

Justice Committee

Oral evidence: [Transforming rehabilitation](#), HC 1018

Tuesday 21 March 2017

Ordered by the House of Commons to be published on 21 March 2017.

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Members present: Robert Neill (Chair); Richard Arkless; Alex Chalk; Alberto Costa; Philip Davies; Kate Green; Mr David Hanson; John Howell; Jo Stevens; Keith Vaz.

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Witnesses

[I](#): Dame Glenys Stacey, HM Inspector of Probation.

[II](#): Malcolm Richardson JP, Chair, Magistrates Association.

[III](#): Nathan Dick, Head of Policy and Communications, Clinks; and Nicky Park, Head of Prison Services, St Giles Trust.

[IIII](#): Yvonne Thomas, Managing Director, Interserve Justice; and Rich Gansheimer, CEO, MTCnovo.

Examination of witness

Witness: Dame Glenys Stacey.

Q1 **Chair:** Good morning, Dame Glenys. Can I thank you and the other witnesses who will come after you, most of whom are in the Gallery already, for coming to give evidence to us? Do Committee members have any declarations? Mine are as set out in the Register of Members' Interests.

Kate Green: I am a member of the Magistrates Association.

Alberto Costa: I am a practising English solicitor and a non-practising Scottish solicitor.

Alex Chalk: Mine are in the Register of Members' Interests.

Keith Vaz: Mine are in the Register of Members' Interests.

Jo Stevens: Mine are in the Register of Members' Interests.

Richard Arkless: Mine are in the register as well.

Chair: Thank you. We are going to approach this slightly differently. Dame Glenys, as you are the first person to come and talk to us, perhaps I can explain it now, for the record, so that we need not repeat it.

We are adopting a slightly different approach to this inquiry. We are going to look at some of these issues in a preliminary way, to get a sense of where potential difficulties and potential solutions may or may not arise. We have not yet gone through the formal processes of announcing an inquiry and calling for written evidence, but we are going to have some public sessions to enable us to get a range of stakeholders to give some high-level views on where the issues are at the moment, from their varying perspectives. We are conscious that the Government themselves are looking at making changes. We may want to respond to that in due course, as well. That is when we may well do something in a more formal fashion.

I hope that that is clear. That is why we are having a number of short, sharp sessions with people, from the different perspectives of their varying organisations. If the questions sound repetitious, it is because we are trying to get different people's take on the same area of ground.

Perhaps I can start. Dame Glenys, you have made clear in a number of your reports—and it is very clear from the general public discourse about this—that there is a degree of unease and concern, to put it mildly, at the way in which transforming rehabilitation is working. There are certainly challenges out there. How would you assess the gravity of the challenge? Can you give me a sense of where you think the responsibility for these issues—both the cause of the problem and potential solutions—lies?



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Dame Glenys Stacey: Good day, members. That is right—we are in a very unsettling position indeed. You will have seen evidence of HMI Probation’s view of that in the various reports that we have produced in the last year or so. I will focus on what are perhaps the central issues.

The first point to make is that CRCs are facing substantial financial challenges. With workloads now some 30% smaller than anticipated, and payment largely linked to the number of service users through the door, CRCs are having to cut their cloth accordingly. They are running with ever fewer professional staff and taking other steps to contain or manage expenditure—and to reduce it, wherever possible. They are pared back, if you like, and focus predominantly and understandably on what is measured and rewarded. Of course, they are seeking to avoid stinging penalties for non-delivery against contractual targets.

That is the first issue: the financial model and the financial underpinnings for these organisations are not sufficiently stable, and that is substantially inhibiting CRCs as they seek to develop and implement new operating models.

Q2 **Chair:** It sounds as if responsibility for that lies with the Ministry of Justice, for setting them up in the way in which it did.

Dame Glenys Stacey: As you know, I was not around at the time. Clearly, commissioning is a matter for Government—for the Ministry of Justice and for Ministers. Presumably, that is why they are now looking at it.

The second issue is that, in making these changes, Government hoped to see substantial amounts of innovation—new ways of turning people’s lives around and, hopefully, reducing reoffending. You will know from our reports that we have not seen very much innovation in the way in which service users are progressing through probation. We do not see a wealth of new interventions; indeed, we see a bit of a dearth of tried and tested interventions. Rather than seeing a large amount of activity, with many different things happening, we are seeing less happening than any of us would be comfortable with.

When we ask ourselves why that is, we find that, of course, the financial pressures are having an effect and that organisations are focused very much on meeting their targets. That is the nature of contracts—what gets measured gets focused on and, hopefully, gets done. However, many of them are also seeking to implement quite ambitious operating models. Some of those models have attractive features and hold a lot of promise. There are some issues with them, as well, which I will be happy to go into, if we have time. However, more often than not, they are stalled in their implementation of the models.

A classic scenario that we are finding is that a CRC moves to introduce an administrative hub, to get efficiencies, understandably, from centralising administrative work, but then finds itself unable to optimise that



arrangement, because it does not have the IT that it had hoped to have in order to join up the organisation and to have a free flow of information, both within the organisation and between it and the other organisations in the system it must communicate with. That is happening for a number of reasons.

One is that meeting the Department's information security requirements has been quite a technical matter and has taken a lot longer than was perhaps anticipated. The long-promised strategic IT gateway that must be provided to enable confidential information to pass securely to CRCs is also not yet in place. I say "long promised" because it was promised back in June 2015. CRCs have sometimes found themselves wrong-footed. They have started, with an excess of enthusiasm, to implement new models—driven, no doubt, in no small part by the cost savings that would come—and have then found the implementation inhibited because they are unable to implement a key component of the transformation, the much-needed IT systems. It is not that I can see that they are not investing in them—it is simply that it has proved much more difficult. That is a second important consideration. You have the financial model not being ideal, by any means, and IT difficulties inhibiting the transformation that people had expected.

The third thing is that, of course, this was a very significant cultural challenge and change for probation. It is a caring profession, not dissimilar to social work, teaching and nursing, yet this wholesale move to fragment the service and to give it a commercial edge has been enormously difficult. Later, you will hear from those representing the owners of CRCs, or some of them. From what I can see, they have found it particularly challenging. Probation is not readily engineered. It is not readily put into models of risk and so on. Yes, risk assessment has always been key to probation, but what is also key is regular risk assessment, professional judgment and building a strong relationship between the professional individual and the service user. That is ignored at your peril, if you are trying to get good outcomes. The business of trying to engineer probation to provide a sufficiently economic model has proved enormously difficult.

Q3 Chair: That is helpful. Sometimes this Committee and many others find that, when you seek to inquire into the detail of the operations of private sector contractors working on behalf of Government Departments or agencies, issues of commercial confidentiality are raised. Do you have any difficulties in that regard in carrying out your role as chief inspector, or is all of the information that you need readily available to you?

Dame Glenys Stacey: When we inspect, we seek some information ahead of time from those we inspect. Generally, we get it, although it is not always readily available. What we are asking for may not be available. Not all CRCs, by any means, survey their staff, so getting information on staff morale and issues is difficult. We get what we can,



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but it is sometimes a struggle, because it is not in a common format across 21 CRCs and is not always there.

When we are there, we are always able to interview staff, including senior staff, and they tend to be forthcoming. Of course, we are not looking at the financial model. We are inspecting to see the quality of work and whether the enduring expectations of probation, rather than the more immediate contractual demands, are met.

Q4 Keith Vaz: Good morning, Dame Glenys. Are you disappointed with the performance of the probation service?

Dame Glenys Stacey: Yes. No one in my position would feel comfortable about the way in which it is performing at the moment.

Q5 Keith Vaz: Could you speak up a little?

Dame Glenys Stacey: Yes, of course.

Q6 Keith Vaz: Your “yes” was very quiet.

Dame Glenys Stacey: Yes. No one in my position would feel comfortable about the way in which it is performing at the moment.

I can put a bit of flesh on that. In these debates, we often forget the importance of the National Probation Service. It is a new national organisation and is doing acceptably well. It is off the ground and is working as one organisation. There are still variations geographically and some issues about the management of the fault line between the NPS and CRCs, but generally we are finding that it is performing to an acceptable level, although there are one or two exceptions. High-risk offenders are more or less safely in the arms of the state.

Our concerns are predominantly around CRC performance. We have found one or two good areas of performance. Kent was a remarkable find. We find some good things, but, generally speaking, as you will have seen from our reports, we are not seeing a happy picture, by any means. Some of that is to do with one or two of the operating models that are being deployed, but in large part it is because staff are more or less overwhelmed by the volume of work that they are trying to do, the amount of change that they are experiencing and the half-baked, halfway-implemented operating models that are stalled, for one reason or another.

Q7 Keith Vaz: It is quite serious when Her Majesty’s inspector says that the service is not performing as she would have expected. I have a figure of £889 million for the budget of the probation service. Is that right—almost £1 billion?

Dame Glenys Stacey: Yes.

Q8 Keith Vaz: Do you think that it is providing value for money at the moment?



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Dame Glenys Stacey: I do not know that we have effective measures for that. We know that these contracts have £3.7 billion, over the life to 2022. I am not aware that there are effective value-for-money measures at the moment.

Q9 **Keith Vaz:** You would like to see some more effective benchmarking.

Dame Glenys Stacey: We would all like to see more management information of all kinds. One of the difficulties that we experience—and that CRC managers themselves experience, when we go inspecting in the field—is that basic management information is wanting. It is often difficult to identify workloads, workloads per individual officer, how often people are seen or whether the organisation has the management information to identify when people are not seen when they should be. If we are looking at what information is needed in order to manage these things well, there are some significant gaps.

Q10 **Keith Vaz:** You do not think that it is providing value for money at the moment.

Dame Glenys Stacey: I cannot say. What I can see is that the current delivery model is not really getting a fair chance at delivering, because it is not sufficiently well set up to begin with. If you do not have the IT that you need and you have a payment mechanism that is wanting because it is not sufficiently flexible to cope with a 30% reduction in workload, you are not really giving it a fair crack.

Q11 **Keith Vaz:** Sure. Given what you have just said—which I think is pretty serious, coming from the inspector—and given the fact that, in a speech in December last year, you said that the probation service itself was unclear about its expectations, what is your timetable for ensuring that something is done about this problem? We cannot just pronounce—we have to have some kind of timetable, don't we?

Dame Glenys Stacey: Absolutely. As an inspectorate, we do not want to find ourselves perpetually pecking away at the shoulder of CRCs, but making no difference. What is the point?

Q12 **Keith Vaz:** Of course—what is the point? Can you clarify what your budget is?

Dame Glenys Stacey: It is about £3 million.

Q13 **Keith Vaz:** It is £3 million to monitor £889 million.

Dame Glenys Stacey: Yes. I have been in this post for a year. Perhaps it will not surprise you to hear that I think that we could do a much better job. We could rebalance the oversight model for probation. Understandably, in the first couple of years, the focus has been on contract monitoring and compliance.

Q14 **Keith Vaz:** But what would your timetable be? You have raised a number of very serious points. When do you want to see things improving by?



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Dame Glenys Stacey: There are two issues that need to be addressed. One is our role and what we can do. The second is the timetable. My proposition to Government, which I put to them before the end of last year, is that we enhance our role and underpin our inspections with clearly stated standards. At the time when TR came in, standards were liberated; CRCs were liberated and allowed to do more or less as they wished. There was a relaxation—a paring back of established standards. I am not comfortable with that, especially when I see on the ground not enough activity and enduring expectations not sufficiently well met. My proposition is that we establish standards and that we do so by consensus—yes, with Government, but also with providers, as they must own and live them as well.

Q15 **Keith Vaz:** Finally, can I press you on the timetable? When do you want to see this achieved by?

Dame Glenys Stacey: We are already cracking on with this work. My proposition to Government is that we would inspect against those standards and rate and grade CRCs and NPS divisions by April 2018. We will pilot and test these arrangements in various ways later in this calendar year.

Q16 **Mr Hanson:** I recognise that you have been in post for a year. I will put my question in that context. You have indicated, and we are aware, that there are problems with incentive design, case load information, through-the-gate resettlement services and rehabilitation activity. You have described these changes to the Committee today as “half-baked.” The question that we want to explore is whether the difficulties that are now on our table were foreseeable, potentially, prior to 2014. I would welcome it if you could explain more whether, by “half baked,” you mean Government half baked or that CRCs went into this with their eyes closed.

Dame Glenys Stacey: When I said “half baked,” I meant it almost in a literal sense. They are halfway through delivering these new models of operating and are then finding themselves stalled while they wait for new IT and hope for a better financial footing. It is not that they are silly ideas. Although I have some concerns, in the main, these operating models make sense. However, they are unable to deliver them fully. That is what I mean by “half baked.”

When it comes to why we are in this situation, not only was I not chief inspector at the time, as you say, but I was not in probation, either. Of course, I look back and wonder why we are in the situation we are in. The first thing is that it had not been foreseen that case loads would change in the way in which they have. A reduction of 30% in case load does not equate with a mechanism where finance relies entirely on case load. There was an issue, I suppose, with the design of the financial underpinnings for these organisations, if the model is not sufficiently flexible. At the time, much was put on the notion of payment by results. An element of payment here is payment by results. I think that it is 15%,



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although CRC colleagues may correct me. That has turned out to be problematic. That is money set aside for the future that may be better used in the present. It may be better to fuel the present.

- Q17 **Mr Hanson:** Is that due to poor modelling that could have been foreseen by the MOJ, actions by the CRC companies in underbidding to try to win the contracts in the first place or some fundamental flaw that was not anticipated because of the changing nature of this?

Dame Glenys Stacey: There are multifarious reasons for these variations in workload. They include diversion schemes in specific areas, which can significantly affect some CRCs—Durham is an example of that—as well as changes in national and, indeed, local policing policy. There are a number of reasons why these workloads are not as they were expected to be.

There is a question about the extent to which that could have been foreseen, of course. You will be more experienced than me at considering those matters. One thing is plain: CRCs have basic costs—premises costs, staff costs and running costs—that must be paid before anyone walks in the door. Those must be covered. We need, hopefully, to look to a mechanism that recognises that and is not so dependent on either case starts or future reoffending figures, which are far off and where, in any event, achievement may not be in the gift of the CRC.

- Q18 **Mr Hanson:** Presumably, in 2012, 2013 and 2014, when these changes were going through, there was a whole Government machinery looking at their impact. There is a whole Government machinery in the Home Office that looks at policing policy. A whole Government machinery will have looked at how this would play out downstream. CRCs were bidding for contracts, based on what they perceived the future to be. Are you saying that, effectively, all of that machinery did not anticipate its own policy changes?

Dame Glenys Stacey: It is not for me to say. I was not part of, and do not look back at, that machinery. My job is to inspect the present, to set standards and to drive improvement. That is what I am focused on. However, I am telling you, as others will, that there is an issue with the current payment mechanism. I, for one, welcome the Government looking at it.

- Q19 **Kate Green:** May I ask you about impact elsewhere in the system, particularly in relation to breach and recall? We are hearing contradictory reports. On the one hand, we are hearing that there is a disincentive for CRCs to breach. On the other, we are seeing a rise in the number of people being recalled, following a short custodial sentence, within the new period of immediate post-custody supervision. What is going on?

Dame Glenys Stacey: That is not an easy one. A number of things are going on. We are sufficiently concerned about that, in the absence of statistical information, and given that there have been a lot of rumours and concerns expressed, that we are committed to undertaking a



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thematic inspection of enforcement, so that we can get the evidence base—not only what is going on, but to what extent. We will do that piece of work in the coming business year.

What we know so far, but cannot quantify, is that as we inspect in individual PCC areas we see an acceptable position, broadly speaking, on enforcement. Certainly, enforcement proceedings between the CRC and the NPS have got better. When a CRC sees that enforcement is needed, generally speaking, it is happening. The issue is whether the CRC sees the need for enforcement. If you do not see somebody, you are not picking it up. My concern is that if someone is not seen for a number of months, for example, while serving the sentence of the court, you are missing opportunities for enforcement. There is a relationship between your ways of working, in terms of supervision, and taking the opportunity for enforcement when you should.

Q20 Alex Chalk: Before I move on to solutions, can I pick up something that Mr Hanson said and press you a bit? Are you saying that, because of the flaws that you have identified, the scheme was doomed to fail from the outset?

Dame Glenys Stacey: We are just over two years in, and the Government are doing a fairly fundamental review. I welcome that. This change happened at a remarkable speed. It was a very complex thing to introduce. It was multifaceted, wasn't it? It is not surprising, in one sense, that you find that your contract arrangements, your monitoring or your targets are not sufficiently well honed, well shaped and well targeted. The key is to review it, and to do so in a sufficiently timely way. The NAO has reported that the transfer—the implementation—went well enough. The issue now is to make sure that it can work sufficiently well in practice.

Q21 Alex Chalk: On where we go from here—on solutions—you have talked about the fact that established standards have been pared back. You think that they need to be re-established, in consultation with Government and the providers. You mentioned that they would be piloted later in 2017. Can you give us a bit more detail? Where have you got to with establishing these new standards? If you are piloting them later this year, presumably you have already devised them.

Dame Glenys Stacey: We have been speaking with Ministers, to get their consent to this approach. I myself met the Secretary of State earlier this year to present the approach. We have also met senior managers in the NPS and in a number of CRCs. We have put the proposition, which seems to be well regarded. We have established a framework for these standards that is based on rules for probation that are set beyond this country.

We have looked at rules from the Council of Europe, for example, which is a good source for the framework. We have put that framework to people as well. We have begun work in earnest within our own



organisation to flesh out the framework, ready to present it to and discuss it with key stakeholders. We have set up a programme to do that. We have a steering group established, with a good number of people from outside our own organisation. That group will have its first meeting tomorrow.

Q22 Alex Chalk: When you talk about these standards, in simple terms, what are you driving at? What will this framework consist of?

Dame Glenys Stacey: Forgive the technical language, but we inspect in specific domains. At the moment, we look at serving the sentence of the court, rehabilitation and protecting the public. We can wrap those up into one domain. We have a second proposed domain, which is really about organisational arrangements—partnership working, because it is so important, and things like governance or staff training and development. We are proposing those two domains. Underneath them will sit standards that flow from that. If you look at the domain that is around probation work, one area that we may want to cover is what a good rehabilitation activity requirement looks like.

Q23 Alex Chalk: But this is entirely new architecture for the delivery of probation work—effectively, mid-term. It sounds pretty radical to me. Would that be a fair adjective?

Dame Glenys Stacey: No, I think that that would be stretching it. First, it is not that there have not been standards before. There are accepted standards—it is just that CRCs were liberated from them. Secondly, there is a great deal of consensus among the international probation community about what good looks like. We are not in a green field, writing them from scratch. We have a lot of material to pull on.

Thirdly, the inspectorate has had this role before. We have done it before, so we are treading ground we are comfortable with and understand. Lastly, we are intent on developing these standards with others—working with those delivering, in particular, to make sure that we get them right and that they are deliverable. It may be that this is a Forth bridge affair—we may get the core of these standards and continue to develop them over time. That is not an unusual model. Although I am trying to do this at the fastest possible speed, because I want to make a difference sooner rather than later, I am assured that we can do it.

Q24 Alex Chalk: There are the standards. Is there anything else that you would set out at as a headline—as a solution to address these challenges?

Dame Glenys Stacey: There are the standards. There is the strategic IT gateway, with all the support that the Ministry of Justice can give in relation to IT. There is sorting out the money, in short. What I will look for there is some stability and certainty for CRCs, so that they can plan. Obviously, if there were any extra money that could go in that could be justified, I would have more confidence still, but I know that that is a matter for Government.



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One last thing is in relation to the profession itself. We have seen the number of qualified probation staff reduce at a significant rate. Personally, I am very interested in making sure that those working in probation are professionally qualified, that their profession is respected, that they get a chance to develop and that the profession is sustained, because it is those people who will deliver probation, whatever the delivery model may be.

Alex Chalk: That is helpful.

Q25 Richard Arkless: Hi, Dame Glenys. How are you? I have a couple of questions that can probably be rolled into one. You have touched on some of the problems, as you see them, but there is a current review of transforming rehabilitation. What is your assessment of that review? Is there anything that you would like to include or exclude? Specifically, is there action that you would like to be taken following the review?

Dame Glenys Stacey: The signs are promising, from my perspective. I had the opportunity to meet Sam Gyimah, in a workshop with two non-exec directors from the Ministry of Justice and other officials, to go through the detail of what we have been finding in our reports and to make sure that those conducting the review sufficiently understand and take into account what we have found. I found that quite a healthy sign.

Secondly, from what I understand, the review is looking at the right things. It is looking at the financial underpinning and at what is measured, because what is measured gets done. There is a clear understanding: the Minister wrote to you just last week to put on record that the measures are not right at the moment.

In my view, it is enormously difficult to set sensible measures for the local management of socially complex problems. That is what is happening here on the ground. However, there is somewhere in between immediate task measures, which we have at the moment and which are driving behaviours perversely, in some cases, and more long-standing outcome measures, on reduced reoffending. There is a middle ground around strategic outputs. If we can get to those measures, while accepting that they will always have their drawbacks, that will take us in the right direction.

Lastly, as part of the Government's review of this, I know that they are very interested in what we in the inspectorate can do to flesh out the standards and develop our ratings and gradings, so that they become the primary qualitative measure. At the end of the day, you really know what is going on only when you walk through the door and inspect. It is a service of that nature, like many of the caring-type services. In my view, that inspection must have its proper role in evaluating over time one CRC or another or, indeed, one division or another of the National Probation Service.

Q26 Jo Stevens: Dame Glenys, it is nice to see you. I want to take you back



to what you said about the second domain, on staff development, the professionalisation of probation staff and having a sustainable workforce. Do you have a view on the proposed introduction of a licence to practise for probation staff? Do you think that it would improve the service? Do you envisage any difficulties in implementing a scheme like that?

Dame Glenys Stacey: If the probation service is to hold itself up as a profession—a place staffed by professional people—one would expect over time to see the key tenets of a profession. If I look to long-established professions—doctors and lawyers, for example—the first thing that they have is a register. You need to be registered and recognised as a member of the profession. It is a given.

Secondly, they almost always have continuing professional development requirements, so that you are keeping up over time. That is as important in this profession as in any other. Thirdly, they have some self-regulation—some disciplinary provision, so that if we have bad eggs in the profession they are sorted. Looking at it and comparing it with other professions, I would hope to see those key tenets developed over time. I would fully support that.

Q27 **Chair:** You have just described a developing role for the inspectorate. Will that require more resource?

Dame Glenys Stacey: Yes.

Q28 **Chair:** Is that a conversation that you are having with the Government?

Dame Glenys Stacey: It is a conversation that I am very actively having with the Government. I will certainly keep you informed as to how that conversation goes.

Chair: Thank you very much for your evidence. It is much appreciated.

Examination of witness

Witness: Malcolm Richardson JP.

Q29 **Chair:** Good morning, Mr Richardson.

Malcolm Richardson: Good morning.

Q30 **Chair:** It is nice to see you again. Could you introduce yourself and your organisation, for the record?

Malcolm Richardson: I am Malcolm Richardson. I am the national chairman of the Magistrates Association.

Q31 **Chair:** I am conscious that, as a serving magistrate and, therefore, a member of the judiciary, you have certain constraints. We are bound by the conventions between Parliament and the judiciary with regard to the sorts of questions that we can ask you, as opposed to other witnesses, so there will be a slightly different set of questions for you in one or two instances.



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You are the national chair of the association. I know that you yourself sit regularly as a magistrate and have done so for many years. From your experience and that of your members, how have the transforming rehabilitation reforms impacted upon the probation services that are provided to magistrates courts?

Malcolm Richardson: The direct relationship that we have is with the National Probation Service. They are the people whom we see day in, day out in court. The relationship with them has been maintained at the same high level it has been at for many years. The only issue that we have is that it is now a long time since the statutory requirement for liaison arrangements between the probation service and sentencers disappeared. As both organisations come under ever greater financial pressure, that which is not required tends to be that which does not get done, so those relationships are patchier than we think that they helpfully could be.

What is behind that, first and foremost, is a broader issue—the issue of confidence. Sentencers must have confidence in the advice that they are being given. That becomes more difficult when there is less transparency either in the relationships and the personnel who will carry out the sentences that we impose or in the content of those sentences. We may return to that as we go forward, but I am talking specifically about the rehabilitation activity requirement—the so-called RAR—which is an increasing part of a community sentence provision.

Q32 **Chair:** Put simply, in the old days, when there was a dedicated probation officer at a court, you got to know them and the sort of approach that they adopted to cases. Very often, they were aware of the attitudes of the bench.

Malcolm Richardson: That is certainly true, but it went beyond those whom you saw in court to those who administered the sentences that we passed. We developed a high degree of confidence that what was said would be done. You also understood that the pre-sentence reports would contain real detail as to what was going to be accomplished. It is ironic that, at a time when Parliament has said that there must be a punitive element to every community sentence, there is less transparency in the information that the probation service provides to us. Therefore, it really requires some unpicking to work out where the punitive element is. Is it somewhere within the RAR, or do we need to do something else? That just makes it harder.

Chair: I understand you.

Q33 **Mr Hanson:** We have touched on this already, Mr Richardson. How have the changes we talked about with Dame Glenys, to do with case load estimation, resettlement services and effective short-term sentencing and probation support for short-term prisoners, impacted on the way in which magistrates deal with their everyday life?



Malcolm Richardson: I will build on what I said in answer to the opening question. For magistrates to use community penalties as broadly as they potentially can be used, they must be confident of what will actually happen when somebody is sentenced to a community-based penalty, particularly if that is a rehabilitation activity requirement. All that we have the power to do is to order a maximum number of days the activity will be conducted under, but we have no idea what it will actually be. There may be some guidance. Probation may say, "It is to enable us to do these things," but there is no power for the sentencer to direct that any particular activity will happen or any particular amount of time will be spent. That is up to the CRC to decide subsequently.

Nobody could argue with the philosophy of that: the understanding that an offender's needs may change over the course of a sentence and, therefore, some flexibility is allowable. However, when you turn it into practical delivery, it is difficult when we do not know the CRCs and exactly how they are working and we have had great difficulty in creating relationships between sentencers and CRCs. There has been excessive concern on the part of some about building relationships with organisations that have a profit motive. I think that that is to underestimate the ability of sentencers, particularly magistrates, to manage those relationships. However, if they are not there, we have a lack of confidence.

Q34 **Mr Hanson:** In hindsight, as part of the planning for the changes, was sufficient locus given to the involvement of magistrates in understanding their impact?

Malcolm Richardson: We certainly sought, through our organisation, to make our voice heard. Was it listened to as fully as we might have liked? I would always say, "No, of course it wasn't." We predicted some of these issues around confidence and transparency and the impact that we believed they would have on our members and, therefore, their use of community penalties. We are talking particularly about cases where offenders are on the cusp of custody, but we are exercising our power to sentence to a community penalty, even though the offence and the circumstances have taken it beyond the custody threshold. That is the area where confidence is most important.

Q35 **Mr Hanson:** The Government's court reform agenda has been ongoing in parallel with the transforming rehabilitation programme. Is there any interaction or are there any stresses between the two sides of that coin?

Malcolm Richardson: I am sure that there are. Ironically, the one that most immediately comes to mind is the fact that the fewer courthouses you need to service, the more likely you are to have a probation presence in the courthouse on a daily basis. That is actually a positive, although, of course, it means that very often the probation service, as well as the magistrates and everyone else who is involved in the court, has to travel further.



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The other piece is not specifically reform but is about budgets and spans of control of staff. It means there is less availability of resources, in the broadest sense of that term—as they apply to things that are not statutorily required. Liaison with probation services, whether they be the NPS or CRCs, is not statutorily required, so there is a tension.

Q36 Kate Green: You will have heard me ask Glenys a few moments ago about breach and recall. What awareness, if any, have you in courts, as magistrates, of the nature of those trends?

Malcolm Richardson: We do not have anything that we could say was statistically reliable as to breach. We were and remain concerned that if organisations are recompensed, at least in part, by reoffending rates, that may provide a disincentive to breaching. As Dame Glenys said, if you reduce the amount of face-to-face contact between the supervising officer, whoever they work for, and the offender, the potential to recognise breaches when they are happening—or even in the early stages, when you may be able to do something to redirect—will clearly be of concern to us.

Q37 Kate Green: Do you believe that that is having any impact on sentencers' propensity to choose community penalties?

Malcolm Richardson: This is anecdotal, but I would be surprised if it were not causing sentencers to think more carefully about whether to use a suspended prison sentence with a community requirement under it, so that the court maintains a greater degree of oversight or demonstrates to the probation services that the court takes this seriously and will take breach seriously. As I said, that is anecdotal.

Q38 Alex Chalk: If the court is imposing a prison sentence—albeit suspending it—in circumstances where, other things being equal, it would impose a community penalty, that is a very serious matter. For the defendant concerned, having a custodial sentence on their record has enormous implications.

Malcolm Richardson: Absolutely. I realise the seriousness of what I am saying. I am not suggesting that we are up-tariffing. I am saying that, where you have an offender whose offending pattern is such that a custodial sentence would be justified, you come to the degree of confidence that the sentencer has in the alternative services that would be provided.

Q39 Alex Chalk: Respectfully, I am not sure that I agree. You should impose a custodial sentence only if the custody threshold is passed.

Malcolm Richardson: Absolutely.

Q40 Alex Chalk: I understood you to be saying that, ordinarily, you would impose a community penalty, presumably on the basis that the custody threshold had not been passed, but, because of deficiencies that you perceived in the system, you were effectively inflating the sentence.



Malcolm Richardson: Let me make absolutely clear for the record that that is not what I am saying. I am talking only about offences where the determination of the sentencing bench is that the custody threshold has been passed. However, that does not mean—as I am sure you are aware—that a custodial sentence is inevitable. We then need to see whether there are alternatives that would prevent custody from happening.

Counter to what some people may believe, magistrates do not want to send people to prison and do so only when it is inevitable. I am talking about situations where you get into the position of saying, “A custodial sentence is justified. Otherwise, we should never pass a custodial sentence, suspended or otherwise.” I am not suggesting that there is evidence to the contrary. I am saying that, if the sentencer does not have confidence in the robustness of the alternatives to custody, they may conclude that there is no alternative to custody.

Q41 **Kate Green:** Is this being discussed collectively, perhaps in discussions led by the Magistrates Association, in bench meetings? Is there a sharing of experience and impressions of what is going on and how magistrates are responding?

Malcolm Richardson: The methodology that we would normally use is to survey our members. We have done that around the whole issue of transforming rehabilitation. We have not asked them questions specifically around this. It is certainly something that would be interesting to do. The Sentencing Council has some concern around that, because it has tightened the guidance on suspended sentences, in any case, to make sure that sentencers are re-reminded of precisely what Mr Chalk has just outlined this morning.

Q42 **Alex Chalk:** You have painted quite a stark picture and have been forthright, for which we are grateful. Is the system fixable, from your point of view?

Malcolm Richardson: Yes. Dame Glenys has given her view, coming from an entirely different angle. From a sentencer’s point of view, what we need is clear and unambiguous advice at the sentencing stage and confidence that the sentence that we then pass, where it has a community element, will be carried through in the way in which the court wished it to be done.

One thing that we believe, have believed for a long time and may well have told this Committee on occasion concerns section 178 of the Courts Act 2003—not the section I normally talk to the Committee about, the one on extending magistrates’ sentencing powers, but the one that would allow the court to attach a judicial review to a community penalty. In the context of the Government’s suggestions around problem solving, we think that it is now essential that you have some judicial oversight.



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That would certainly help confidence. However, I am not suggesting that it is the only way. We need to continue. There needs to be more direction—perhaps I can put it in that way—that relationships between sentencers, probation and the CRCs need to continue to develop, perhaps under a more statutory structure, in order that that confidence can be built and a regular dialogue can go on. We can then have more confidence that if we order 30 days of RAR, even though we cannot dictate what happens, it will be robust and will address the purposes of sentencing, which we ought to declare in our sentence—why we are passing the sentence that we are passing. From that point of view, it is fixable. We do not take a position on whether it should be one or two, as long as it is linked.

Q43 Alex Chalk: It is fixable, but it is fair to say that there is a big confidence deficit among magistrates that needs to be filled.

Malcolm Richardson: Yes. I can see why some of that separation has occurred. Not surprisingly, CRCs have been focusing on building their relationships with the NPS. We come a bit further down the road.

Q44 Richard Arkless: How do you assess the current review of transforming rehabilitation? Is there anything that you would like it to include or exclude? Is there any action that you would like to be taken following the review? You have touched on some of the problems.

Malcolm Richardson: Yes. To the extent that it is within my remit, as a sentencer, I have laid out the things that we would like to see. There should be a statutory requirement to support the building and maintaining of relationships between sentencers and the probation services, in the broader context. Since CRCs are a feature of the landscape for the foreseeable future, that needs to include CRCs, as well as the probation service.

We are delighted that, at a central level, we have recreated the National Sentencer Probation Forum, which had disappeared, but has come back. It is about things that create confidence for us and our having knowledge of more predictable and more generally available provision of community-based penalties, particularly for difficult-to-manage cohorts: people who have complex needs, particularly around things like mental health treatment and substance abuse, and women-only offender programmes, which I put under an entirely separate umbrella, whether they relate to unpaid work or to the provision of women's centres for the more complex and interwoven needs that many women offenders have.

Chair: Thank you very much.

Examination of witnesses

Witnesses: Nathan Dick and Nicky Park.

Q45 Chair: Good morning. It is nice to see you both. For the record, can you introduce yourselves and your organisations?



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Nicky Park: I am Nicky Park, head of prison services at St Giles Trust.

Nathan Dick: I am Nathan Dick, head of policy and communications at Clinks.

Q46 **Chair:** You have heard the issues we are asking about. I will do the same thing that I did with Dame Glenys. The challenge is out there. You have heard a lot that has been said about it. Do you broadly agree with those comments? Are there other issues that you see? Where, within this complicated structure, with a number of agencies—the MOJ, NOMS, the CRC providers and others—does the responsibility for these challenges really lie?

Nathan Dick: I was casting my mind back to when we originally consulted with the voluntary sector, ahead of some of these changes, to see whether some of these issues were predictable. There are also things that have been raised with us by voluntary sectors out there.

One key thing that has already been raised is around the speed of the reforms—how quickly they were implemented and how much time that gave us all collectively to think about how they would form and what we would end up with once they were implemented. The sector felt that that went incredibly quickly, as did many others. We would say that there was not a lot of time within that to consult, to listen and to reflect on what was presented back to the Ministry of Justice through various consultations.

Q47 **Chair:** Were they rushed?

Nathan Dick: It is difficult for me to say. It felt very rushed to us, as a sector, looking from the outside in and trying to comprehend the changes, how voluntary organisations would fit into this new structure and what role they would play. That applies both to the very large organisations, which may have been looking to be tier 1 providers, but did not end up being so, and to the much smaller organisations, which were looking at this and thinking, “How might we fit in, if this changes?”

There was also a question about overall design and what good rehabilitation looks like, which both previous sets of evidence have pointed to. What does good rehabilitation look like? How would we support the 45,000 additional offenders coming into this programme who were serving less than 12 months and did not get support previously through probation services? What kinds of different services would they require? What would a good women’s service provision, which was in the Offender Rehabilitation Act, look like, and, perhaps, how would we address the issue of the disproportionately large number of black and, increasingly, Muslim young men in our criminal justice system? Those issues were left to a slightly more black-box approach. Increasingly, we are starting to think differently about that. The idea of standards, or something to that effect, is very sensible.

Chair: That is very helpful.



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Nicky Park: As the voluntary sector within this and as those delivering the resettlement services, we have been able to see that one of our huge challenges is the lack of resource. We are expected to deliver quite a lot for such a small amount. We are constantly under the pump. It is very much a bare-bones services. It has been a huge culture shift for everyone involved—for probation, the prisons and the voluntary sector—that we are no longer delivering a quality casework service. It is very admin heavy and involves tick-box exercises. The intervention side of the work is not what it should have been. For us, as the voluntary sector, one of the huge challenges is trying to juggle all of that.

Q48 **Keith Vaz:** You heard the evidence of the chief inspector. Were you surprised with what she said—that she was disappointed with the performance of the probation service?

Nicky Park: No, I am not surprised by that.

Q49 **Keith Vaz:** Are you disappointed with its performance?

Nicky Park: I am disappointed by the whole concept of what it was. Pre-TR, we all had an understanding of what it could be and could see how beneficial it could be. The fact that there would be this service and support for those with sentences of under 12 months was invaluable, and it was truly needed. What we have found going forward is that it is just not possible to deliver that quality service.

Q50 **Keith Vaz:** Whom do you blame for that?

Nicky Park: It has to come down to the Ministry of Justice, the CRCs, how the resources are distributed and used, where the emphasis is and where the priorities need to be. We will always have trouble being able to provide the service if those fundamentals are not there first. The people who lose out are those whom we are there to support. I think that they will always lose out.

Q51 **Keith Vaz:** Mr Dick, do you agree with that? Would you like to have had more time to implement these changes? Do you agree that the service itself, which has a budget of £889 million—almost £1 billion—should be performing better?

Nathan Dick: To address the time issue, as I have already said, we would like to have had more time to think more carefully about what the design of these services should have been and how that money should most appropriately be spent on where we know interventions work. Could you repeat the second part of the question?

Q52 **Keith Vaz:** Are you disappointed with the performance of the probation service? For a chief inspector to say something of this kind, in a very understated way—obviously, she does not jump up and clap her hands—about a public service is a pretty serious indictment, isn't it?

Nathan Dick: It is a very serious matter, period. We are talking about some of the most vulnerable people in our communities. Collectively, as a



sector, we have all been reading the reports that have come out of the inspectorate. We have been incredibly disappointed by what we have read in some aspects of that—especially, as has already been touched on, around through-the-gate services. Clinks is a membership organisation. We try to get views from our organisations, both contracted and non-contracted, that are involved in some of the delivery of that and are providing services alongside CRCs and the NPS.

Q53 Keith Vaz: At the end of the day, if it is not doing its job effectively and the reforms are not working, it means that more people will go back to prison, doesn't it? One of the purposes of a probation service is to keep people out, not to send them back.

Nicky Park: It is. We deliver in custody, but we have some elements in the community. There are a huge number of "fail to attends." Part of that is because we have men and women who are not used to being under licence when they have a sentence of under 12 months. It is about getting used to that.

As I said before, the problem with these contracts is that we are losing the personal touch. For us, it is all about workshops, because you have to get the volumes, the hours and the numbers in. It is more about making the referrals than it is about the valuable outcome. That is where we are falling short. Hopefully, the changes that will come in will make some kind of difference and the emphasis will be more on an outcome. That should help us to be able to provide the service.

Q54 Keith Vaz: Mr Dick, do you agree with that? Do you think that, at the end of the day, we may well end up doing the opposite of what we intend, which is to use the probation service to keep people out?

Nathan Dick: We have to use the probation service differently. I agree with what Nicky has said. We need to think radically about the quality of the services that are being delivered. The idea of providing through-the-gate mentoring was talked about a lot prior to the reforms coming into play. When we have talked to mentoring providers, the expert organisations out there that deliver this service have said to us quite clearly, "That is not what we consider to be mentoring. It is more a quick meeting to say, 'We have met this person and got them to their probation appointment.'"

We want to have a much better service that keeps people from breaching their licence conditions, works with them on a long-term basis, finds out what their needs are and links them up with local holistic services—the kind of work that St Giles Trust and a lot of our other member organisations do. The inspectorate's role in looking at the quality of what is provided, the Ministry of Justice's role in setting some broad standards and the role of the whole sector, including CRCs, the NPS and the voluntary sector, in setting out what it would like to see as a benchmark for those services is critical, so that magistrates can be confident.



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Q55 **Keith Vaz:** Sure. Of course, that is missing at the moment.

Nathan Dick: Yes, I think that it is.

Keith Vaz: Can I thank you both for the work that your organisations do, as part of the system and the service that we provide?

Q56 **Kate Green:** Ms Park, a moment ago, you said that you were seeing many more failures to attend. What happens then? Who takes what action?

Nicky Park: They get letters sent to them.

Q57 **Kate Green:** By whom?

Nicky Park: By the CRCs. In my experience of working with those who are incredibly vulnerable and have large, complex needs, they are terrified of opening a letter.

Q58 **Kate Green:** Then what happens?

Nicky Park: Eventually, they get caught back up in the system and end up with us in custody, and it all happens again.

Q59 **Kate Green:** Are you seeing a change in trends since transforming rehabilitation came in?

Nicky Park: The recall used to be 28 days; now it can be 14 days. You cannot do anything. There is no intervention—

Q60 **Kate Green:** They are being recalled into custody for a 14-day period, and then released again. Why is a shorter period being imposed than previously?

Nicky Park: I am not sure. That is not my area of expertise, I am afraid. All that I see is the fact that we have these men and women come back in and have very little time to be able to provide an effective service for them.

Q61 **Kate Green:** Are you seeing people going through that more than once?

Nicky Park: Yes.

Q62 **Kate Green:** Many times.

Nicky Park: Yes. The revolving door is probably slightly bigger than it used to be.

Q63 **Alex Chalk:** You have covered some of this ground. How could the current system be fixed? Can it be fixed? Are there any particular headlines that you want to identify?

Nathan Dick: We did a big consultation report—a survey of our members—to try to assess what some of the fixes could be. We are doing another survey right now. I hope that in the near future we will be able to update some of the recommendations.



Q64 **Alex Chalk:** You are going to keep your powder dry.

Nathan Dick: No; I am happy to say what I think at this moment in time. There is an aspect of overall system redesign that needs to be looked at, through this probation review. We need to think about which bits of it work and how it relates to good evidence and practice. Within that, there should be a keen eye on people with protected characteristics.

Q65 **Alex Chalk:** Dame Glenys talked about new standards to be imposed. Was that something that recommended itself to you? Did you think that that sounded sensible?

Nathan Dick: It would be incredibly sensible to outline standards and to consult on them widely with stakeholders—both those delivering services on contract and organisations outside that. I hope that we will take the time to think about what those standards should be. The probation service needs to be a professional body. The voluntary service, which works alongside it, is also a professional body of organisations. Having some standards that we can all work towards is a good idea, as long as they include a clear sense of what rehabilitation and resettlement are—not just risk assessment, to protect the public.

Q66 **Alex Chalk:** Do you have any other brief headlines, in terms of fixes?

Nathan Dick: Thinking from the voluntary sector perspective, we would say that having some transparency about who is and is not funded in the system and what CRCs are delivering would help. Right now, it is very difficult to see who is doing what in each CRC. It is very opaque. We would love to see some of that.

The National Probation Service's relationship with the voluntary sector seems to be being stymied by this idea of the rate card, which is a bit of jargon—basically, whether it needs to buy its services through the CRC supply chain or whether it can just go and have a relationship with the voluntary sector. Currently, it does not seem that it can. Working with both inspectorates on the quality of provision is critical.

I have one final point. Our research has shown that the vast majority of the voluntary sector working in this area is not contracted, commissioned or grant funded by CRCs or the NPS, but it provides a vast amount of service provision to these individuals in the community. I would like to see some kind of sustainability strategy to look at the wider ecosystem of the voluntary sector working in criminal justice. The Department of Health led a very similar review, called the voluntary, community and social enterprise sector review, which NCVO led, to say what the role of the voluntary sector is in that industry.

Q67 **Alex Chalk:** Do you have anything to add, Ms Park?

Nicky Park: For me, it is more about the practical operational side of things, where I think there are opportunities for solutions. One is the simple thing of having to resource it appropriately, to be able to provide a



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quality service. We are called a through-the-gate service, but, for me, it is not a through-the-gate service that truly follows through. There needs to be consistency, where what happens in custody is followed through into the community, so that our clients are able to access something in custody and to continue that. A lot of courses or workshops start in custody but do not finish.

Q68 **Alex Chalk:** It is troubling to hear you say that, because that was the point. Evidently, it is not really happening.

Nicky Park: Yes, it is the point. That is why it is slightly ironic that we are a through-the-gate service.

Q69 **Alex Chalk:** So your particular fix is, "Fix it."

Nicky Park: It needs to be something where you are using the voluntary sector to the best of our abilities, which are around specialist services and practical support.

Q70 **Richard Arkless:** I take it that you both welcome the review of TR that is ongoing. That is clear from some of the comments that you have made. You have touched on many of the problems. Is there anything else you have not touched on? Are there any points that you would like to reiterate about what you would like the Government to include or exclude in the action that they take following the review? You have touched on many of the problems, but could you reiterate those points or outline some other areas in which you would like the Government to take action?

Nicky Park: For me, the voluntary sector truly needs to be consulted and considered in every element of it, because we are a key part of it. We have a specialism and an expertise in this area that is not always used to the best of its ability. That is something that should be grabbed hold of and used. We have years of knowledge of working within prisons and how all of that works, of providing through-the-gate services and of what a practical meet-at-the-gate service truly is—not just mentoring, which is not quite the same. There are elements that are missing but are quite easy to fix.

One thing that we find a challenge is how risk averse CRCs can be. We have tried with mentors within the community who are ex-offenders and may still be on licence, but coming to the end. CRCs are not willing to have them work in a voluntary capacity to support their peers—offenders who are coming out of custody. For us, that is what St Giles Trust stands for. We wave a flag constantly about how important that lived experience is and how it can impact. It is frustrating when you come up against a block on that, because they are risk averse and do not want to make that leap of faith. There are so many organisations, like ourselves, that have experience and good-practice examples of how that works—and works really well—and how it could truly benefit these types of contracts.

Q71 **Richard Arkless:** That is very helpful. Nathan, do you have anything to add?



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Nathan Dick: It is imperative that we look at how commissioning does or does not enable the sector to work together—at how services are currently being commissioned. I have touched a bit on how the National Probation Service can work with the voluntary sector—or feels that it can. There are also things like the industry standard partnering agreement, which the Committee may have come across before. It is an incredibly in-depth, long, quite technical document that is used to contract with the voluntary sector. For many small organisations, that is very difficult to do, without a legal team to assess it. Grant funding is there as an option, to bring in some of those smaller organisations. How you contract and commission with the sector could be really important.

St Giles does a great job of involving people with previous convictions and experience of the justice system as peers, employees and volunteers, but we are not incredibly good at involving the views of people in our current system on how well it is or is not operating. If there is a review of the probation system, conducting it with the full input of different people from our probation system—men, women, young adults and people from black, Asian and minority ethnic communities—so that they can give their view on whether or not services are working, will be integral. I completely agree with Nicky about involving the voluntary sector. There could also be a great route into this involving people with lived experience of the justice system.

I think that we have touched on this already, but, finally, there is the issue of metrics: how we are measuring this, and whether we are giving people useful metrics that drive the right kind of performance. Sometimes, the kinds of metrics that our members are given drive a very bureaucratic approach. We want to see them using the skills and expertise of their staff to help people with multiple needs to address the issues that they face, rather than just making sure that they have met them three times over a two-month period, for example. We need to make sure that we have the right drivers for the right kind of change in the system.

Richard Arkless: That is very helpful.

Q72 **Jo Stevens:** I have one quick question, to either of you, that I would like you to answer. Listening to what you say, I get the impression that we have moved from a system where there is human interaction to paper, barriers and bureaucracy. Would that be a fair summary?

Nicky Park: Yes, I think so. When I speak to our caseworkers, I am very aware that they should not really be called resettlement caseworkers, because that is not what they are doing. They do the assessments—all the tick-boxing when men and women first come in—and then spend a lot of their time inputting the same data on three or four different types of database.

Q73 **Chair:** Is that your experience too, Mr Dick?



Nathan Dick: Yes. It comes back to Dame Glenys Stacey's point about IT systems as well. That was a bit of a problem throughout the system even prior to some of the changes. We have always struggled to make staff in the probation services move away a bit from being too bureaucratic towards being more focused on the individual and their individual needs. We need an aspect of measuring what they need and making sure, for reasons of protecting the public, that we do good risk assessment and know what we need to do to address some of their issues. However, it seems to have gone slightly the wrong way, from what we are hearing from our members. Too much time is spent filling in forms and not enough time is spent doing the work.

Chair: Thank you for your time and your evidence.

Examination of witnesses

Witnesses: Yvonne Thomas and Rich Gansheimer.

Q74 **Chair:** Good morning, both of you. Thank you very much for coming to give evidence to us. Like the other witnesses, could you introduce yourselves and your organisations, for the record?

Yvonne Thomas: I am Yvonne Thomas. I am the managing director for justice for Interserve.

Rich Gansheimer: I am Rich Gansheimer. I am chief executive officer for MTCNovo.

Q75 **Chair:** That is very helpful to us. In terms of names people are familiar with, Interserve, in particular, deals with a number of CRCs: Manchester, Merseyside, Yorkshire and Hampshire.

Yvonne Thomas: Yes. We have five of the CRCs and handle about a quarter of the case load nationally.

Q76 **Chair:** As I recall, MTCNovo deals with London, my local CRC, and Thames valley.

Rich Gansheimer: Yes.

Q77 **Chair:** You have heard the questions that were raised before. There are challenges here, aren't there? Things are often described as patchy, at best. Why is that? Where do you think responsibility for that and for sorting it out lies?

Yvonne Thomas: There are challenges. This is a massive transformation programme, and it is 24 months in. The challenges that I would highlight are some that have been referred to this morning. The first is the through-the-gate service, which has not been delivering what was expected, either from the CRCs' perspective or from the offenders' perspective. We tend to forget them in this sometimes. There are a number of reasons for that. In our case, mobilisation took longer than expected. We use an entirely third sector delivery model for our through-



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the-gate services. We were mobilising 19 prisons and over 160 third sector staff, so it took longer. The service started in May 2015, a few months after the contract. It is a very bureaucratic requirement. There are lots of forms to be filled in. There is not a great deal about through-the-gate.

Q78 Chair: Is this a requirement set down by the MOJ?

Yvonne Thomas: Yes. We get an average of £60 for a resettlement. We pay out a lot more than that, but, by the time you have filled in all the forms, it is still not enough.

We are talking about a context where you are operating in prisons. The challenges there are well understood. Getting access to prisoners to do the resettlement work is challenging enough. In some prisons, when you get access to those prisoners, they are more or less receptive to what you are trying to do. There are a number of challenges.

However, a through-the-gate service has to be local. With the blessing of the MOJ, we are now working with Leeds, Styal, Risley and Winchester, because there is an empowered governor agenda. We believe that those services must be defined locally and with the prison governor, for local delivery. That makes sense to us, not more national legislation on what we should and should not be doing in Leeds or Winchester. That does not work too well.

The second area is relationships with sentencers. National Probation Service advice to the courts, through pre-sentence reports, has been increasingly under pressure, with more and more oral reports. That has meant that the relationship between CRCs, the National Probation Service and sentencers has simply not matured in the way in which it needs to.

Q79 Chair: So you do not disagree with Mr Richardson's point.

Yvonne Thomas: Not at all. We have seen a considerable fall in, for example, the ordering by magistrates of accredited programmes, which are one of the few very evidence-based interventions that will reduce reoffending. That set of relationships is still very immature.

Finally, Dame Glenys remarked on the sustainability of the service—the commercial issues. The payment mechanism is not working as was intended. I have to question some terminology that has been used with regard to "workload" and "case load." Since we took over the service, case loads in our five CRCs have risen by between 25% and 47%. Those are the MOJ's figures. The technical mechanism that is used to calculate the payment, which is called a WAV, has fallen by between 14% and 34%. Our workload is going up, but our payment is going down.

Q80 Chair: You are making less money than you expected.

Yvonne Thomas: It is not sustainable.

Q81 Chair: Are you going to continue in the business, or do you intend to



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withdraw from the contract?

Yvonne Thomas: There is a technical problem here. Really, that is down to the current review by the Ministry of Justice. All that we want is that the workload is reflected in the payment mechanism. We believe that there is a technical problem with it. It needs to be fixed.

Q82 **Chair:** If it is not fixed, you are out. That is the truth of it, isn't it?

Yvonne Thomas: It starts to get very tricky.

Q83 **Chair:** All right. Mr Gansheimer?

Rich Gansheimer: There are five challenges I would like to talk to. They may have been repeated already this morning, so it will probably not be much surprise.

The first is around managing expectations of such a large reform. We, the ownership of the CRCs, are a couple of years into this. I recognise, from a policy format, that reform has been talked about and legislation has gone through for quite a while—over a number of years—but operational delivery of this reform, at the CRC level, has been over just two years.

Creating stability—financially, commercial and operationally—for the CRCs to be successful is critical here. Part of that is the discussion that we have already had.

Q84 **Chair:** What is the position financially as far as your CRCs are concerned? Is the workload what you expected?

Rich Gansheimer: We have had the pay mechanism, which we refer to as a fee-for-service mechanism, built into a fixed cost base. Clearly, there is a gap. The case loads have grown by approximately the same amount over time. Obviously, the award of cases has an impact on that. It is a matter of saying, "What happens to that gap in the middle?" That is where the investment goes—

Q85 **Chair:** Do you agree with Ms Thomas that it is not sustainable at the moment?

Rich Gansheimer: Under the current format, no. I agree with that. That is why the probation service review is being undertaken currently—for us to have those discussions and to find out what is sustainable and will work.

Q86 **Chair:** Without a change, your company, too, would have to consider its future.

Rich Gansheimer: The board would certainly have to make that decision. That line has not been drawn yet. We are engaged fully with that.

Q87 **Keith Vaz:** Ms Thomas, how much is the contract worth to your company?



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Yvonne Thomas: I will come back to you with the precise number, but it is of the order of £80 million to £90 million a year across the five CRCs, to run a quarter of the service.

Q88 **Keith Vaz:** It is £80 million to £90 million a year.

Yvonne Thomas: Yes.

Q89 **Keith Vaz:** Mr Gansheimer, yours is an American company, but it is operating here.

Rich Gansheimer: We are MTCnovo. We are a joint venture here in the UK—partly American, but also a UK joint venture.

Q90 **Keith Vaz:** What is the contract worth for you?

Rich Gansheimer: We are in the same range. It is slightly lower—between £78 million and £88 million.

Q91 **Keith Vaz:** Together, you will deliver 50%. Is that right? Ms Thomas, you are 25% of the total amount that is being delivered.

Yvonne Thomas: In case load terms, yes.

Q92 **Keith Vaz:** Mr Gansheimer, you are also 25%.

Rich Gansheimer: Yes.

Q93 **Keith Vaz:** In answer to the Chair's question, if you decide that it is not financially viable and your shareholders start revolting against the board, because you are making a loss, you will just leave.

Rich Gansheimer: I cannot answer specifically for our board.

Q94 **Keith Vaz:** No, but if that happens—

Rich Gansheimer: Clearly, there is a point at which a decision has to be taken. That is one of the options that would be on the table for discussion.

Q95 **Keith Vaz:** So, yes.

Yvonne Thomas: We think that the review is quite positive at the moment and that the MOJ is listening. We believe that this is addressable well within the original cost envelopes that were proposed. At the moment, you are operating hugely below the cost envelopes that were allowed. It seems entirely sensible to us that the review is taking place at this point in the process. There are some technical problems with the mechanisms, without a doubt.

Q96 **Keith Vaz:** Sure. Ms Thomas, whom do you blame for this? Responsibility has to be placed on an organisation or an individual. That is what would happen in the private sector, isn't it?

Yvonne Thomas: Having been part of the team all the way through the discussions, the procurements and so on, I have seen this from the



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beginning. If we look at this and say, “What should people have known?”, the answer is that this was a first generation of attempting to do something quite transformative, so I sort of understand why we do not know everything. The predictions around volumes and case loads could have been more accurate, in that the expectation that was set was much higher—and much more in line with what we actually have. However, this technical mechanism is an overcomplicated payment mechanism. That was quite obscured during the development of the bid by the MOJ.

Q97 **Keith Vaz:** Mr Gansheimer, you are obviously a very big company. You operate in America and here. Is it done better somewhere else?

Rich Gansheimer: As far as the commissioning or the contract is concerned?

Q98 **Keith Vaz:** Or whatever. Has somebody else got the secret of how this works?

Rich Gansheimer: There is a lot of variation in how it works, in my experience, and I have been around a lot of different contracts. What I have found works best is that the work is clearly defined, the standards are clearly laid out, the expectations are clearly put to the providers and we are held to account to meet those expectations.

Q99 **Keith Vaz:** None of that is happening here.

Rich Gansheimer: I will not say that none of that is happening. I echo what Yvonne, my colleague from Interserve, has said about what was put out for bid and what we purchased in reality. It is not for me or MTCNovo to say, “Absolutely, that is the person to blame.”

Q100 **Keith Vaz:** You were very clear on the five issues that you have just outlined. Would you have liked that clarity?

Rich Gansheimer: Yes—clarity and stability around that being delivered.

Q101 **Keith Vaz:** Which is lacking in this case.

Rich Gansheimer: That is where the probation service comes in—to go back to the table and have that discussion. I also echo the point that, as this is a first-generation outsource, there are complexities around the commerciality of it, what needs to be delivered and so on.

Q102 **Mr Hanson:** Did either of you do due diligence on the Ministry of Justice? It seems to me that, if you were entering into this sort of contract, you would expect the expectations that were put on you to have been thought through by the MOJ. Did you do any due diligence?

Rich Gansheimer: That is a fair question. Yes, absolutely. The issue is when you go in and see the data that are presented. We had no reason to doubt the data that were being put in. That is what we were expected to bid to.

Q103 **Mr Hanson:** You have been sold a pup, haven't you?



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Rich Gansheimer: What has come to fruition from what we purchased has not happened, in terms of the volumes and some of the capability of some services.

Q104 **Mr Hanson:** What would you say to those who say that you just saw pound and dollar signs yourselves and thought, "We will have a bit of that," without thinking it through?

Rich Gansheimer: No. When you bid for a service, particularly in the government sector, you always bid at a level of risk. This has certainly gone beyond the level of risk that we could have expected or imagined would happen so quickly.

Q105 **Mr Hanson:** The question we have been talking about is, was any of this foreseeable beforehand? Did you anticipate that there was a risk of failure on your part, based on the terms that were set by the MOJ in 2012, 2013 and 2014?

Rich Gansheimer: Let me be clear about your point. What was the question?

Q106 **Mr Hanson:** Did you sense that there was an opportunity for you, but also a risk of failure, based on the terms that were set, or did you just see it as something that you could achieve because it was going to be dealt with by the MOJ on the terms that it had set?

Rich Gansheimer: Based on what was laid out by the MOJ and what we felt we could accomplish, we felt that this was an opportunity that was worth pursuing.

Q107 **Mr Hanson:** If this all goes belly up at some point, do you have any contractual liabilities towards the MOJ where you see it as not having met its part of the deal?

Rich Gansheimer: There would certainly be discussions around that, in terms of what was known, what was not known and how that was presented at the time.

Q108 **Mr Hanson:** The bottom-line question is, did you anticipate these difficulties when you signed the contracts in 2014?

Rich Gansheimer: Not to the extent that they have occurred. As I said earlier, you certainly expect a level of risk to come into these contracts. That is not uncommon, especially with a first-generation contract. However, I do not think that we could have anticipated in any way the extent to which it has gone.

Q109 **Mr Hanson:** Yvonne, do you differ from any of that?

Yvonne Thomas: No. When we have been in discussion with the Ministry of Justice, all providers have expressed the view, to a greater or lesser extent, that if anyone did not do their due diligence, all eight did not. That is unlikely. The statistical basis for the contracts was very well laid out. We have to trust the customer—any provider does. If that is the



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expectation that is set, that is what you bid against. That is what we did. As Rich said, there is always risk, but there is risk that you know how to manage. That is why we enter this business. It is really important to say that, from the commercial perspective, the only way to make a decent return on these contracts is to reduce reoffending. That was a very attractive thing. You have to address the core problem in order to make these contracts worth running.

Q110 Mr Hanson: How long does the MOJ have to sort this out before you walk?

Yvonne Thomas: I do not think that there is any talk of walking at the moment. We are not at that stage. We are in a process of quite positive engagement.

Q111 Mr Hanson: How long does the MOJ have?

Rich Gansheimer: I would echo that response. As I said earlier, the line in the sand has not been drawn. We have not had that discussion. As long as we are engaged and are looking forward to a successful probation service review outcome, there is no reason to have that broader discussion at this point. As you can see, we are optimistic about the review. We have been very transparent throughout it. They have been engaged as well, as Yvonne said earlier. It has been a good process to work through these very challenging issues—no question.

Yvonne Thomas: There is no reason why this mechanism cannot be fixed, if there is a will to do it. It will not cost the public purse any more, and it will address the issues. If that is the case, I am sure that it is not beyond us and the MOJ to fix it.

Q112 Chair: Some potential providers pulled out at quite an early stage because they did not think that the contracts were viable. That was not the assessment that you made.

Rich Gansheimer: I cannot say why they pulled out; I have no idea. I am aware that some did.

Q113 Chair: Obviously, viability is an issue that you would all consider.

Yvonne Thomas: My understanding is that one provider pulled out because it won a singleton contract. It expected to get more.

Q114 Jo Stevens: Ms Thomas, if this had been piloted, do you think that we would have avoided all the problems we have heard about today?

Yvonne Thomas: The honest answer is that, having been on both the delivery and the receiving end of pilots in government over many years, I suspect that, if anything had been piloted, it would probably never have happened, due to the complexity of this and the frequent change of administration in the course of it.

Chair: That is very interesting.



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Q115 **Alex Chalk:** Can I make sure that I understand? Some of the criticisms that have been made, including by Dame Glenys, are that the innovation that we were all hoping to see by CRCs is not really being delivered, which is a bit disappointing. Do you accept that? Whether it is your fault or not does not really matter. Do you accept that there is not the innovation that we might have hoped to see?

Rich Gansheimer: I accept the criticism regarding innovation. At the same time, there is investment going into innovation. A lot of it sits in the ICT we talked about earlier.

Q116 **Alex Chalk:** Forgive me; I do not mean to cut across you. Leave aside the investment for a moment. Do you think that it is delivering the innovation that we hoped to see?

Rich Gansheimer: Yes. I think that there is a level of innovation. The challenges have been to bring it through. One of the big innovations is around case management—getting a single case management system that is pretty whizzy, in terms of being able to identify the needs of service users and offenders very quickly, to make referrals to the appropriate interventions and to make sure that we get that captured.

As you have probably seen in numerous reports, the current system does not allow that. It is very clunky; we heard some previous testimony about that. We have continued to invest in further innovation around programmes. Has there been a pullback on some of that? Clearly, when the financials are not adding up, you have to make some financial decisions about what stays and what goes. As we talked about earlier, you have to work to a baseline to deliver these contracts, particularly around service levels.

Q117 **Alex Chalk:** Very simply, the point is, “Less money, less innovation.” Is that fair?

Yvonne Thomas: To an extent. I would not underestimate the level of innovation that is happening out there. In due course, as the inspectorate inspects more of the CRCs and wider case loads, it will start to see that. For example, there has never been a national service for the very chaotic, very complex people we deal with. That has now been completely invented and delivered across our five CRCs. That could never have happened under the old regime, and it is making a difference.

On women’s services, we have everything from pop-up services to new collaborations between local authorities, PCCs and ourselves. There is a lot going on out there, and it is quite exciting. The frustration is that we talk about “the CRCs.” There are eight different providers, with many different models. All of them are doing some good things, and all of them are facing some challenges. You cannot take the worst of everything or the best of everything.

Alex Chalk: That is fine. Understood.



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Q118 **Kate Green:** You have talked about the workload, which seems to be very heavy for you. What is not getting done?

Yvonne Thomas: At the moment, because we were very cautious about our staffing numbers, everything that needs to be done around public protection, breaching and risk—the basics of running the service against the 102 probation instructions we are governed by—is being discharged pretty well. Case load ratios are starting to move up, which is worrying. We also have about 210 staff from the voluntary sector, who are providing a lot of the rehabilitative interventions.

At the moment, we are holding it steady, but if these case loads continue to move and the payments continue to diminish, the first thing that we will do—as Richard will—is look at the discretionary spend. In our case, that is about £10 million a year. After that, you have to start saying, “If we can’t deliver this service safely, we shouldn’t deliver it at all.” We are a way away from that, but that is the inevitable consequence of the situation we are in.

Q119 **Kate Green:** Are you sliding towards that?

Yvonne Thomas: It is very difficult to say. This is not going to happen next week, next month or in three months.

Q120 **Kate Green:** If the MOJ manages to renegotiate to your satisfaction to halt that trend, how quickly will that negotiation need to be complete for you to be able to make this viable?

Yvonne Thomas: We would like to think that enough ground has been covered between the MOJ and the various providers to start getting something sensible in place during April or May.

Q121 **Chair:** Were staffing reductions factored into your original bids?

Yvonne Thomas: Yes. We took out quite a considerable number of management and administrative staff. We all have different views on, and different models for, front-line staff. We took about 160 people out of the original 2,000, but they were management and admin.

Q122 **Chair:** That is the level that you had anticipated. It has not been more or less than you had anticipated.

Yvonne Thomas: We have not taken out the level that we had anticipated. We just cannot at the moment, due to a combination of the lack of technology that was talked about earlier, which is quite a barrier, and the fact that the case loads are rising.

Q123 **Chair:** What about your company’s operations, Mr Gansheimer?

Rich Gansheimer: It is very similar. We have not been able to see the reductions through fully. We have one contract that is struggling with some of the basics. We have had to go back to the basics, to retrain and to do things of that kind. That has certainly not been reduced to where we would expect it to be. That is where some of the investment goes. We



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have another contract that we have been able to work to those numbers. We are doing pretty well in that area.

Q124 Richard Arkless: Clearly, you have issues with the payment mechanism, which is causing you some alarm. Some of the things that you have been saying are quite alarming to us. On that basis, you will welcome the new review of TR.

One of the things that you will hope it will assess is the payment mechanisms and how they work for you. However, what we are interested in is transforming rehabilitation for offenders. Clearly, you have financial concerns. Beyond that, in relation to the meat of the issue, which is transforming people's lives, what would you like to see the review include or exclude? What action would you like to see come out of the review specifically in relation to transforming rehabilitation?

Rich Gansheimer: I will allow Yvonne to answer for her company. For us, it is about the outcome and performance-based measures. As was mentioned previously, right now the service-level measures are a tick box; in other words, you are working to a specific service-level measure, so that you do not incur service credits. We want to be measured on the outcome—what we produce. Ultimately, what we have committed to is reduced reoffending. We want to be judged on what happens from the beginning to the end of the system, not on all the stuff that happens in the middle, where we incur high service credits if something does not go in exactly the way in which it should have gone, according to that service level. We want to be based and reviewed on the outcomes. That goes along with what Dame Glenys said earlier.

Q125 Richard Arkless: How are those outcomes? If you were assessed just now, would they be positive?

Rich Gansheimer: Obviously, we are measuring that right now. One of the payment mechanisms is payment by results. We have to have sight of that and are measuring it. We are using our data to measure where we think we are on that. It is still pretty early, because the final outcomes will come later in the year. We always put a caveat around our data on reducing reoffending, but we see good signs of it.

Yvonne Thomas: What we are hoping for out of the review, apart from discussions about the sustainability of the service, which is central, is that the through-the-gate proposals will embrace the empowered governor and local need. We want this service to become more local and to represent its communities. We want to be incentivised to build on the innovation and some of the early results that we are seeing, particularly in respect of services to young men under 25, women and black and minority ethnic communities, supporting those with the most complex needs. We would welcome further and higher bars on those things, although we think that we are already achieving some of them.

On the issue of what we want to be measured for, as I said to Mr Hanson earlier, this service does not work either as a service or commercially



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unless you reduce reoffending. We have now had the first six months of data from the Ministry of Justice. If we look at our own five, by the end of this year, 2,000 people who would have offended will not offend, if the current trends continue. The service is beginning to work. It needs to be given a chance and a little more support, for the sake of our staff, who are out there doing a difficult job. That is all that we want—to reduce reoffending.

Q126 Chair: How do you square this reduction in bureaucracy with the aspiration of the chief inspector that there should be greater specification of standards?

Yvonne Thomas: One hundred and two probation instructions are quite a lot. Maybe the existing standards could be better orientated. There could certainly be fewer of them that were more appropriate and more strictly enforced.

Q127 Chair: Is that something that you want to have covered in the review?

Yvonne Thomas: That would be helpful as an ongoing piece of work between the NPS, the CRCs and the inspectorate.

Q128 Chair: It has been suggested, of course, that the way in which the payment structure works is an incentive for you not to report breach. Is that a fair observation?

Rich Gansheimer: I do not think that that is something we have ever talked about. Clearly, we want to ensure the integrity of the system. We want to make sure that we do not automatically breach or recall and that we have worked with service users and offenders to make sure that we have maximised everything we can, to ensure that they have no arguments.

Yvonne Thomas: Yes—not in front of me. *[Interruption.]*

Chair: The House is just sitting; that is what the bell is for. It is a good time to conclude our evidence session. Thank you both for your time.