friction. There are other instances where prayer mats have been available for young Muslim men but have been given out to be used as rugs by non-Muslim inmates. That is where the friction can happen sometimes. Young Muslim men will pray only five times a day. It does not take up a whole day of being grouped together.

Q119 Chair: You can be observant and not cut yourself off from the rest of the prison community, can’t you?

Raheel Mohammed: What they are saying is that just being seen as being observant is seen as a threat, at the minimum level.

Q120 Marie Rimmer: Have you found a good understanding of different religions in institutions?

Raheel Mohammed: No.

Q121 Marie Rimmer: Absolutely. This is very important. Unless you understand Islam, you cannot appreciate the lifestyle that is required by young Muslim people. They naturally migrate to one another and are seen as wanting to be separate, when it is just that they understand one another. It is lack of understanding.

Raheel Mohammed: As an organisation, we have done quite a lot of work in health. We use religious and cultural understanding to improve health messages. That understanding of granularity does not translate to the criminal justice system. What does it mean to be a Somali man in Ladbroke Grove, as compared with a Pakistani man in Birmingham?

Q122 Alex Chalk: There are important distinctions between Sunni and Shi'a.

Raheel Mohammed: Yes.

Q123 Marie Rimmer: They just do not understand.

Raheel Mohammed: It will differ from city to city as well. That is just not there at all.

Q124 Marie Rimmer: Has there been any proper research on establishments highlighting that?

Raheel Mohammed: This month we have a report coming out with the Barrow Cadbury Trust that will have some of that evidence.

Marie Rimmer: That would be useful.

Chair: It will be interesting to see that, when we get it. If need be, perhaps we can have further conversation about that. That would be very helpful.

Q125 Victoria Prentis: Can we move on quickly to joint enterprise? This may follow from what you have just said, but do you think that there are specific concerns about the BAME community and joint enterprise?

Baroness Young of Hornsey: There is a report that either has come out or is about to come out on some research that has been done by Manchester Metropolitan University covering gang membership and joint enterprise. Again, it points to disproportionality in terms of the number of young black men who will be caught under that provision. There are some concerns about how joint enterprise works that have been expressed quite widely. It is an area that certainly needs review.

Victoria Prentis: The previous Committee made some comments.

Q126 Chair: Indeed. It is a live issue, isn't it?

Baroness Young of Hornsey: Yes. It is not exclusively a race issue, but it impacts disproportionately upon that community.

Chair: All of us who have been lawyers are alert to the issues around joint enterprise and how it works—or doesn't.

Q127 John Howell: I want to pick up on the paucity of data on ethnicity and religious background.

Baroness Young of Hornsey: I am sorry, but I cannot hear you very well.

Q128 John Howell: I am sorry; I am speaking as loudly as I can. I want to pick up on the paucity of data on ethnicity and religious background within the system. What are you doing to work with the Government to improve that?

Baroness Young of Hornsey: This is principally through NOMS, of course. We have had a number of discussions about the data overall, not just in relation to the particular area you rightly pointed out. For example, at the moment data are not really collected about faith. We are just adjusting to a new sort of landscape on that.

There are also issues around something I alluded to earlier, which is the breakdown between the different communities that come under the heading of BAME. People categorise themselves in different ways. Some people might fill in the form to say that they regard themselves as mixed heritage, for example. There is no clear way of picking up those differences across the system. Within the big group of organisations and institutes that constitute the criminal justice system, those statistics are collected in different ways. We are trying to work through with NOMS ways in which we can clarify that, so that at least we can read across the data that come from all the different institutions.

Q129 John Howell: How well do you think community rehabilitation companies, the national probation service and youth offenders institutions are working together to do that?

Baroness Young of Hornsey: This is a big issue. It is certainly something with which we are concerned. Through the advisory group, where we have representatives from all the different bits of the system—it is currently interim, but we are just recruiting to have a group that will be together for three years—we have been very much at pains to talk and hold workshops with CRCs. A few weeks ago we had a workshop with the CRCs, just along the corridor, which was very productive. We were very heartened to have people come from all over the country, plus from Wales, to talk through some of the issues. They pointed to where they felt the challenges lie.

Of course, you get into the situation where one part of the system thinks that the challenge is somewhere else and everybody thinks that it is somebody else's responsibility. As you are suggesting, people need to come together to address things in a much more holistic way. That applies to cross-departmental issues. So far we have mentioned mental health only very briefly. That is another area where we need to make sure that we join up the dots and get appropriate working.

Q130 Alberto Costa: I want to refer to the concept of developmental maturity, which is discussed in the evidence from Mr Mohammed's organisation. You point to other ways in which young Muslim men have poorer outcomes. Have any of you or the advisory group

conducted any work with sentencers to raise their awareness of the concept of developmental maturity and how it affects young black and Muslim men?

Raheel Mohammed: There will be some recommendations in the report that we are just finishing off, which will include understanding what maturity means for a young Muslim man. The T2A Alliance have done some work around maturity. In their reports, they state that a delay to the important role transitions of getting a job, leaving home and getting married will affect your maturity. That has a disproportionate impact on young Muslim men. According to the last census, 100,000 Muslim men of working age were unemployed and 400,000 left school with no qualifications. That will have an impact on their maturity. It is about making a sentencer understand what that means in relation to a young Muslim man, but also taking into account the bias we are hearing about, based on the fact that they are seen as being Muslim and are affected by the wider public debate around radicalisation and terrorism.

Q131 Alberto Costa: Are there any other comments about that?

Baroness Young of Hornsey: I have a very quick one, which is that we have been contacted by the magistrates and will be working with them. We are going to do a session with them later this month or early next month—I cannot quite remember the date. That is one of the groups referred to earlier with which we need to work.

Q132 Alberto Costa: Can you tell me a little about the session that you hope to do with magistrates? What will it involve?

Baroness Young of Hornsey: We do not know yet, because we are in discussion with them.

Q133 Alberto Costa: Is this with the Magistrates Association?

Baroness Young of Hornsey: Yes, that is right. They contacted us. We are now in the first year of a three-year project funded by Barrow Cadbury, which is a key player in this field, Lankelly Chase, another foundation, and Esmée Fairbairn Foundation. Each of them has put in a sum of money to keep us going for three years. The idea is to ensure that there is a robust examination and, as far as possible, implementation of the recommendations that we made in the Young review report. We are now at the stage where we are consulting/talking/workshopping with a number of different constituent parts of the criminal justice system to inform our strategy for the next three years. That is the point where we are at the moment.

Q134 Alberto Costa: It might be helpful for the Committee to have an update when you have formed the strategy.

Baroness Young of Hornsey: Absolutely.

Alberto Costa: That would be helpful.

Baroness Young of Hornsey: Definitely.

Q135 Alberto Costa: Can I turn to the Black Training and Enterprise Group? I understand that you argue that black, Asian and minority ethnic young men would have the most to gain

from a distinctive approach for young adult offenders. We have touched upon it a little, but could you expand on your reasoning for that?

Jeremy Crook: Essentially, we believe that young black and Muslim men very often need particular interventions that come from a community base and really address the issues that some of those young men face. We know that there are issues around developing a positive identity at a young age, which is very difficult when much of the time you are surrounded by negative stereotypes in the media, and how to position yourself as a young man and as a boy in your community. If you see around you very few positive role models in the community—entrepreneurs and successful professional people—the horizons and aspirations are quite low. We want to see more intervention—we do this ourselves—to try to raise aspirations in schools, colleges, prisons and YOIs. That is what we have been doing for the last three years.

We know that it has a beneficial effect. It is particularly powerful when we can connect successful black men with young men in prisons and YOIs, so they can have a conversation, with the space to share their experiences. Some of them have been in prison themselves, have come out, been successful and turned a corner. For those that need it, we particularly want to see the opportunity to share experiences, to encourage and motivate and to show young people that you can make the right choice at the right time, and with the right help be successful in what you want to achieve.

Very often young people will need help to identify what their aspirations are, realistically, and how best they can achieve them. For the last year and a half, we have been working in Hackney with young black men, with the council and the CVS. It is quite clear that they feel that they do not get very good careers advice at the right time and they do not come into contact with successful black men at the right time, so a gap appears at critical periods of their young lives. We need to make sure that there is more of that help available at the right time.

The problem is that the resources for that to happen are still difficult, and getting more difficult. With less public funding, it is getting more difficult for voluntary organisations and community groups to provide those services. In some prisons we saw very good examples, which Lola has referred to, where external organisations are making a real difference for young black men in the programmes that they provide, but they are short term and very often are not sustainable. That is a real issue. We have heard from governors who believe that these programmes are very important and make a difference. They say that if they went to another prison they would commission the same kinds of services that they have in the prisons that they are running in different places.

Unfortunately, examples of good practice were very difficult to find across the prison estate. There is a need to put a lot more energy, time and resource into this issue, to make sure that support is available at the right time—hopefully, before people get to prison. Schools, communities, police and local authorities must work together, certainly earlier, to make sure that this package of support is there at the right time. From what we have seen in schools, there are too many young black boys on report or being excluded in year 7 or year 8. That is when you need to get in there with the right kind of intervention, to make sure that they get the most out of school, and can be good young people and achieve. Fifty-eight per cent of black Caribbean boys still leave school without five GCSEs,

including maths and English, so the majority do not leave school with a basic education, as far as we are concerned. That is a particular challenge that has repercussions later on.

Q136 Richard Arkless: The Young review expressed the concern that BAME young men are assessed at a higher risk level than their white counterparts and that the system is overly focused on risk. What evidence did you have to support that assertion?

Baroness Young of Hornsey: We met a number of researchers and academics. We also had researchers and academics on the task group. Some of those we met were working with community organisations and some of the young people concerned. Some of that material will come out shortly in the report from Manchester Metropolitan University.

This has been reported as part of a swing towards the risk assessment of young people. There is an argument that, in the past, the way in which individuals were assessed with regard to what would happen to them once they entered the system was too amorphous and vague and that the pendulum has swung towards a much more tick-box assessment—to caricature it. This relates to some of the earlier points that were made about gangs. One of the instances that came up time and again was the assumption, or assessment, that because a young black man came from a particular area, in a particular urban situation and with a particular background, he was more likely to be part of a gang or to be a higher risk.

I do not think that anybody would claim that there is no such thing as racism, discrimination and bias, wherever it comes from. One would expect that to be manifested in the system, and it is. There is the long tail that Jeremy referred to, all the way through from education. When you hear some of the comments from teachers, police and magistrates—from whatever quarter—you realise that it is really hard to break down the idea that this is how these young people will be.

Q137 Richard Arkless: Was any statistical evidence available? Was it just a kind of feeling that you got from taking evidence, or did you have statistics to say that BAME people were assessed at a higher risk?

Baroness Young of Hornsey: I do not think that we took any statistical evidence on that, so at one level you could say that it was purely anecdotal, but, as I said, there is the report that is coming out. Perhaps we can make sure that the Justice Committee gets a copy of that report, which should give the statistical backing for that.

Chair: It would be very helpful to have that.

Q138 Richard Arkless: What steps do you suggest should be taken to overcome it, given the Government's rejection of Lord Harris's recommendation that support for young adults should be informed by a broader needs assessment?

Baroness Young of Hornsey: You will probably gather from what we have said that we see that as very important. That assessment should also be done with a level of insight and understanding, if not necessarily personal experience, of the kinds of conditions that these young people are grown in, as it were. As Jeremy says, there are interventions that can be made, but they have to be made at the right time and with the right people. We very much think that, without swinging the pendulum back all the way to the other side, there needs to be a much more individual assessment of a human being.

As someone who does not come from having worked in this sector, one of the things that struck me when speaking to ex-offenders and current offenders and thinking through some of their experiences was that you are talking about human beings. There is a level at which you have to pull back in certain situations and it is about statistics, throughput, quantity and so on; but, at the end of the line, a young man can come out of the system having been in it in one way or another since the age of nine, through care, being an orphan or—even if he is not an orphan, strictly speaking—having a mother with a mental health problem.

After the young man comes through that, he is sent away to a school for naughty boys. Then he comes through the prison system, having spent half of his life in prison. When he comes out, obviously very depressed, and tries to get work, he sends off 50 applications and cannot get a job. Then he tries to set up as self-employed. He cannot do that, because he would need to be able to drive and the insurance costs would be £12,000 a year. This is the person. Of course, one accepts that there has been a significant amount of criminality, but if we are really serious about turning people around we have to look at those individuals and what we can do for them.

Q139 Chair: Of course, most people will not have exactly that trajectory, which is putting together every harsh element that you could have in your life.

Baroness Young of Hornsey: Exactly.

Q140 Chair: It is a worst-case scenario. The majority of people will not be in that situation.

Baroness Young of Hornsey: No, but unfortunately there are enough that it is worrying. If we had a magic formula that could tell us that x plus y plus z plus whatever will equal somebody going into the criminal justice system, it would be easy. It is not as simple as that and I wouldn't want to pretend that it was.

Q141 Chair: We all know that there are no magic formulas in life, that's for sure.

Baroness Young of Hornsey: There are no magic formulas.

Q142 Mr Hanson: In your report, there is a whole chunk from about paragraph 92 onwards relating to the stereotyping of some young Muslims as terrorists. In fact, you and the Committee will know that about 1% of the Muslim population in prison is there for terrorist offences. What evidence do you have to back up the assertion that there is a problem of perception by staff or, indeed, fellow prisoners?

Raheel Mohammed: In the report that will come out later in January, we have interviews with young Muslim men who have gone through the criminal justice system, with the Magistrates Association, with probation, with the Crown Prosecution Service and with local police forces. All say that there is a problem with how young Muslim men are stereotyped and then treated.

Q143 Mr Hanson: For example, you have a really interesting quote from a prisoner who stated, "I asked an officer when the post Ramadan food would be distributed, the officer replied 'I don't care, I am not a Muslim'." Is that attitude commonplace?

Raheel Mohammed: From the interviews that we have had with young Muslim men, there seems to be casual racist banter in YOIs and prisons that you probably would not see in

other public services. It is impacted by the wider debate around radicalisation and terrorism. Magistrates are influenced by that as well.

Q144 Mr Hanson: We have statistics that show that 1% of the Muslim population is in for terrorist-related offences. The key question I am really interested in is whether experience in prison, at whatever age, following contact with prison staff, the attitude of fellow prisoners or, indeed, the nature of the regime, leads to more people coming out radicalised than went in.

Baroness Young of Hornsey: Raheel will probably have something to say about that. I do not know what is available statistically and in terms of hard research, but one really important thing that you will see in Raheel's research is about trust. We cannot run the criminal justice system—or, indeed, any agency or institution that serves the public in a general way—unless there is real trust. Once that breaks down, it becomes a real problem. It is almost like making a pre-emptive strike: “If they're going to see me like this, this is how I'm going to be.” That undermines trust and does not allow things to work as smoothly as they might.

On the other hand, we came across some examples where trust has been built up. When a particularly difficult incident took place in one prison that we visited, where some non-Muslim prisoners set light to a copy of the Koran, it was dealt with very quickly, openly and transparently. We were told by the Muslim prisoners in that particular prison that that was due to the leadership in the prison, working very closely with the chaplaincy, which was headed by the imam. That triangle of trust enabled a potentially difficult situation to be handled.

Q145 Mr Hanson: How has your recommendation 97—“Training for prison officers should be reviewed”—been received by the MOJ? What does that mean translated into practice?

Baroness Young of Hornsey: I will defer to Jeremy on some of this. Again, it is about our working relationship with the MOJ, and with NOMS in particular. If you look at their equalities strategy, which is not properly public but is available, you will see that that is one of the key areas they are looking at in terms of staff. It is also part of a wider question, which is about professionalisation and the understanding of what the role of a prison officer, a police officer or any of these other officers is.

Q146 Mr Hanson: The question that I am asking is, what will be done now, following your recommendation 97, that has not been done to date by the MOJ or NOMS?

Baroness Young of Hornsey: At one level, that is for them to answer. We are here to say, “You have to do something. We will help you and be as constructive as possible in anything”—

Q147 Chair: What do you think they should be doing?

Baroness Young of Hornsey: There are a number of things that they need to be doing. Partly, there is an issue about how the role of prison officer, to which you referred specifically, is viewed and what kind of training and professional development goes on within that profession from the beginning. It is not simply a question of saying, “We do two hours of diversity when you first come into the role and we might top that up every five years or so.” It is about continuing professional development. That is one thing.

An atmosphere or a culture needs to be created in which it is possible for people to talk about their insecurities, anxieties and difficulties and to be quite open and honest about some of the issues that come up around race, culture and ethnicity, in order to move forward. I am not saying that it should be like a therapy session. This is all directed towards a certain kind of professionalisation of the role. That is what I would like to see, plus ways of working with organisations like BTEG and other community-based organisations to encourage more people from those communities to come into the system in the first place, as workers.

Q148 Alberto Costa: Mr Mohammed, in answer to a question that Mr Hanson asked, you said, “Magistrates are influenced by that.” I was not quite sure what you meant. Could you expand on that?

Raheel Mohammed: In our interviews with the Magistrates Association, we were told that magistrates would give more punitive sentences to young Muslim men, compared with non-Muslim men.

Q149 Alberto Costa: You were told that by the Magistrates Association.

Raheel Mohammed: Yes. It was by Richard Monkhouse¹.

Alberto Costa: Thank you.

Raheel Mohammed: Can I come back on the point about religion? One of the starkest findings in our report is that religion is seen by these young Muslim men as a real anchor and level of support, but it is almost on the opposite spectrum for criminal justice professionals. How you bridge that gap is really important. As Lola said, it is not about doing half an hour of diversity training; it is about incorporating tools and processes, so that it becomes an everyday part of the establishment. If you look at the NHS, for instance, there are examples where it happens really successfully. There is no squeamishness about difference in culture or difference in religion. There is a massive difference in the criminal justice system.

Q150 Marie Rimmer: That is the point I wanted to come to. It is all right to go on diversity courses for a couple of hours and to pass an exam, but it is about understanding and respect. It is about building a culture within these establishments that respects and accepts and understands that Islam is a deep, deep anchor for these young people. Unless that is respected, they will go together and then they will be seen as wanting to be different. For me, it is prime land for radicalisation if that goes wrong. It needs to be said. I have a very small Islamic community, but I respect and understand them. I am active and involved there. It is no good just going to the Eid festival—it is about understanding and being part of it. Other people need to understand. We need to do this. It is very important. How do you impress that upon people?

Chair: I think that you say that you are trying. You are doing your best.

Baroness Young of Hornsey: It is an ongoing thing. There is not a magic bullet. We have to accept that people hold prejudices, biases and ideas. We all do; I do not think that

¹ Note by witness: This opinion was not given to Maslaha by Mr Monkhouse. It was made by a senior member of the probation service in relation to their observation of Magistrates.

anybody is exempt from that. The point is, how can we get rid of those when it comes to our professional life and the way in which we interact with people? Also, how can we work with the organisations and structures that already exist in some communities? Personally, I think that part of being constructive is to see it as a two, three or four-way thing. It is not about one side or another. That is something we have to get over.

We also have to ask how people in the communities we have been talking about—some of those organisations—can be much more focused on prevention and make those early interventions from somewhere that is not necessarily a statutory organisation. How can we harness that energy? In the report, a draft of which I have read, Raheel refers to one comment by a young Muslim man in prison. He talks about a theme that was picked up in a publication called “Freakonomics” that came out some while ago; I do not know whether you remember it. The kinds of skills that you learn as a drug dealer or whatever in criminality are transferable skills, like it or not. What we have to do, and what that young man was saying, is harness some of that energy, know-how, nous and entrepreneurialism for something that is good and productive and contributes to the growth of society, our community and our mutual acceptance within that. Until we can see these issues through that prism—if we continually see it as a battle of one thing against another—we will not make too much headway.

Marie Rimmer: There has been too much emphasis on black and Asian faces and not enough on getting other people to understand and respect.

Q151 Chair: I am sure that that is right, but we probably need to move on to the evidence. Mr Mohammed, does this relate to some of the work that you have been doing?

Raheel Mohammed: Yes. On the point that Lola was making, in one of our earlier projects we worked with a group of young Muslim men in Mile End. A number of them wanted to help to prevent offending by the younger generation. We worked with a group of them to run social enterprise classes in the local schools. Those young Muslim men, who had been through the criminal justice system, were gaining new skills, but they were also helping to prevent other young people who might be at risk of being excluded from being excluded. There are practical initiatives that you can do.

Q152 Chair: Thank you very much. We always run up against Question Time at about 11.30. I am sure that we will want to revisit your report when it comes out.

Baroness Young of Hornsey: Will you drop us a line about the two points that you wanted us to submit? One was the Manchester Met report. The other—

Chair: We can get that done.

Baroness Young of Hornsey: Thank you.

Examination of Witnesses

Witnesses: **Rt Hon Lord McNally**, Chair, Youth Justice Board, and **Lin Hinnigan**, Chief Executive, Youth Justice Board, gave evidence.

Q153 Chair: Welcome, Lord McNally and Ms Hinnigan. Thank you very much for coming to give evidence. I am sorry for keeping you outside for a bit. You will know that sometimes these things get a life of their own when it comes to questions and cross-examination, but we are all very grateful to you for giving evidence.

We are particularly interested in how Lord Harris's work impacts on what the board is doing and how you see things going forward. It was interesting to hear some of the things that the Secretary of State said yesterday in the Commons about how lessons can and, perhaps, need to be learned. First, I would be interested to get your take on the Government's response to the Harris report and how you see things going forward. From your point of view, what are the key issues that you need to achieve—where we are and where we're not?

Lord McNally: Thank you very much, Chair. This is very welcome. We both gave evidence to the Harris committee and welcomed the report when it was published. The Government's response may have disappointed Lord Harris, in that they did not simply say, "Wonderful. We'll implement the whole lot," but that is not necessarily the way Governments respond.

I have been very encouraged. We are in a period of opportunity as far as penal reform is concerned. As Mr Gove indicated yesterday, he has set in train a whole number of issues. In our own terms, there is the review across the piece of youth justice services that is being carried out by Charlie Taylor. There is the inquiry into education in prisons. There is the announcement about selling off the old Victorian prisons and using some of the proceeds for a new prison estate, which will give opportunities for different kinds of approaches to imprisonment. For those who are interested in penal reform in its broadest sense, the way Mr Gove is taking things forward makes this a period of real opportunity to put forward and develop ideas. The Harris report is and should be a vital document in that process.

In all of this, certainly in our own area, it is always work in progress, in terms of learning lessons and seeing where there is need for improvement. One thing that we have said consistently is that there is a need, certainly in the youth estate but perhaps throughout the prison estate, to upskill those who are looking after inmates, so that they have the skills and resources to deal with often very difficult and complex characters.

There is optimism. At my board, we are working on our evidence to the Taylor review. I have said on a number of occasions that, when it comes out, I want it to be seen that the best ideas for reform have come from the Youth Justice Board itself. We are working hard on our experience. Do you want to say anything more on that, Lin?

Lin Hinnigan: No. I would endorse what you said about the opportunities from the youth justice review. Obviously our focus is on young people under 18. However, we recognise that the time of transition to adult services is particularly high risk for them, as they move from a system that has evolved to look particularly at their needs to an adult system that is not designed in the same way. That is a particular risk. The focus on transition is an important one for us at the Youth Justice Board.

Q154 Chair: Lord Harris made quite a strong point about the fact that the most effective interventions happen before engagement with the criminal justice system. Does that fit with your experience?

Lord McNally: Absolutely. One of the encouraging statements made by Mr Gove is his absolute endorsement of the view that diversion is far better than rehabilitation. Since I have been in this job, I have consistently said that we need to get upstream of the offences. I hope that this Committee will encourage the breaking down of silos. It is not just a matter for education, health or social services. The things that influence and draw a young person into criminality happen a long way upstream. Of course, there is the occasional young person who comes into our custody from a stable, comfortable background, with good parenting, but that is the exception.

Q155 Chair: It is unusual.

Lord McNally: You can count most of them on one hand.

Q156 Chair: Usually a specific type of offence that has led them there.

Lord McNally: The factors that come up time and again are a background of domestic violence and abuse, drugs and alcohol, mental instability, a parent or sibling already in the criminal justice system and long-term, intergenerational unemployment. There is a big overlap between what we are trying to do upstream in terms of diversion and the interventions and initiatives on troubled families. We are fishing in the same pool.

Q157 Chair: You are, aren't you? To do that fishing, you need the resource. What is your take on resourcing, in terms of the pool?

Lord McNally: We are aware that we live in hard times—in times of austerity. What we have said very clearly to the Secretary of State—I hope that he passes the message on to the Chancellor—is that you cannot continue to salami-slice youth services without their breaking down. That is why we welcome the Taylor report. If there is no instant bonanza around to solve all these problems, all of us—local authorities, the Youth Justice Board, youth offending teams, the police and everybody involved—have to think smarter about how we use the resources that are available. One thing that is encouraging—I hope that the Youth Justice Board has been a pioneer of this—is that through multi-agency co-operation you can get better and more effective use of resources.

Q158 Chair: That is the sense I get, and you have a core budget that you probably need to protect to enable that.

Lord McNally: Yes. I hope that I am not quoting him out of context, but Mr Gove has said to me, “If you have a solution that needs resources and you can convince me that it is the right solution, I will fight for those resources.” That is encouraging, but we are not in the world where a Minister says, “What should we do?” and you say, “Spend more.”

Chair: That was long gone before both of our times.

Q159 Marie Rimmer: As you said, the Minister has to go to the Treasury, so there will be cuts, and there are cuts. I am interested in what you said about co-operation. Do you not think that more integration of youth facilities and services would be a better use of resources now? At the Youth Justice Board, you have said that there should be more integration of services for youth, to make better use of that resource.

Lord McNally: We are looking at the way things are structured. Recently I was at a meeting where somebody referred to the 1998 Act as a straitjacket. I think that is unfair. The 1998 Act was brought in because of the consideration at that time that youth services were the responsibility of many but the priority of none. What the Youth Justice Board did in the justice system was give priority to young offenders; it had the structure and the statutory responsibility to encourage cross-disciplinary co-operation. We will have to see whether the Taylor review produces different structures.

There are some interesting things. Surrey has a structure that is much more integrated and they claim great success for that. However, I am afraid that if we simply say, “Let it all move back into general children’s services,” or even any other local authority department, that priority for youth justice services will be lost. I have accepted an invitation to have a look at the Surrey model. I am not afraid of reform or reorganisation, as long as we can retain what has been the great success of the youth justice system, which is cross-discipline co-operation, underpinned by statute. We are at a moment when we have to look at how better to spend our money. As a board, we are certainly not afraid of looking at new ideas, new ways and amalgamations of various bodies. That is what a good review is about. We have a very open mind as to where it will take us, as long as we retain the best of what the 1998 settlement gave us.

Chair: The key bit is the statutory underpinning for that, isn’t it?

Q160 Marie Rimmer: Yes. For me, it is about that having more influence on youth services in local authorities. If it had more influence on the primary services for youth, it would be very effective.

Lord McNally: You are quite right. Often the youth services have the best impact upstream.

Q161 Chair: That is exactly right. That is an argument for greater integration with local authorities, in a sense. I should be interested in the Surrey model, I must confess, as an old local government hand, but it strikes me that the Surrey work is notable precisely because it is not the norm.

Lord McNally: Yes, but there are other experiments. Leeds is also doing some interesting work. We are not trying to impose a straitjacket. There is scope within the legislation for experimentation and initiative, but if you lost the statutory underpinning, human nature being what it is, you might lose something in the process.

Q162 Chair: I understand that. Forgive me, but I would like to pursue this for a second. What is your relationship with the Local Government Association like? Does the board engage with it on a regular basis?

Lin Hinnigan: We engage particularly with directors of children’s services and the Association of Directors of Children’s Services. We have engagement with the Local Government Association, but the strongest link is probably with the ADCS.

Q163 Chair: It strikes me that the political buy-in that you need at local level will have to come from the members.

Lin Hinnigan: Yes.

Q164 Chair: What are you doing at the moment to see precisely how this work fits in with the devolution agenda—with mayors and the devolution package?

Lord McNally: When Mr Gove first announced the Taylor report, we had a first look at that. One thing that we pointed out was that the devolution agenda might tie in very well. To my mind, it is very interesting that some of the most interesting developments in youth justice services have happened in Wales and, if I may say so, in Scotland, where you have devolved responsibility that has also produced new initiatives and ideas. If we can get it right, the devolution settlement offers real opportunities.

Q165 Chair: I am going to move on to some specifics, unless colleagues would like to come in on that specific point. Perhaps it is something we can revisit as we move forward, because it is very important.

I want to deal with some of the specific issues we are looking at in the inquiry. One thing we have heard a lot of evidence about is maturity and how that affects offenders, offending, sentencing and so on. Obviously that was in the Harris review. The Government's approach was to say, "Yes, up to a point, Lord Copper." What is your sense? Leaving aside the legal status that happens at 18, is 18 some magic figure? When I was a barrister, I was not always conscious that there was something very different between a 17-year-old and a 19-year-old, in terms of what happened when they got involved in the justice system. What is your take on that?

Lord McNally: My chief executive is a professional in this area. I will give you my view as well, but I will pass it to her for an opener.

Q166 Chair: By all means. That is the prerogative of being chair.

Lin Hinnigan: I should start by saying that the legal definition provides a particular framework. There are rights and responsibilities around children and protections for children that are not there for others, and there are different responsibilities on 18-year-olds. We cannot entirely ignore that. We are particularly keen that the entitlements and protections for children should not be in any way compromised or diluted by an approach that looks more widely.

I am a psychologist by background, and certainly developmentally all the evidence now shows us that brain development continues well into the 20s. Very often the young people we are involved with or who get involved in the youth justice system have had abuse, neglect and damage. If you look at the pictures of their brains at age three or so, you will see that their brain development was severely hampered early on. Therefore, for them that development certainly continues later. Many features of an 18-year-old, and beyond, into the 20s, are very similar to those of younger children, under 18. We believe, therefore, that one should look at the needs of that particular group and ensure that, as we do with young people, we are trying to look very much at the individual and their individual needs. It is not about what age you are; it is about where you are at, what experiences you have had and how you have learned and developed.

It is interesting that generally in society adolescence has grown. More and more children do not leave home. All the things that helped desistance, such as having a job, a partner, a family and so on—we know that a lot of youth offending drops off when people settle

down—have been pushed later on for the whole population. People do not settle down so early, so there is extended adolescence in general. Obviously, it is particularly acute for our young people who are neuro-developmentally—

Q167 Chair: A number of other western European or common law systems seem not to make such a rigid distinction in their approach to that cut-off point.

Lord McNally: No, they seem to manage it better. I went to a conference—you may follow this up—where evidence was given by University College London on brain development that was quite compelling. Part of the problem is that the law is very rigid. The under-18s are children, and children are protected by a whole range of Acts of Parliament and by a UN convention. Nevertheless, there are ways of making 18 a much more wavy line, certainly in terms of treatment and the passing over of responsibility. Recently I heard a very interesting lecture about the Scottish example. Their dividing line is 17. Nevertheless, they manage to make that a wavy line in terms of care and responsibility.

Q168 Chair: Have you talked to Ministers about whether or not the YJB's remit might be extended, for example, over that wavy line or non-wavy line?

Lord McNally: It is very interesting that at the last election two parties had in their manifesto a suggestion that the remit of the YJB be extended past 18. Neither of those parties was successful in the general election.

Q169 Chair: I am sure that it was not the determining factor.

Lord McNally: I do not think that it was the determining factor. It has been looked at by Ministers. Let us be very blunt. The cost implications are quite considerable. The under-18 estate is far more intensively staffed and far more expensive per head, so it is something a Government would have to take real care over. There is a possibility that we can look at transitioning—a lot of work has been done on that—so that it is not such a cliff edge at 18 for those who are in custody, and for those who are being looked after in the community. There is a real opportunity realistically to explore what everybody identifies as a 16-to-25 problem, rather than one that changes dramatically at 18. I do not know whether Lin wants to say more about what we have been doing on transitioning.

Lin Hinnigan: It is worth noting that it is not an absolute cliff edge at 18, in terms of the work that the youth justice system does. For instance, if young people are on a youth reparation order or a DTO, YOTs will continue to supervise them and will not pass them over to finish their order. Similarly, in our secure estate, approximately 10% are 18-year-olds. If a young person is on a DTO or a longer sentence that is coming towards the end, we hold on to them in the youth estate. That judgment is made on a case-by-case basis. There is a little bit of flexibility. I am sure that there is not as much as one might like, but it is not an absolute cut-off at that point.

Q170 Chair: Is this work in progress, as far as you are concerned? Is it something that needs to be revisited, or do we accept broadly the settlement where we are and tweak around the edges?

Lord McNally: It would be a big bite by any Government to take on—

Q171 Chair: It is a lot, isn't it?

Lord McNally: There should be a lot of encouragement to keep exploring and looking at other examples of how the area is being managed. Part of it is making sure that things that work keep going and not allowing artificial barriers or interventions to stop some really good work being continued. In terms of what we have been doing in the under-18 estate, it is sometimes worrying whether when they move into the adult estate, or even into the community at adult level, they will get the same kind of support as they were getting previously. If they do not, do you lose all the gains that you have made?

Q172 Chair: Part of that is the whole issue around individual responses—vulnerability and needs assessments—which you do while they are within your regime, but it may be different elsewhere.

Lin Hinnigan: We have developed assessment tools that are specific to under-18s or to young people. As we have discussed, those will often have relevance for other people at that level of maturity. For instance, we have the AssetPlus system, which we are just developing and rolling out to all youth offending teams. It is a comprehensive assessment and planning interventions framework that encourages a full picture, moving away from simplistic ideas or labelling, such as vulnerability, towards a much more detailed look at the particular risks—and strengths, because it also looks much more at strengths, following the research on desistance—of any individual child, so that you get a much more rounded picture, which can be shared across all agencies.

There is also the comprehensive health assessment tool, which has been developed with NHS England and the Department of Health and is designed to take a look at the whole of someone's health needs, mental and physical. It is carried out by a health practitioner when a young person comes into custody, to give a view on what their health needs are. Again, that is a useful tool. There is much that can be taken from those assessment tools that would be useful with young adults.

Q173 Chair: Do you regard those as the principal assessment tools and performance measures?

Lin Hinnigan: Yes.

Q174 Chair: That is very helpful. I will deal with a couple of specifics, if I may, because you have been very helpful in giving us a comprehensive overview. How do you see CRCs, the NPS, the Y2A portal and so on engaging at the moment? What is your assessment of how that is going?

Lin Hinnigan: The Y2A portal was developed precisely to try to address the issue of transition and is a key part of our work to support transition. It is a web-based system to enable information to be passed over from youth offending teams to probation services. It went live in July last year. As of November, 90% of YOTs, CRCs and the national probation service were signed up and using it. It is a pull system; it depends on CRCs or the NPS asking the YOT for that information. The majority of them have signed up to the national protocol for transitions, which would support that transfer.

In terms of CRCs, obviously the work started originally with probation trusts—a single agency delivering probation services. Now we have the CRCs involved as well. Because

young people are high risk at transition—the very nature of transition makes it risky—the NPS will take young people and carry out an initial assessment, although the YOT is the initial point of contact. Because they are seen to be at risk, due to the nature of transition, the NPS will always make a risk assessment and pick up the young people first. It may then pass them on to the CRC, if that is appropriate, but a reasonable percentage of them stay with the NPS. We have a much smaller youth justice population now, so they tend to be those with more complex needs and greater risks. As I said, 90% of YOTs, the NPS and CRCs have signed up to use the portal and have taken the training.

Lord McNally: One hobby-horse of mine since I have been in this job is the transfer of information. I still worry that different bodies squirrel away vital information and do not share it. When the troubled families initiative was launched, the Prime Minister got a very shirty letter from the leader of a Conservative authority, saying that he could not possibly give the information that the troubled families unit was going to ask for because of the Data Protection Act. As the Minister for Data Protection, I got an equally shirty note from No. 10 asking, “Why is this?” Of course, the truth is that it was not prevented. Too many bodies are loth to share vital information.

Chair: I agree.

Lord McNally: Particularly within the criminal justice system, at every point where an organisation or an individual is looking after somebody in custody they should have the fullest picture of their vulnerabilities and background. It needs a bit of nudging, to make the various bodies that contain that information share it readily with other professional colleagues. I do not think that it is a step towards a Big Brother state to have that. It is a step towards making sure that people in custody are kept safe and given the proper treatment that they need.

Q175 Chair: Personally, I have huge sympathy with that, from my own experience. It used to worry me in the criminal justice system, as an advocate and sometimes as a prosecutor, that I did not always have access to information, or that we had to go through convoluted methods to get hold of it, particularly when dealing with vulnerable victims or vulnerable witnesses. You are absolutely right as far as that is concerned.

Talking of the justice system leads me to my final question, before colleagues come in. It concerns the differences in approach between the adult court and the youth court. Are there things that can be learned either way? People have made the point that the spectrum goes up to about 25. There are times when a circuit judge or district judge in the adult environment will be dealing with someone who really has the same issues as someone who would be dealt with differently in a youth court. What can we do about that?

Lord McNally: Again, it is very encouraging that recently Mr Gove addressed the Magistrates Association and really challenged them to think outside the box. I am very worried about giving our colleagues from the SNP too many references, but there are things that can be learned from Scotland, New Zealand, Northern Ireland and so on about how to handle that. One thing that stuck in my mind very early on was from a conference, where an expert on youth justice quoted a young defendant who had been asked whether he felt remorse for what he had done. He said, “No.” Afterwards his advocate said, “Why did you answer in that way?” He said, “I don’t know what ‘remorse’ means.” We get a lot of advice about the language used, the structure of youth courts and so on.

There is an opportunity to look at that. I have always believed that the magistracy is a massive resource. Maybe we need to look at different ways of using the magistracy, but there is scope for a way of dealing with this that allows follow-through by the sentencing magistrate—to find out what happens next, as it were—with a lot more problem solving by those courts. There are a lot of ideas around. Mr Gove has said that he is up for this. One of the prompt results of the Carlile report was the appointment of Mr Justice Davis. For the first time, we have a senior judge overseeing youth justice. I will see him again in a week's time. He is certainly bringing together the various elements in the legal profession to address it. Recently the Bar Standards Board published a report on it. CILEX has some very positive ideas. There are a lot of good ideas to gather. There is real scope for reform at the youth justice level—in the youth courts.

Lin Hinnigan: You spoke of opportunity and capacity. The fact that youth crime has fallen so much means that youth magistrates, who have specific training and are trained particularly to deal with young people, have less and less business. They are complaining about that, but there is an opportunity, in that you have a specially trained magistracy that has the capacity to deal with other young people.

Lord McNally: The Magistrates Association is keen to try some piloting of more problem-solving courts.

Q176 Chair: That is very interesting. It may be something the Committee needs to return to. I think that you are right, Lord McNally. I get the sense that there is a real openness to this from the judiciary, as much as from practitioners. That is particularly welcome.

Thank you both very much for your evidence, which is immensely helpful.

Lord McNally: Thank you, sir. Without over-flattering you, can I say that this Committee has always had a reputation for very constructive ideas about the youth justice system? We look forward to working with you in what I hope will be a very exciting time of change and improvement.

Q177 Chair: I think that is right. It will not be the first time that we have worked together in exciting times of change and improvement, Lord McNally. I look forward to carrying on with it. It was very good to see you both.

Lord McNally: That, as they say, is another story.

Chair: Unless there are any other matters, the official session is finished.