

## Justice Committee

### Oral evidence: [Children and young people in custody](#), HC 306

Tuesday 14 July 2020

Ordered by the House of Commons to be published on 14 July 2020.

[Watch the meeting](#)

Members present: Sir Robert Neill (Chair); Paula Barker; Richard Burgon; Rob Butler; James Daly; Miss Sarah Dines; Maria Eagle; John Howell; Kenny MacAskill; Dr Kieran Mullan; Andy Slaughter.

Questions 199 - 322

### Witnesses

**I:** Anne Longfield, Children's Commissioner; Rose Dowling, Chief Executive, Leaders Unlocked; Josh Kilembeka, Young Adviser on Criminal Justice; Nadine Smith, Young Adviser on Criminal Justice; and Jhanzab Khan, Young Adviser on Criminal Justice.

**II:** Lucy Frazer, Minister of State for Justice; Helga Swidenbank, Executive Director, Youth Custody Service; Caroline Twitchett, Children's Quality Lead, NHS England and NHS Improvement; and Phil Douglas, Director of Youth Justice and Offender Policy, Ministry of Justice.



## Examination of witnesses

Witnesses: Anne Longfield, Rose Dowling, Josh Kilembeka, Nadine Smith and Jhanzab Khan.

**Chair:** Good afternoon, everyone. Welcome to this session of the Justice Committee where we are taking evidence in our inquiry into youth justice. Welcome to our guests who have come to give evidence to us. We are very grateful to you, and we will come back to you in just a second. We have to go through a bit of formal stuff at the very beginning. It will not take a couple of minutes. We have to declare all our interests. I am a non-practising barrister and a consultant to a law firm.

**Andy Slaughter:** I am a non-practising barrister.

**James Daly:** I am a practising solicitor and partner in a law firm.

**Rob Butler:** Prior to my election, I was the magistrate member of the Sentencing Council and a non-executive director of HM Prison and Probation Service.

**Miss Dines:** I am a practising barrister. I have done legal aid work, but I have not taken a case since my election.

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

**Richard Burgon:** Prior to being elected, I was a solicitor.

**John Howell:** I am an associate of the Chartered Institute of Arbitrators.

Q199 **Chair:** That has told you a little bit about what we do by way of background. Welcome to everybody. I would like to ask our witnesses just to say hello to us and give their names for the record. We have the Children's Commissioner.

**Anne Longfield:** I am Anne Longfield and I am the Children's Commissioner for England.

Q200 **Chair:** We have three young advisers on criminal justice from Leaders Unlocked. Could you say hello and give us a first name or whatever so we know who is who?

**Nadine Smith:** I am Nadine.

**Josh Kilembeka:** I am Josh. I am a project leader at Youth Ink.

Q201 **Chair:** We have trouble with the audio. I think the easiest thing is to introduce yourselves as we go along. We have Rose Dowling, the chief executive of Leaders Unlocked. She is sitting in.

**Rose Dowling:** Thanks for having me.

Q202 **Chair:** If anybody needs help with the technology and other things, let us know. We will start and cut to the chase with the questions, because we



## HOUSE OF COMMONS

have limited time and we want to get in as much as we can. We are looking at the position of young people and children in custody overall, but we want to deal immediately with the current issues around the Covid-19 pandemic and the problems that may be causing. Anne, in your assessment, what effect has it had on the youth justice system?

**Anne Longfield:** I have been very concerned about the drastic and severe nature of the lockdown for young people in custody over the last four months. We have collected data, and I have lots that I can submit to you. In short, a lot of it has come from two things: first, the risk basis has been done almost entirely on health, which is not surprising given the pandemic; but, secondly, it has been done on the whole custodial estate rather than the youth custodial estate. Young people and children have been at much less risk from health concerns in the crisis, but possibly at greater risk in terms of mental health, and there could have been different decisions made around lockdown.

I know that prison officers have done an awful lot to try to make good of the situation. I visited Wetherby on Friday, and they felt that they had tried to make the best of something they did not want to do at all, but kids have been in their rooms for 22-plus hours a day. Education was withdrawn very early in group activities and became packs in rooms; there have been no visits other than virtual ones; and, in the main, activities, which are always difficult at weekends and the like, have been cut. Kids were eating most of their meals in their cells; in some areas, they were eating all their meals in their rooms. We have had the delays in courts, and you can imagine the difficulties around transition that would bring.

I know that most of the institutions are easing down this week and next week and I am pleased to see that, but legislation has been put in place to enable that strict regime to continue. I have raised concerns about children's rights to education and to family life.

The young people I met last week in Wetherby had taken the last four months pretty well, given the severity of the situation. Many talked about huge amounts of boredom, emotional damage and mental health, but there was a sense that it is a strange situation for all communities inside and out. I think they have given an awful lot of good will because of that. Some said that because they had been operating in small groups, of four, they felt safer in those small groups. Some of the officers said they had been able to build better relationships because they were not just ferrying kids from one activity to another.

Overall, I do not think the situation needed to be in any way as severe, and in some cases as draconian, as it has been. From what I can see, it has set back a number of positive reforms that were either on the edge of happening or were beginning to come into play.

Q203 **Chair:** Do any of our young advisers have a take on it from your experience of people you know who are still in, or have been through, the



system during the Covid period? We will come to the broader stuff in a minute, but do you have any observations on the current circumstances of Covid, or not?

**Nadine Smith:** Something that we need to be aware of is that there are children in the estate. In the experience of somebody who is in there at the moment, multiple bereavement impacts need to be taken into consideration. Obviously, everybody gets worried, but when you are a child and you are worrying about parents, family, siblings or people you care about, it is very difficult. When you have 24 hours a day to sit and think about that, the emotional and mental impact is really bad. I think that needs to be considered when thinking about how to repair what Covid has done within the estate, taking account of that kind of mental impact for children, especially when it comes to bereavement.

Q204 **Chair:** Are there any other thoughts from some of our advisers on this topic?

**Jhanzab Khan:** Would you mind repeating the question?

**Chair:** We are interested in what impacts, if any, you have seen as a result of the special Covid-19 regime that was put in?

**Jhanzab Khan:** It is detrimental to prisoners' progression because a lot of them are not being prepared for release. A lot of organisations usually work to prepare people for release, such as Switchback; they help them to get into employment. They do some work inside the prison and continue it once they are released.

I think a lot of prisoners are being released from prison and they are not prepared for it; they are not given the right support. In terms of rehabilitation and reoffending, it is going to be hard for them to stay out of crime. There needs to be more support for them on the issues they are dealing with once they are released from prison. I know that for myself. When I was released from prison, I faced many things, such as homelessness and mental health issues. All of those complex needs need to be paid attention to while they are inside prison so that they can be prepared for when they are released.

**Chair:** That is a fair point. Thanks.

Q205 **Andy Slaughter:** What has happened as a result of Covid has meant a very significant change in restrictions in an already restricted environment. In terms of lessons learned, we know what has not been happening with education, time out of cell, visits and so on. Is there any sign of that returning to normal? I noticed that the regulations had been changed, which has, effectively, allowed the very restrictive regime to continue in terms of time out of cell and things of that kind. Do we know whether anything is happening now on liberalising the regime?

**Anne Longfield:** Initial relaxations have started to take place over the last week and this week, which would be some form of group education,



some meals out of room and some activities. Visits will vary. It is very much the first stage. It contrasts very much with children who have been housed in secure children's homes where there are youth custody beds. They have maintained pretty much a normal regime. They have been out of their rooms, and they have been having education sessions.

There is a lesson about how it could have been treated differently, looking at the model for secure children's homes rather than a model for adult prisons, which is, essentially, the difference we have. I am sure we will get on to it, but it all boils down to whether you think that children with such high levels of need primarily need welfare or security.

Q206 **Andy Slaughter:** Is it still the case that there are no more than 30 minutes of education a day, and an hour to two hours out of cell? Is there no sign of that going back to anything like normal? Normally, they have about 14 hours a day out of cell, so it is a huge difference.

**Anne Longfield:** Yes. We find that at weekends, when there is no education, lockdown can start at 2 or 3 o'clock in the afternoon, and that is a crazy situation in my view. There are seven days in the week and you have to plan throughout the week, not just when there is education.

In Parc Prison, which generally has a stronger children's rights approach, they have had groups of four continuing with education virtually from the start. It is possible, but from the conversations I have, those in charge did not feel they were able to make those decisions, because from the centre the order had been that they should be on closedown and they had to mirror adult prisons.

Q207 **Andy Slaughter:** Looking at the other side of the equation, is there anything we can take from what has happened that might be a positive? It may sound a strange thing to say. I am assuming—I don't have the figures in front of me—that assaults are down a lot. I am assuming that, because of bubbling, officers and children are not moving around so much in the same area, and there are other things that have compensated for lack of contact, like more facilities available in cells, more calls, phones and things like that. Is there anything that has been happening over the last three months that we should take forward and not chuck out when we go back to the old system?

**Anne Longfield:** They have more contact time and they have more phone time. A lot were put on to the most generous, or highest reward, regime; they got more DVDs and things like that.

Of the two take-away things, which are pretty obvious but sometimes need to be seen, one is about being in smaller bubbles. You literally have four children together, which means you have an opportunity to feel safer; you do not have the pressure of being in a large group and the need to stay safe in that environment. Some older kids said that if you are in a group and you do not get on with the other three it is difficult, but I think that can be dealt with.



## HOUSE OF COMMONS

The other thing is about relationships. Normally, much of the time it is about policing groups of children from one room to education and picking them up to take them back. So much of it is about process and function in a normal week that to have the time and ability to build relationships makes all the difference.

**Chair:** That is helpful. Let us move on to the broader picture going forward, not just Covid.

Q208 **James Daly:** Anne, I would like to ask you a broad question, but I would like to limit it in a way. Has the youth justice system adapted sufficiently to meet the needs of the children and young people who are now entering it? One part of that which interests me greatly is children with special educational needs or learning disabilities. Can you give us an idea of the scale of that issue in the prison system, and how you feel children with those challenges are being helped and assisted?

**Anne Longfield:** The first thing, of course, is that people are there for a reason. None the less, there are alternatives. I do not think those alternatives have been properly explored, and in a post-Covid phase there is an opportunity to do things differently.

The level of vulnerability is huge. A plus is that numbers have really fallen. The drastic reduction in numbers from nearly 3,000 to 650, which I think was the last figure I had, is enormous; 650 is a third of a secondary school. I do not think that number is one that the general public would think about. Often, I ask people how many kids they think are in prison. The other day, someone said it was 1 million.

Children now in custody have higher levels of vulnerability. To give you a few stats, 70% have mental health illness and 70% have communication difficulties. A few years ago, 39% of young people in prison had between 15 and 19 additional needs—not just one or two; and half, 49%, had been in care. That is a figure we need to hold on to—half have been in care.

They are young people who have had significant disruption and potential trauma in their lives to date; they have high levels of welfare need and very high special educational needs. In other countries, a welfare approach might be taken. I talked about numbers reducing, but in a number of Scandinavian countries, including Norway, Denmark, Finland and Iceland—there is another one, too—there are currently 13 young people in custody overall between all those countries. There are choices to be made about how best we can support young people, and how we can prevent reoffending, because at the moment 69% reoffend.

Q209 **James Daly:** Can I ask Nadine and Jamal a question? I cannot see Josh on the screen. Just so that you are aware, I was a criminal defence solicitor for a long time. When I was representing people before the courts and the youth court in particular, the talent, hope and aspiration of everybody I represented was always apparent to me. Simply because you



are in front of a court, people may make a judgment about you for what you have done, but there is a whole big life out there to thrive and succeed in. Looking at the system you are aware of and have faced, and the sentencing regime, whether it be custodial or non-custodial, what can we do to improve it to ensure that people who appear before the courts have the best chance of going forward to live the life they want to live, and be happy and content?

**Nadine Smith:** Speaking from personal experience, I went to the youth court when I was 15. It was a really weird situation because everyone was using big words and nothing much was broken down for anybody; everything was jargon-based. You feel very intimidated. I would not have been putting across the best reflection of myself because I would have been overwhelmed. Time needs to be taken with young people to understand, ideally before the court process, why the offences have happened and what the background was.

Throughout my whole experience I was never asked, "Why did you do that? What was the problem? What caused that?" You get very much stereotyped and labelled. Okay, you have committed a crime and you have to prove yourself innocent rather than the courts proving you guilty. Something needs to be implemented, whether it is volunteers from the local community or local organisations, to take time and sit down with young people to understand the context behind what has happened.

From those stats, 50% of young people come from a care home background. A child in a care home is very different from a child at home with a parent or parents. For example, if I miss my curfew at 9 o'clock, my parents will not be calling the police. My mum will be having a go and shouting at me, but I will not have the police called straightaway. That would automatically tarnish me with the brush of the local police knowing who I am and so on. It is very much a big spiral. I feel that understanding the context of why things have happened is the key to everything; it is the key to providing the solutions and next steps for the young person and signposting them to the right provision.

Q210 **James Daly:** Brilliant. What do the other two witnesses think?

**Jhanzab Khan:** Something needs to be done from the moment a young person enters the police station. There is an opportunity for the police to question what the young person needs to be able to get out of the cycle of committing crime. We need to look at the underlying reasons why young people are committing crime.

If a youth worker was inside the police station, it might be beneficial in helping the young person to access the services they need, such as employment support or activities that would keep them away from crime. I think that would be very beneficial, because the moment you come into contact with the police station is so important.



## HOUSE OF COMMONS

Once you get to the courts, there is a lack of representation of people who are from ethnic minority backgrounds. I feel that judges naturally have a misunderstanding, because most of them are white. There is something called a pre-sentence report that informs the judge of your background and what you have been doing—your youth offending service order—but I do not feel they take into consideration the racial context for people who are disadvantaged—for example, ethnic minority people, specifically black people. Years have gone by since they were enslaved, but they still have to start from a position of disadvantage. You want to question why people are getting involved in crime, or why the system is so racially disproportionate. If we are not going to give reparation, we have to be able to support those who are disadvantaged. I feel that in the courts there is lack of understanding, simply because they are not representative of the young people they are dealing with.

**Josh Kilembeka:** Young people going through the youth courts need a young advocate, someone who can speak for them, because not a lot of young people understand the jargon. I understand that they have a solicitor, but they need someone who is trauma-informed and can guide them, like a peer navigator or peer worker who really understands them. People with lived experiences who can talk to young people and guide them are the types of people we need in the youth justice system to guide young people.

**Chair:** That is very helpful. Thank you.

Q211 **Rob Butler:** We were going to talk about the youth courts a little bit later, but, as we have got on to that, perhaps I might ask you all a follow-up question. You have talked about having peer supporters in court. You have said you do not think some of the people there would necessarily relate to you. What do you think about the magistrates in the youth court? Do you think magistrates understand young people, or are there different types of people who could be in that position who might be better at understanding the situations you find yourselves in?

**Josh Kilembeka:** I feel that because magistrates also deal with young adults the terminology is not fit for people with special educational needs, people who are disadvantaged, people with disabilities or people who are dyslexic. It is not really fair. For it to be fair, there should be people who understand young people, so having a peer support worker there would help the young person feel more confident to speak for themselves. When the judge says, "Harry, do you have anything you would like to say?", Harry needs support to have the confidence to speak to the jury or judge.

Q212 **Rob Butler:** Nadine, what do you think about magistrates and whether they are the right people to be hearing youth cases?

**Nadine Smith:** I do not think they are the right people to hear youth cases, because the majority of them are of a certain age. I feel like times have changed very much. Times change in five or 10 years. A 60-year-old magistrate will not understand what it means to be at a disadvantage,



## HOUSE OF COMMONS

like Jamal said, and to be from an ethnic minority background or to have experienced the trauma that a young person is going through. If magistrates have to be there, a youth advocate instead of a youth offending officer would be perfect to break down everything for them and to have that conversation.

For a lot of young people, there is a pre-sentence report, which is fine, but there is nothing looked at in terms of the mental health of those children. For example, if a 17-year-old has been in a gang since he was 12 and has witnessed multiple deaths or physical violence over and over again, potentially he has PTSD. Things like that are not taken into consideration; children do not know how to express that because they are normal for them. It is something they have grown up with and they are not able to express it. Having a conversation with somebody who is relatable to them to get the information out and put it in context for that young person is what is needed. You could potentially have younger magistrates, but it is the whole relatability aspect—*[Interruption.]* Sorry.

**Q213 Rob Butler:** No, it's great to hear what you think.

Let me move on to the next question I wanted to ask. Once you have been through the criminal justice system, what effect do you think that having a criminal record that you pick up when you are a child or young person has as you start to go into adulthood?

**Nadine Smith:** I have been through the youth courts. I had two minor offences on my record. I am now 23 and those happened when I was 15. They are still on my record any time something comes up.

I have a passion for criminal justice and working in the justice system. I wanted to work in a prison establishment and was unable to get full clearance to work in all establishments. It had to be shrunk down to just one—the one I was going to be working in—because of minor offences eight years ago. You hear it all the time, especially from children as they get older. They say, "I did this when I was 13, but it still follows me around." Labelling children as ex-offenders for anything they have done between the age of 11 and 17 is not right.

**Q214 Rob Butler:** Jhanzab, do you agree with that?

**Jhanzab Khan:** I agree, but I would like to add another point. From my own experience, having a criminal record has made me seem like I am someone dangerous, even though something I may have done may not be that serious. A lot of young people have issues in their community where they are experiencing increased levels of stop and search by the police; it is making them high risk, even though the offences may not be high risk. I have been stopped and searched twice in the past two weeks in the same area when I was with a young person. It follows you around; you carry it everywhere you go. People need to recognise that, once you become someone who is supporting another young person and trying to help with a problem, you should not experience stop and search. That was while I was at work and was with a young person I was mentoring.



## HOUSE OF COMMONS

Q215 **Chair:** Josh, do you have any experience of that?

**Josh Kilembeka:** Having a criminal record as a youth is really hard because you have very limited options. You apply for a lot of jobs and you will not get anything sent back to you. It is quite hard, especially as a young person.

I have spoken to many young people. They feel like there are very limited opportunities for them. I see lots of apprenticeship and volunteering schemes. I encourage my young people to volunteer; it will help them in future if they are looking for jobs. Volunteering helped me. A YOT worker found me volunteering work to get work experience. I think there should be more volunteering opportunities diverted into work.

**Chair:** You do not want your record stopping you being able to volunteer for those sorts of things. I get that.

Q216 **John Howell:** Anne, can I bring you back to the question of race and the role that race plays? Following the Lammy review, it is still seen as playing a disproportionately large part in the justice system. Why is that?

**Anne Longfield:** It seems to be built in at every level, from the percentage of arrests to how the courts treat you, and issues like decisions on remand and how you get treated by officials in the institution. For instance, with remands, there is over-representation of the BAME population who are put into custody, and they are more likely to be sent to the harsher regimes: YOIs and the like.

There is something fundamental that David Lammy was clearly pointing out and he highlighted that it needs to change. I supported his recommendations and would continue to do so. They need to be implemented. We need to fix some of those areas, such as the courts and the court process. In Scotland, there are youth hearings, which is a consideration we need to spend some time looking at.

A third of all young people in custody are on remand, but two thirds of them do not get a criminal sentence when it comes to court. Two thirds of those kids on remand could be prevented from being there in the first place. For children in care, there is a protocol to prevent criminalisation, but it is not yet having any major effect. Those are all things that people can do. You can make policy and you can intervene to change. None the less, it is all very static, and in my view it is complacent.

Q217 **John Howell:** Josh, if there was one thing you could change about the criminal justice system that would make life a lot easier for black people who have to go through it, what would it be?

**Josh Kilembeka:** There need to be opportunities for young people. I have one young person who is in care; he is on an order at the moment. I got through to him through my lived experience and being a peer worker. I had the experience to tell him, "You don't have to do this. There's always another way." There is very little opportunity for the BAME



community, especially for black people. There is lack of opportunity, but a high recommendation would be to get through to the young people and ask, "What would you like to do? Why are you doing this? What are the circumstances?"

Q218 **John Howell:** Do either of your colleagues want to come in?

**Nadine Smith:** For me, especially when it comes to black children in the youth estate, there are many disparities inside the estate when they get to that point. There are even things like minor or micro-aggression about, for example, not having hair products available in the canteen for black people. Little things like that push everything back and make young people and children look at the system and think that at every level there is systemic, institutional racism.

They are already fighting a battle. Every time they walk out on the street, they fight a battle. When it comes to the criminal justice system, it starts with policing; it starts with the engagement children have with police and the racial bias that police have towards children. It is the same with the criminal justice system. A white magistrate will not understand what a young black person is going through; they will not understand the context. Therefore, it creates an automatic barrier where the young person has already put up a wall because they know that person is not going to understand them.

**Josh Kilembeka:** As a young black person, you see a lot of young people not doing the right thing or not having opportunities. For example, I am doing a lot of good stuff for my community. Why can't I be on the Youth Justice Board? Why can't I sit with Ministers when they are talking about going forward for young people? Why can't I be the voice of young people? It is stuff like that. Young people don't see enough of us being represented in the system; it is always Ministers making the decision.

Q219 **Chair:** It is done to you rather than done with you.

**Josh Kilembeka:** Yes. It is a collaborative thing.

**Chair:** I get that.

Q220 **James Daly:** Josh, all of you are speaking so articulately that our time is ticking by. We are exceedingly impressed by everything you are saying. I am somebody who has been involved in the system. Could you help me briefly so that other people can ask questions? You made a really interesting point regarding volunteering. If we could bring volunteering into the criminal justice system, where would we use it to best effect with young people in the court system? Is it at the police station, is it before the police station or is it by way of sentencing?

**Josh Kilembeka:** I think it is best to intervene at the police station so it does not lead to them getting charged. At Youth Ink, we take on peer volunteers and we work with—*[Inaudible.]* We put them through a programme. They get their—*[Inaudible.]*—and we tell them all about



## HOUSE OF COMMONS

Youth Ink, and what you can do if you want to kick-start your career. Having that early intervention helps those young people, so there is a change in quality and a chance for young people to thrive. I think the police station is the best time to get these young people into volunteering; it gives them experience and knowledge of what they have done wrong and what they can do right, and what they can do for their peers as well.

**Nadine Smith:** Volunteering should be used in all parts of the justice system. Obviously, early intervention is key, but, for example, I went on reparation. My reparation was 12 hours cleaning out a back garden. What use is that to me? None. If you are putting young people on reparations under their orders, it should be used for something more meaningful. You could talk through their interests. If they have an interest in cooking, they could spend those 12 hours volunteering at a local café or doing something they enjoy, so they can see the potential in front of them rather than just making them paint something.

Q221 **Rob Butler:** I want to pick up the last point, Nadine. Isn't part of the idea behind reparation that you are doing good for the community rather than necessarily doing something you want to do? The whole sentence is meant to be a balance of different things: punishment is part of it, rehabilitation is part of it, and looking to a better future is part of it.

**Nadine Smith:** Yes, but you could do something meaningful in the community in another way. You could look at a young person's interests and find something in the community, and find a mentor for them. Let them spend 12 hours with a mentor to help them. Obviously, everything has to be balanced, but having the offence with them is punishment enough because that is going to stick with them for as long as it sticks with them. Young people should have the opportunity to explore what they want to do and to find their passion early on, so that it helps to stop reoffending.

**Jhanzab Khan:** In my experience of being in the youth offending service, I have had a lot of support. I have been in the youth offending service in Leytonstone. Obviously, I have done the community service side of things by doing gardening, picking up litter and that sort of stuff, but what Nadine is trying to get to is something that may be more beneficial for the young person so that they can recognise the reasons why they commit crime and progress from that.

One of the things that has been implemented in the Leytonstone youth offending service is a group called Voices in Partnership. It is a group made up of young people who are currently doing an order in the youth offending service, and they take more of an advisory role. For example, when someone gets interviewed at the youth offending service, they sit on the interview panels and they are able to gain beneficial work experience. They speak at events; they talk about the reasons why young people commit crime; they deliver workshops and they have workshops facilitated for them. That is more like rehabilitation.



## HOUSE OF COMMONS

Rehabilitation should not be something that has to be done through community service; it should be done in a range of different ways.

I moved around a lot on my order, and from my experience, I have not seen any other youth offending service with that kind of route or do that kind of work in the way it is done there. I think that needs to be implemented more, because young people in the system have greater awareness of who is best to deal with them, who is more relatable to them and who are the people who are going to be employed in those places. Things like that are more beneficial. We need to empower young people to have those experiences.

**Chair:** That is very helpful.

**Anne Longfield:** That was all brilliant, and I support it, but the fundamental change is that it needs to become about people rather than about processes. Every opportunity has to be taken to find the spark that will help the young person find what interests them in their future. The system needs to be seen as failing if it does not do that, rather than the other way round.

Q222 **Maria Eagle:** I would like to ask about the youth secure estate—the custody end of the youth justice system. Might I come first to our young advisers and ask what you think the experience is of children and young people in custody, whichever bit of custody it is, whether it is the young offender institutions, secure training centres or secure children’s homes, from either your own experience or from that of people you have helped and talked to and mentored? What is children and young people’s experience of youth custody?

**Jhazab Khan:** What do you mean by experience? Do you mean the general experience or are you talking about something else?

Q223 **Maria Eagle:** What is the impact on children and young people of being locked up in custody at that far end of the system, either on remand or when they get sentenced to custody? What is the impact of that on the young person who is going through it?

**Jhazab Khan:** I was sent to prison when I was 15 years of age. This is just my story. There are many other young people who have been through things that are more serious than mine. This is just an example of the issues that we deal with while we are in prison. I was sent to prison at 15, and while I was in prison some of the things I had to deal with on the outside were a bit too much for me. When you are that age and you are in an environment of isolation, external problems really get to you, because when you are in isolation all you can do is think.

My mother was diagnosed with cancer while I was in prison. That was a lot to deal with. My mother came to visit me. She had a bald head. I spoke to the doctors and they said that one of the things that contributed to cancer was stress, and I felt so guilty. I know that many other young people are dealing with lots of issues that are going on outside that lead



## HOUSE OF COMMONS

to them self-harming and turning to substance misuse. There is generally no support for that and no mental health support. A listener might be there, but it is not good enough to just have another prisoner who is there to listen, because that prisoner is limited in what they can do.

I would say that the general experience of young people who are in the system and have complex needs is that, when they are released, there is no progression for them. Those who come into the system and never commit a crime again are not able to gain anything from prison. There is no rehabilitation. Even the educational system is inadequate. That is the general experience for me and many other young people I have spent time with.

Q224 **Maria Eagle:** What about Joshua or Nadine? Do you have anything to add in respect of custody?

**Josh Kilembeka:** My experience is that I went to prison at the age of 17, and being in custody had a great big impact on my mental health. I was really angry with myself. I had a lot of anger. I think that an awful lot of young people feel they have to prove themselves. There is a lot of violence. I do not feel that YOIs are good for the rehabilitation of young people. There needs to be a better recommendation for young people.

I have done work with HMYOI Werrington. I spoke to three young boys. One of them said, "I really hate being locked up 23 hours a day. It's not good for me." One young person punches the wall in his cell and has bruises on his hands. Another young person feels that the prison system is racist. Another young person reads books to calm himself down. Overall, for young people it is really bad. The number of young people with mental health issues is growing. Those are my experiences and other young people's experiences.

Q225 **Maria Eagle:** Thank you, Josh. Nadine, do you have anything you want to add?

**Nadine Smith:** I have worked with some young people in Werrington as well. The whole experience is very traumatising. The whole custodial setting, the whole scene, no matter what part of custody you are in, as a child, is a very traumatic situation. Even for the strongest and biggest of children, there are external environmental impacts. They have a lot of time to think about things.

There are no positive outlets either. If you are facing mental health issues, and you do not know how to manage them yourself, or you are not getting help or given an outlet, you are unable to express that. If I was working with a young person on the outside, I might say, "Do you want to go to boxing? If you're feeling a lot of aggression and have lots of things going on, do you want to go to boxing to get that aggression out?" There is nothing like that for children in the estate. I think that is where we are missing a trick. In general, it is traumatising but, if young people



## HOUSE OF COMMONS

have to be there, there should be positive outlets given to them to help them express themselves.

Q226 **Maria Eagle:** Thank you, Nadine. I have a question for Anne Longfield. Joshua made reference to violence. There is lots of violence, with assaults on children and violence against staff, in the youth custody estate, and it is increasing. Do you have a view on why that might be? Why is it going up?

**Anne Longfield:** There are alarming levels of violence. Three of the five YOIs are judged by HMIP as unsafe in their basic level; 35% of young people in there say they feel unsafe. It is a system that relies on behaviour management. There are lots of “Keep apart” regimes around gangs. They tend to dominate, so they keep kids from gangs in different places. There is over-reliance on segregation and restraint, which are other violent approaches. Essentially, it is a security regime rather than the kind of regime that is the ambition of the secure schools, which is much more about education and learning.

Huge amounts of time are just passing time. That might mean time in your room. As I said, at weekends, lockdown starts in some places from 2 o'clock. That means they do not come out until 8 am or 9 am in the morning. A lot of time is spent winding people up, shouting through doors, and, unsurprisingly, a lot of violence happens on Mondays and Tuesdays.

The education is hugely variable, but in some places it is very poor. It is literally about passing time. We have huge amounts of resource that are used—lots of teachers and lots of staff. It is always a surprise. I was surprised when I learned how many staff there were in and around a prison, but the majority are used to maintain security. There has not always been an amount of creativity about learning. There is a lot invested and it needs to be used in a much more positive way—to really engage and start to help those kids recover, and get the support they need with the many issues they are dealing with, which you have heard about.

Q227 **Maria Eagle:** This is a question for all four of you, or anybody who wants to answer it. Do you think that the youth secure estate, the custody end, is a suitable place to hold children and young people at all?

**Anne Longfield:** No, it has to be completely overhauled. It has to start with what it is trying to achieve. That is not to say that you are letting people off, but there has to be a period when it is about recovery and meeting the needs of the children. We have to look at the welfare approach of other countries and intervene earlier and, yes, intervene at the police station, as Josh said, but way back before then. If kids are being excluded from school, that is a trigger for further intervention and diversion.



## HOUSE OF COMMONS

At the moment, no, it is not a fit place. I do not think any one of us would feel safe if we had to stay overnight in youth custody. For some of the most vulnerable young people in the country, it only adds to their trauma to be in there.

**Q228 Maria Eagle:** Thank you. Do our three young advisers on criminal justice, one after the other if you want to come in on this, think that it is a suitable place to hold children and young people?

**Nadine Smith:** I echo everything that has been said previously. It is a traumatic place that children do not need to be put into. Children are still developing and their brains are still maturing. Those are the key years when things could be done to turn those children into productive members of society. For children with aspirations and goals, and children who want to do their education, it is about putting the right people in place to communicate with those children in the first place. It is about discontinuing or not thinking about custody unless it is a final resort. Even then, with disproportionality, a lot of young black people and black children are just put into custody straightaway. It is about looking at alternatives whereby we can help those children to progress and to be productive.

**Q229 Maria Eagle:** Thank you, Nadine. Joshua, do you think it is a suitable place?

**Josh Kilembeka:** No, I do not think youth custody is a suitable place for young people, especially for their development to grow as a person and as a productive member of society. I feel that young people need a helping hand. They need someone to guide them. Youth custody is just a place of punishment. There is no rehabilitation going on, and young people need opportunities. They need to feel that their voices are being listened to. Speaking to young people in custody, they feel their voices are not even getting heard past the gate. It is not the correct place for a young person to be.

**Jhazab Khan:** I do not think it is suitable for young people. There is one thing I would recommend as a solution. I watched "Panorama" yesterday and it was about how Scotland is dealing with youth violence. They were talking about the practice that they have been implementing in prisons. I identified with some of the things that were being done in that place that I felt could be done here and that I would have benefited from. When you are released from prison, you get allocated a specialist support worker who is able to help you with issues going on outside prison. I feel like there needs to be consideration of what is being implemented in other places that can also be done in our criminal justice system.

**Maria Eagle:** Thank you.

**Q230 Paula Barker:** I would like to thank our witnesses today, particularly our young people, for contributing and being so candid. You have been really



interesting and informative.

I would like to concentrate on separation in custody and look at the solitary confinement aspect. Joshua, you spoke earlier about a young person who had been locked up 23 hours a day and the impact that had had on their mental health. Does separation have any other effects? That question is aimed particularly at our young people.

**Josh Kilembeka:** Being locked up for that amount of time, a young person loses hope. It is not only about mental health. They don't build trust with the prison officers. It becomes a conflict, and violence will increase in the YOIs. I have noticed that there is a lot of peer pressure. Young people like to feed that among themselves and it will only cause chaos. Young people do not like to talk about their problems, so we are only going to be fighting ourselves.

**Nadine Smith:** It is going to sound like a bit of a weird analogy, but take a puppy, for example: you would not put a puppy in a cage and leave it there for 23 hours a day for a continuous period of time and not expect it to have pent-up rage or be aggressive or not want to interact with humans. I feel that putting a young person in a situation where they are stuck in a cell for 23 hours a day is counterproductive to what the youth estate should be trying to achieve.

Mental health, speaking broadly, is such a big thing. If I spend three hours by myself, I start talking to myself—I am sure most of us do, it is just a habit, but not for 23 hours. It should not be used at all because it is so detrimental to a young person's development. Like Josh said, as a child you need to interact with other people. You are constantly learning and taking things in. Going back to the puppy analogy, they are constantly learning and trying to interact with everyone. You would not do that to an animal, so why would you do it to a human being? It makes no sense to me whatever.

**Jhanzab Khan:** One of the areas that impacted on me was my ability to engage in activities that were going on inside the prison, things like education and the gym. Having bad mental health issues is directly linked to the way in which you are able to engage in outside activities. I always say to myself, "If I'm not right within myself, how can I focus on anything outside of me?" That was my situation.

During the first nine months of my sentence, I spent a long time in my cell processing everything that had just happened to me—the sentence that I was given and the things that were going on outside prison—before I was able to engage in any external activities. Mental health is directly linked to the way in which you are able to engage with the system.

Q231 **Paula Barker:** Ms Longfield, the chief inspector of prisons said recently that the most separated children experienced a regime that amounted to the widely accepted definition of solitary confinement, as I have just stated. Do you think that children's human rights are being breached in



the way separation is used?

**Anne Longfield:** I do. We did a report to the Joint Human Rights Committee a couple of years ago, which stated the same. Some of the data I collected showed that segregation had increased—almost doubled—over a five-year period, and that it was for longer periods. It all goes back to a regime that over-relies on segregation and separation in that way, rather than on trying to create the right kind of environment, based on relationships, and based on help and support from staff. That is what needs to happen. It is a complex thing to change.

You have Ministers coming on shortly. I think that is the question: how are you going to change this? There is an ambition to change some of it, but it needs to happen. The speed that some of it has happened has been glacial. I support the move towards secure schools, but we need 10 not one, and the one needs to open. While it is a regime about behaviour management and crackdown and all those things, violence and reliance on segregation will grow. It is not meeting children's human rights. It separates them for periods of time that can only be described as isolation. It is also furthering the harm and trauma that they are experiencing. No one should think it is okay to inflict that on a child. As Nadine says, you would not do it to a puppy.

**Chair:** We've got the point. We need to keep everything succinct to keep to time.

Q232 **Paula Barker:** We are seeing, sadly, that self-harm incidents are at an all-time high, and higher than they have been in the past five years. What factors do you believe are contributing to that and what should be done to address it?

**Chair:** Is it part of what you have already heard or is there anything in addition?

**Nadine Smith:** As has been said, there are a lot of staff and a lot of education staff, so why are those staff not trained in understanding mental health and being able to be there as an outlet? There is amazing work going on with listeners in the children's estate, but they are not on call 24/7. If somebody is having a breakdown at 2 o'clock in the morning, they are not going to be able to get the help they need. There needs to be a lot more done around access to people, access to services and access to those who can understand the mental health side of things.

**Jhazab Khan:** One thing that needs to be brought in is a different acknowledgment of what benefits people in dealing with their mental health issues. Nowadays, in the criminal justice system, we are always looking to listeners and medicine as a solution. One thing that helped me was the creative arts. By keeping a journal inside my cell and having an outlet for everything that I went through, I became more confident in verbalising those experiences and speaking about them, and being able to deconstruct them and deal with them. The creative arts need to be



## HOUSE OF COMMONS

involved in helping prisoners to deal with the traumas they are involved in. We need to look at a different way of dealing with mental health.

Q233 **Chair:** That is really helpful. Thank you very much. Josh, do you have any additional points?

**Josh Kilembeka:** No, thank you.

**Chair:** We already have Anne's written submissions on this.

Q234 **Richard Burgon:** Thank you, Nadine, Josh and Jhazab in particular for the way you have answered all the questions. As politicians, we are not always used to getting straight answers, but we have had straight answers today. I have a quick but important question to all witnesses. It has been nearly four years since the Government committed to the development of two secure schools. Anne, are you satisfied with the progress so far, and to anyone on the panel who wants to offer their perspective, does the secure school model offer a sufficiently different approach to the model of children in custody?

**Anne Longfield:** The secure school is a different enough approach. It is small in its numbers and needs to stay small. It is based on education and children first and foremost. It also offers an opportunity to do things completely differently. I have been a supporter from the start. Again, I would have liked there to be 10 announced in the first phase, not just two, and now we are down to one.

**Chair:** We have got that bit.

**Anne Longfield:** I am really frustrated by the speed. I am looking forward to it starting. I think there is an opportunity now—

**Chair:** Could we keep it succinct, please, because we need to press on?

**Anne Longfield:** There is an opportunity now to extend that as swiftly as possible.

Q235 **Chair:** What about our three young people on the panel? What is your take on that? Do you have anything to add? Richard has made a point about secure schools. Is that a better way to go?

**Nadine Smith:** I agree. I think it offers a different variation on custody for children.

**Chair:** There seems to be general agreement that it is a good way forward. It is the speed of it that people are worried about. Richard, do you have a follow-up?

**Richard Burgon:** I have no follow-up to that. It is useful that there appears to be consensus that the secure school model is preferable.

**Chair:** That is helpful.

Q236 **Rob Butler:** I would like to combine two thoughts, particularly for our



## HOUSE OF COMMONS

young advisers, which are about what happens at the end of a custodial sentence. First, what do you think about the way you are prepared to be released to go back into the community? More broadly, what happens when you move from youth services to adult services? It is about those two transition times.

**Josh Kilembeka:** On getting released from custody, for a lot of young people there is no structured plan. I have had numerous young people come to me saying they have not found accommodation. There is no accommodation in place, so they are left homeless when they come out, with nowhere to go. I think that three months before they are released there should be a structured plan with their key worker and YOT worker or probation officer, so that when they come out it is easier to get back into the community.

With the transition from the youth offending team to the young adult service and probation, I feel that a lot of young people are not ready to transition from the YOT to probation. There should be a meeting between the YOT and the probation officer to see how the young person will move forward to the probation service. Young people tell me that they are not getting as much help from the probation service as they would get from the YOT team. Those are my thoughts.

Q237 **Rob Butler:** Jamal, is there anything different or anything you want to add?

**Jhanzab Khan:** No, I agree with that.

Q238 **Rob Butler:** Nadine, what about you? You mentioned earlier that you are 23. You are in that young adult age now. What do you think about the way the criminal justice system should be for people of your age now?

**Nadine Smith:** Between the ages of 18 and 25, people do not stop maturing. That age group needs to be focused on. Just because I turn 18, my whole mindset does not change at midnight on my 18th birthday and, all of a sudden, I am an adult, and I can now take on a load of new things that I am being forced into with probation and the adult estate, because the adult estate—

Q239 **Rob Butler:** I am sorry to interrupt you, but we are really tight for time. What would you do differently for that age group of 18 to 25?

**Nadine Smith:** I would probably put in more intervention work to help them to progress themselves as young adults.

**Rob Butler:** That is very useful. Thank you.

**Chair:** There is a very clear pattern around those answers, which is really helpful.

Q240 **Dr Mullan:** Thank you to everybody for taking the time. You have done a great job in articulating some challenging issues.

You have talked about what happens to people when they get to custody.



## HOUSE OF COMMONS

You have talked about when they get to the police station and what a key point that is, but probably it would be ideal if people never reached the point where the police arrested them. We probably all understand and accept that why people reach that point is key. We have talked about some factors today around being in care, ethnicity and deprivation. Those are all factors, but we have to keep in mind that the vast majority of people subject to those same factors do not end up in a situation where they are in the criminal justice system. It is really difficult, but reflecting on your past and what you think happened on your journey, what would be the one or two things that would have stopped you ever getting to that point?

**Chair:** What might have made a difference earlier on? Can you think of anything in particular?

**Nadine Smith:** For me personally, more support would have made a difference—if I had had a lot more support from school and an understanding of how my behaviour was at that time, so that it made me realise that my behaviour was going to lead to negative outcomes. Support and understanding from school age is very important.

Q241 **Dr Mullan:** How early do you think would have been beneficial for you? If you were going to put an age on it, how soon should people have been helping you?

**Nadine Smith:** The age of criminal responsibility is 10, so from that age there should be an understanding that, "If you carry on with these behaviours or if these behaviours develop, this is the path you could go down." I was getting in trouble from the age of 11 and causing trouble from the age of 11. I did not have support in place. I was lucky I had a good family, but I did not have the support and guidance to say, "Just stop or you are going to end up down this road." The age of criminal responsibility is where the support should be aimed.

**Josh Kilembeka:** I feel that I should have been allocated a behaviour mentor when I was in school. That would have helped me to make the right choices and the right decisions. Then again, you have people with different circumstances at home, or they might be in care. How would you reach them? People experiencing bad influences and other lived experiences need someone to support them. For me personally, a YOT worker, peer workers and my mum helped me become who I am today. Not a lot of people have that.

**Jhazab Khan:** For me, the issues started in school. I struggled a lot in school. I struggled to get to grips with the education system. The teachers' reaction towards my kind of misunderstanding and ignorance meant they pushed me away from the education system. The teachers would say things like, "You're stupid. How can you not understand?" If I had been more able to have individual support in school, and people had understood that I had difficulties, it would have been a lot more beneficial. If I had stayed in education and had that support, I think it



## HOUSE OF COMMONS

would have prevented me from going to prison. That direct link would have been able to provide me with the support I needed.

When I did not engage well in school, I started skipping school, and eventually got kicked out of school because I was absent so much. There needs to be more support from the moment you are in school. People who work with you in school, such as mentors, need to understand the conditions you are living in at home as well, such as the financial issues your family is facing, the background of your family and all the complex issues that contribute to the reason why you commit crime, and the reason why a young person feels lonely and feels they have to go down that path.

**Josh Kilembeka:** In secondary schools, there is a report card system, where they put you on report and you have to report to the teacher. If a young person from year 7 to year 9, or year 7 to year 10, is constantly getting in trouble, there should be a system where it is flagged up: "What can we do to support this young person? What's going on with him? What are his circumstances? Why does he keep behaving like this?" You could have a multi-agency meeting with a social worker, a behaviour mentor and a teacher to talk about why he behaves like that, and let the young person speak.

**Chair:** That is very helpful and powerful. Again, it all hangs together as a piece about what is happening before you get into the youth justice system. It goes back before that.

Thank you all very much, in particular Nadine, Jamal and Joshua, for taking the time to talk to us today. It is really powerful to have that sort of evidence directly from you because you have seen the system in practice. Thank you. Good luck with everything.

### Examination of witnesses

Witnesses: Lucy Frazer, Helga Swidenbank, Caroline Twitchett and Phil Douglas.

Q242 **Chair:** We have three witnesses for this panel. It is good to see you again, Minister and Ms Swidenbank. Caroline Twitchett is with us remotely. It is good to see you.

Minister, thank you for listening to some of that session; we may come back to some of the things you might take away. One thing that was said at the very beginning when talking about the immediate Covid impacts is that you have had to run a regime that everybody who has given evidence to us says is not suitable for children. How soon are we going to get out of that? I understand there are pressures in trying to prevent the pandemic getting hold in a residential estate. There has been a lot of success in that. When are we going to start moving back to some element of normality?



## HOUSE OF COMMONS

**Lucy Frazer:** It is a pleasure to be here. I agree with you that the evidence you have just heard was very powerful, from people who have experienced the system.

I am pleased that you acknowledge that at the beginning of the pandemic we faced a tough and challenging position. We were told that across the estate we might experience 2,500 to 3,500 deaths. We took action very quickly across the estate to ensure that we protected lives. As you know, we restricted the regime and we stopped transfers. All that has, indeed, saved lives, so we have only seen 23 deaths across the adult estate; fortunately, none of those were in youth settings. We are very conscious about the mental health impacts, particularly in the youth estate. The risk of infection to the children within it is not as great as in the adult estate, but it is of course a risk to the staff who are working in those institutions, and we are concerned not only about health, but about disorder as well.

I am very pleased to say that we are now in the recovery phase. Helga's team is working very hard with those on the ground to advance the exceptional delivery models—EDMs—that each institution has to put together. I am very pleased to say that in the youth estate we now have some form of face-to-face education across the YOIs. We have started face-to-face visits in Wetherby and they will be in all our public YOIs in the next seven days. As you know, people might be concerned about travelling and using public transport to get to the institutions, so I am very pleased that our purple electronic visits are now in place at our four YOIs.

Q243 **Chair:** Ms Swidenbank, when are we going to get back to having a normal education regime?

**Helga Swidenbank:** The factors we are taking into account when we are thinking about opening up the regime—visits, education and a number of other activities—are balancing the risks that the Minister has just spoken about.

Q244 **Chair:** Do we have a date?

**Helga Swidenbank:** No. We are working through the different levels. We produced the national framework to guide us through how we take all our establishments, not just YCS, all the way through from level 4, which is the highest risk, down to level 1. We are currently at level 3. We are working through our plans to start to open up the regime gradually while we are in level 3. As we move to level 2, we will be doing something similar and opening up further, and at level 1 opening up even further. It is entirely possible, if we have local outbreaks, or if staff from a certain establishment are notified on track and trace, that we have to restrict regimes further and go back up a level.

Q245 **Chair:** You seem more interested in restricting again than opening up.

**Helga Swidenbank:** No, not at all. We are interested in balancing the risks that are still prevalent during Covid 19. We are not yet out of it. We



## HOUSE OF COMMONS

need to balance the needs of the children with ensuring the safety of our staff. Those are the risks we have been balancing throughout the course of the pandemic.

Q246 **Chair:** You are the executive director of the Youth Custody Service. The inspectorate has been highly critical of the organisation you are running. What are you going to do to change that?

**Helga Swidenbank:** We are working very closely with our partners, with NHS England and Public Health England, to ensure that we follow their guidance to open up the regime as we can, and as is safe to do so, for the children, and the staff who look after them.

Q247 **Chair:** Ms Twitchett, what is your take on the health impacts of the current regime? The Minister rightly recognises the mental health pressures of regime restriction, particularly on young people. What is your take on how swiftly you can start to return to some normality in the provision of mental health services, and other services, for young people and children?

**Caroline Twitchett:** It is important to remember that the NHS has been in the children and young people's secure estate throughout Covid. Our primary care services—our GPs—were there, along with Youth Custody Service staff, supporting and treating children during that period. We have been able to use flexible ways of working. We did not disappear.

Mental health work continued. Sadly, we still transferred a number of children to hospital for mental health reasons during that time. We expected it to be an incredibly difficult process, but we were prepared for that, and, fortunately, those transfers all happened swiftly, probably more swiftly than normal, which was effective.

It is about bringing our wider health provision back. Like the rest of the NHS, we are slowly doing that, but we are doing it as well as retaining all our Covid capability. As Helga says, we are not clear of it yet. We need to be cautious and we need to move forward when it is safe to do so.

**Lucy Frazer:** I would like to acknowledge that, when HMIP went into the three youth institutions, he made some quite positive comments about what he saw there. The report acknowledged: "All three sites were calm and well ordered." He saw "staff interacting with children in a caring, patient and professional way." He thought that the children understood what was happening and why it was happening.

I have a comment on mental health because I think it is really interesting. We are taking a lot of learnings from the Covid period and analysing what has happened over that period. Obviously, we are very concerned about the restricted regimes. We have talked about that and we hope to open them up as soon as possible. Both in the youth estate and in the adult male estate, we have heard from some children and male adults that they feel an element of safety in not being exposed to association. Some governors have reported that when children do not



## HOUSE OF COMMONS

have to keep up the bravado of being with their peers for a long period in big groups it has made them feel a little safer. We have learned from that and, going forward, we are going to do more work in small groups, because people found that much safer and much easier to manage. That is a good thing that we are going to take forward from the Covid experience.

**Q248 Chair:** That is helpful. The regulations you have would permit you to run a restricted regime until March next year, which is rather longer—about six months longer, the Children’s Commissioner pointed out to us—than the regulatory framework for other aspects of Covid restriction. Why is that? Is that your target date for getting back to a normal regime, or is it much sooner than March?

**Lucy Frazer:** Absolutely. We are opening up now, as we have mentioned. Our aim is to open up as much as possible, so far as it is safe. We want to ensure that we have the legal framework in case we have regional outbreaks or another national outbreak. We want to ensure that any restricted regime is put into place legally within a framework.

**Q249 Chair:** Your education changes, Ms Swidenbank, will be well in advance of March, if you can do that.

**Helga Swidenbank:** We would like nothing more than to get back to normal as quickly as possible, but we are very conscious that we need to balance all the risks that I spoke to you about. If we can get to level 1 by March, we will be delighted, and I know that the children and young people would be, as would the staff. We are just being very cautious about it.

**Q250 Chair:** Well before March, surely.

**Helga Swidenbank:** Yes, as soon as we can, and as soon as it is safe to do so.

**Q251 Andy Slaughter:** Good afternoon. I have a few questions. First, how many children have been released under the Covid early release scheme?

**Helga Swidenbank:** No children have been released.

**Q252 Andy Slaughter:** Is there any explanation for that?

**Lucy Frazer:** Yes. It is very different from the adult estate. The main reason to release adult males was the need for headroom in the estate, to ensure that people could be isolated if they were showing symptoms, or if they had come in and we needed to shield them.

The same restrictions do not apply in the youth estate, because everyone has their own room. Also, the young are less vulnerable to the Covid implications—to catching Covid. In addition, you will know that we have ensured that people who have committed low-level offences are released. The people in our youth estate have committed serious crimes; the level of offending to get into custody if you are a child is much higher, and we have an obligation to public safety.



## HOUSE OF COMMONS

- Q253 **Andy Slaughter:** You did not have any intention of including children.
- Lucy Frazer:** Yes, absolutely. Every institution has been looking at who it might be possible to release.
- Q254 **Andy Slaughter:** But not one has been.
- Lucy Frazer:** Many have been reviewed as eligible, but each case is assessed on an individual, risk-assessed basis to see whether it is appropriate to release them, and it has not been felt appropriate yet to release anybody.
- Q255 **Andy Slaughter:** I have another question on release. I was looking at an answer that you gave on 12 June, which was about the period of the height of the pandemic, from 23 March to 30 April. During that time, 85 young adults were released, either to rough sleeping or homelessness of some kind. This goes beyond the youth: over 1,000 prisoners were released at that time. That is not much below what happens normally; I made it about 10% below the numbers of those being released normally. Why were you releasing young adults to rough sleeping and homelessness, given the other requirements on control of homelessness during the pandemic?
- Lucy Frazer:** Anyone released on the early release scheme will not have been released unless they were released to a home.
- Q256 **Andy Slaughter:** I am talking generally.
- Lucy Frazer:** Generally, we are very conscious of the need to ensure that people go into accommodation. We have set up across the country seven homelessness prevention taskforces with additional money—£8.5 million additional funds—to try to secure accommodation, and we have managed to secure accommodation for some of those individuals. We are very aware that children need to go into accommodation, and MOJ, DFE and MHCLG officials have established a children’s accommodation working group to ensure that there are places when children are released.
- Q257 **Andy Slaughter:** Your scheme must not be working, because those figures are quite shocking, aren’t they? There were 17 young adults released to rough sleeping in the five-week period at the height of the pandemic. How can that happen?
- Lucy Frazer:** The YOTs work very closely with local authorities to try to find accommodation, and, as I mentioned, a taskforce has been set up cross-departmentally. We have not stopped at that; we have put additional funds into trying to secure accommodation and, obviously, we need to ensure that we get people where they need to go, in the children’s home sector as well.
- Q258 **Andy Slaughter:** I have to move on because we are short of time. I go back to the Chair’s point on the regulations. The Secure Training Centre (Coronavirus) (Amendment) Rules 2020 have added the words “so far as



## HOUSE OF COMMONS

reasonably practicable" in relation to a 25-hour requirement on education, so it looks as though that is entirely flexible for the foreseeable future.

The explanatory memorandum says: "The temporary minimum restricted regime provides children with...Reduced time out of room: At least 1½ hrs out of room a day (normally 14 hrs)." That is not in the regulations; it is in the explanatory memorandum. What is your authority for restricting time out of cell to one and a half hours, and how long do you anticipate that continuing now that the regulations are in force?

**Lucy Frazer:** The statutory instrument is there to ensure that, if it was necessary to impose a restricted regime because of a regional or national lockdown, we would have a legal framework in which to do it. What we want to ensure is that we do not restrict the regime and that we let people out of cell for as much time as possible when it is safe to do so, but we need a legal framework, if that is not appropriate, in order to save lives.

Q259 **Andy Slaughter:** But that is only in the explanatory memorandum; it is not in the regulations themselves. It seems very woolly; it seems an open-ended permission that you are giving yourselves to continue the regime of 23-hour lockdown. That is a more general question about getting back to normal. I did not hear anything in the answers that you gave the Chair about when you expect that regime to end.

**Lucy Frazer:** We are already opening up. The exceptional delivery models for the next stage have been approved in our public institutions. As I mentioned, face-to-face education is taking place in all our young offender institutions, and in the public institutions we are starting face-to-face visits; either we have started them already or they will start in the next seven days. I am very pleased. I see that as progress.

We absolutely have to be cautious, because we do not want to see spikes in our prisons that will affect our young people and our staff, and therefore affect our staff-to-people ratio, and visitors who come. We need to do that cautiously and we are doing it cautiously, but we have already started opening up our YOIs.

The secure children's homes have been operating a full regime throughout the pandemic, and the STCs have operated a regime that is more extensive than the YOIs. Where it is possible and has been possible to open up regimes during the pandemic, we have done so, and we are now in the next phase.

Q260 **Andy Slaughter:** You mentioned that you might have seen some advantages, such as individuals feeling more secure in smaller groups, and things like that, and you might take those forward. There may be a lot of other implications, such as what has happened with self-harm and assault. One would guess that that is massively down, if people are locked up for 23 hours a day in single cells.



## HOUSE OF COMMONS

How are you going to distil the lessons of Covid? What reporting mechanism or transparency are you going to show for the negatives, and I have indicated some of those, but also possibly for some better practice that may come out of it?

**Lucy Frazer:** We have seen assaults and self-harm go down. Since January, self-harm has gone down on a consecutive basis in the youth estate.

Q261 **Andy Slaughter:** Will you publish those figures?

**Lucy Frazer:** We have not published those figures yet, but we will do so in the normal course. We are doing an exercise of learning across the estates. We think that it has been a very important period, from which we can learn; it was an enforced period, but one from which we can take a lot of learning. We will distil those ideas and, obviously, share our thinking in an appropriate way and in an appropriate forum in due course.

Q262 **Dr Mullan:** You talked about the estate and the relaxation of the rules. One of the points made by the Children's Commissioner was that there were sufficient grounds to treat the children's estate very differently from the adult estate. Can I confirm that in terms of the advice that you are getting? On easing of lockdown, are there distinct lines of advice for the two different estates, which enable you to take things at a different rate?

**Lucy Frazer:** Yes, that is right. Helga leads up the Youth Custody Service, and I speak to other officials, such as Phil Copple, when I deal with the adult estate.

Q263 **Dr Mullan:** And what about the advice that you are getting about the ease with which you can reduce the lockdown?

**Lucy Frazer:** Yes, Helga will give me advice in relation to the youth estate separately from that in relation to the adult estate.

Q264 **Paula Barker:** I would like to concentrate on education, Minister. I am sure that you are aware of what is happening at YOI Feltham, where face-to-face education restarted yesterday. I have been informed by the UCU, the union that represents teachers there, that the private education provider, Prospects Shaw Trust, is making staff deliver classes inside residential units instead of the usual classrooms. That is obviously causing a great deal of concern for teachers, who are worried not just about Covid but about potential violent assaults. Do you agree that all prison employers, not just HMPPS, need to consult the trade unions as Covid restrictions are relaxed? Will you intervene to deal with that particular contractor as a matter of urgency?

**Lucy Frazer:** I am very pleased to have an opportunity to pay credit to the constructive engagement that we have had with the unions throughout the pandemic. You may have seen that a number of joint statements have been issued. We have been working very closely with them and talking to them at every stage, sharing our EDMs with them



## HOUSE OF COMMONS

and discussing when it is appropriate. I am very pleased that the opening up of education has been something that we have discussed with them.

I am aware of the issues that you raise in relation to Feltham and, obviously, we have spoken to the unions separately. Do you want to come in on that, Helga?

**Helga Swidenbank:** We have worked very closely with them. I echo the Minister's comments on how constructively we have worked with the POA and other unions. We have been working with the POA in relation to all the YCS sites and YCS delivery, and have agreed our exceptional delivery models with them. Clearly, we have a commercial relationship with Prospects, which runs the Feltham education provision, and we are talking to Prospects about how they are talking with their staff, but that is a relationship that they have with their staff.

Q265 **Chair:** You would expect any organisation involved in the service to behave in a way that is proper.

**Helga Swidenbank:** Of course.

**Chair:** We do not know the details, obviously.

Q266 **Paula Barker:** Minister, you will actually engage with that contractor. Is that correct?

**Lucy Frazer:** Well, I believe that the contractor has engaged already with the unions. I am very happy to speak again to the provider and discuss it further.

Q267 **Chair:** Initial contact, I imagine, is through the management.

**Lucy Frazer:** Through Helga, or otherwise.

Q268 **Paula Barker:** Thank you. I want to pick up one final point. It relates to Mr Slaughter's question on self-harm. The Minister said that incidents were actually coming down, but in our previous panel we heard that self-harm incidents are the highest they have been in five years. Why is there disparity in opinion between panel 1 and panel 2 today?

**Lucy Frazer:** Self-harm is historically very high, so we are at a very high level, in comparison with other years, in that we are at a starting base. It has been lower in other years, but from January we have seen a reduction in consecutive months.

Q269 **Chair:** As Mr Slaughter indicated, since you have had the restricted regime, for the reasons you have set out, there has been a reduction, but it is from a higher base than it had been in previous years.

**Lucy Frazer:** And shortly before that as well, in January. But I absolutely accept that we need to do more in relation to self-harm.

Sometimes, the figures show an increase, and that is a small number of people unfortunately doing a lot of self-harm to themselves in a number



## HOUSE OF COMMONS

of incidents. Because we do not have a lot of youth in the estate, a number of incidents can significantly increase the figures. I absolutely accept that we need to continue to work to address the issue of self-harm.

**Chair:** A small element proportionately has a greater effect on the numbers.

Q270 **Dr Mullan:** I want to ask about criminal disclosure. The Supreme Court judgment in January 2019 identified two points that it felt were unlawful in relation to disclosing multiple minor convictions and convictions given to children. I know that the Government are committed to acting on that this year, but what is the timetable for the statutory instrument being debated and getting it put into law? Why do you think it took so long to get to that point?

**Lucy Frazer:** The SI has been laid, and it relates to youth cautions and multiple convictions, which was the subject matter of the Supreme Court decision. We are committed to looking not just at that but to wider measures as well in relation to criminal records. I suspect that you might see something about that in the sentencing White Paper that is coming forward in due course.

Q271 **Richard Burgon:** Minister, what actions have been taken as a result of the Prime Minister's recent commitment to fully implement the Lammy review recommendations?

**Lucy Frazer:** We are very disappointed that there is racial disparity in the criminal justice system. As you know, we have already implemented a number of Lammy's recommendations and have committed to implementing the remainder in the next 12 months.

Q272 **Richard Burgon:** On youth courts and sentencing, Minister, you said in answer to an earlier question that children end up in detention only if they have committed a serious offence. The problem with that is that it is simply not true because there is remand as well, and two thirds of children remanded to youth detention accommodation did not subsequently receive a custodial sentence. What are you doing to avoid remanding children to detention who do not need detention?

**Lucy Frazer:** That is a really important point, because we have far too many people on remand in the youth custody estate. We have a significant number in the adult estate as well, and that is why we are undertaking a review at the moment of youth remand, which we will report on in due course.

Q273 **Richard Burgon:** In that review, what work is actually being done to understand the current use of remand and ensure that it is used appropriately? Can you shed any further light on that for us, please, Minister?



**Lucy Frazer:** Yes, we have looked at the data and figures in relation to the make-up of remand, and we are currently looking at options for how we could reduce that and what measures we could take, whether legislative or otherwise. We are scoping those and will be looking at them more extensively over the coming months.

Q274 **Andy Slaughter:** I have one more point on that. What you actually said in the House on the subject last month was that “the Youth Justice Board has looked at those who are currently held on remand, and the youth offending teams will be reviewing whether any applications can be made to help those people who are on remand and can be released back into the community.” I took that to mean that every remand case would be looked at to see whether it was appropriate. More than a month on from that, how many cases have been reviewed and how many people have been released?

**Lucy Frazer:** To clarify, that is an important point, but it is a different point from the one that Richard Burgon made. The answer to which I just referred is a separate review about the process of remand. What I was referring to previously, and what you are asking me about, is the particular case-by-case question of whether it is appropriate for some individuals to be released. That is an exercise, as you rightly identified, that is being undertaken by the YOTs together with the YJB; it will be a matter for them to make applications and deal with that through the courts.

Q275 **Andy Slaughter:** I take your point. To your credit, you have just said that it is something that gives you great concern, and so it should, when two thirds of those in custody are on remand, and we see what the outcomes are. We are about five weeks on, so do you know what progress has been made?

**Lucy Frazer:** At the outset, it was a point that I pressed; I thought it was an exercise that ought to be undertaken. I spoke to the YJB about it, and I know that they have liaised with the YOTs. I also know that HMCTS undertook an exercise as well. But I have no control over what applications are made to court or, indeed, what the results of those applications were.

Q276 **Andy Slaughter:** But you must be interested. You must want to know what is happening. Could you not ask them? Could you not write to us and tell us what is happening? It is all very well to say, “Yes, we are going to review every case,” but if several weeks later nothing has happened—

**Lucy Frazer:** On the adult estate, I work very closely on the issue. I spoke to the senior presiding judge on the same issue, and spoke to HMCTS and the DPP about the procedure. They put in train, and everybody agreed that it was appropriate, a mechanism whereby all the cases should be reviewed. It was a huge exercise to identify which cases had gone through the system, because the records are held locally by



## HOUSE OF COMMONS

each court. Although we got some stats, it was an immense amount of work to identify the results of the exercise.

I agree with you that it is very important to do it and I am very pleased that it is being done. I can follow up, and am very happy to follow up, as to the results in relation to the work. I cannot promise to give you a conclusive answer, but I am very happy to follow it up.

**Andy Slaughter:** Thank you.

Q277 **Chair:** And there is a broader piece of work.

**Lucy Frazer:** There is a broader piece of work in relation to remand.

Q278 **Chair:** Do you have a particular timeframe on that? You said, "in due course."

**Lucy Frazer:** We are currently discussing the timeframe for that.

Q279 **Chair:** But you regard it as a very serious issue and take it very seriously.

**Lucy Frazer:** I suspect that it will be months rather than years, but I do not want to commit to a particular timeframe.

Q280 **Chair:** You want to look at the legislative and other options.

**Lucy Frazer:** Yes.

Q281 **Dr Mullan:** One of the things that we have been talking to magistrates about is the availability of sentencing options for them. The feedback we have had is that, while referral orders may be appropriate in some circumstances, at times they would like to be able to use a youth rehabilitation order, and the legislation does not always allow them to do that.

Secondly, they felt that one of the reasons why they might be reluctant to use more community-based sentencing is that there is no feedback loop. If they pass the sentence in the court itself, the magistrates do not hear what has happened with the young person. I understand that, if enacted, the legislation allows some sort of feedback loop to be introduced and that we could make changes to allow youth rehabilitation orders to be used whenever people felt they were appropriate. Is that something you could work with colleagues on to advance?

**Lucy Frazer:** I am very happy to take that suggestion away.

Q282 **Chair:** It is the sort of thing that you see in some of the problem-solving courts in the States, isn't it?

**Lucy Frazer:** I am a big fan of problem-solving courts. The referral orders have an element of problem solving in them. Any concepts that allow for maintained control of what is happening and reporting back is something that is worth reviewing and is very interesting.



## HOUSE OF COMMONS

Q283 **Dr Mullan:** Might it be in the forthcoming Sentencing Bill, as part of sentencing? What sort of timescale do you think you might have in terms of seeing progress?

**Lucy Frazer:** I am very happy to keep you updated on that.

**Chair:** I am glad to hear what you said about problem-solving courts, Minister, which are something the Committee has talked about in the past.

Q284 **Maria Eagle:** I am a big fan of problem-solving courts as well. In fact, we used to have some when I was Prisons Minister, and most of them went, subsequent to 2010. It is good if the Government are considering bringing them back, but it is a shame that they were effectively abolished by the removal of resource in the first place.

Minister, would you accept that stopping young people going into custody is the best way to solve many of the problems that we are hearing evidence about in the custodial youth estate? In that respect, liaison and diversion schemes are a tremendously important part of preventing people from going into youth custody, and, obviously, the earlier the better. We were told that the schemes operating at police stations and courts were expected to reach 100% coverage of the population in England by March 2020. Obviously, we have had some issues since then. Could you tell us what the progress is in getting those schemes in place to have that level of coverage across the whole of England? Where are we with that, Minister?

**Lucy Frazer:** I am very happy to do that. We are at 100% coverage.

Q285 **Maria Eagle:** Excellent. Everywhere that a young person might be coming into some sort of likelihood of being charged with an offence that might put them into the youth custodial estate, there is a liaison and diversion scheme available that might be able to get them away from that prospect.

**Lucy Frazer:** There is 100% coverage of liaison and diversion operating at police stations and courts, so there should be that facility.

Q286 **Maria Eagle:** Excellent. Do you have any figures yet on how effective they are and how many people are being diverted as a consequence of that availability?

**Lucy Frazer:** RAND Europe has done some research on that, but, unfortunately, it is going to be related to the adult and not the youth estate. We want to make sure that we review the effectiveness of those schemes in relation to youth, so we will look at that.

Q287 **Maria Eagle:** There is going to be some research commissioned, is there, in that respect?

**Lucy Frazer:** There is already commissioned research overall, but it is being done in relation to the adult estate, and it should be coming out shortly.



Q288 **Maria Eagle:** Do you have any work planned for looking at youth diversion?

**Lucy Frazer:** In relation to youth diversion, we will look separately at that issue, given that it is not going to be included in the RAND Europe analysis.

Q289 **Maria Eagle:** Do you have that commissioned, or is there a gap?

**Lucy Frazer:** We do not yet have that commissioned.

Q290 **Maria Eagle:** Okay, thank you. Perhaps you will consider commissioning some.

In regard to liaison diversion scheme outcomes, we have heard that many young people have problems that get them involved in the youth justice system that are often related to mental health and issues such as that. We have heard that just under 17% of those identified as having a mental health issue were referred for mental health support as a consequence of the liaison diversion schemes. How were the other 83% supported with their mental health?

**Lucy Frazer:** It is likely to be the case that they do not reach the threshold for support. Caroline may want to come in on that question.

**Caroline Twitchett:** One of the issues with young people is that the liaison and diversion schemes have quite acute antennae for multiple vulnerabilities, and one of those is related to psychological wellbeing and mental health. When it says that, it is actually about a successful transfer or referral to the community child and adolescent services. A lot of them will not meet those thresholds; we accept the fact. Since the time that data is from, there have been developments across the whole of children's mental health.

As you are aware, there has been a large programme of work with children and young people's mental health transformation across the country. It is around identifying and working with that provision, to think about where children most need that care. There is the roll-out of children's mental health teams in schools, and an extension under the transformation programme, working with local authorities and extending the work of children and young people's mental health teams.

The review very much looks at access. We are very aware that there are areas that we need to look at on access, particularly for that group of children. I am very pleased that NHS England and NHS Improvement have made many commitments in the NHS long-term plan that will look to address that group of children, across learning disabilities and autism but, equally, across complex needs children. Liaison and diversion sit in the same programme that I sit in, and it is really important that they are joined up. There is no point in implementing a programme when you are diverting children when, if they are sub-threshold, you do not have



## HOUSE OF COMMONS

anything to offer. The complex needs service is very much around that; it is around supporting other services.

Children are individuals and they have individual needs, and, unfortunately, a lot of those children have needs in multiple domains. Unfortunately, it is not just mental health. That is why I mentioned learning disability and autism, because we know that children in the youth justice pathway, particularly in custody, are over-represented with neuro-disability, which is a great concern for us, as they are some of the most vulnerable children in our society.

**Q291 Maria Eagle:** Will it be the case that young people who have either mental health or learning disability issues identified, or perhaps some other vulnerabilities—you said that there were multiple numbers of them—and who do not reach the CAMHS threshold, will still get some support going forward, or, if the assessment is that they have not reached the threshold, is that it? They are on their own again.

**Caroline Twitchett:** No. The role of liaison and diversion is to ensure that young people's needs are met, so it is about consultation and liaising with agencies. They will not always meet the threshold for different services. The new layers of work that are being looked at in the long-term plan are identifying the idea that a lot of children who are sub-threshold particularly gravitate towards the youth justice system. They often fall through multiple gaps because of having needs in multiple domains. They are often sub-threshold, so the complex needs provision in the long-term plan looks specifically at working in local areas with all agencies to address the needs of children, particularly pre-exclusion, in identifying needs, and supporting the agencies that should be working with them, with the added level of mental health expertise.

What we know about a lot of those children is that they have experienced a lot of neglect trauma, which adds another layer of complication. It is around psychologically informed treatment, not necessarily the higher level child and adolescent mental health treatment. It is a continuum; it does not stop and start. We need to get better at doing that, which is why I am pleased that the long-term plan has an array of commitments for children that will impact on that pathway.

**Q292 Dr Mullan:** On diversions, I assume that basic statistical data will be collected and published, in terms of how many are used. We talked about evaluation, but is there a baseline of basic information on diversion that will be ordinarily available on a rolling basis?

**Lucy Frazer:** I assume that we know. In Maria's question, she asked whether we have stats for how many are referred, and I am sure that is available. We would have that information.

**Q293 Rob Butler:** I want to talk about the youth secure estate, and I start by paying tribute to all the staff in the secure estate; particularly at the moment, but at all times, officers, governors and all the other staff who



are involved do a tremendous job and are not seen for lots of reasons.

Ms Swidenbank, how appropriate do you think the current model of youth custody is, and the combination of YOIs, secure training centres and secure children's homes, given that we have a very changed cohort, even from five or 10 years ago?

**Helga Swidenbank:** We have about 667 children in custody at the moment, which is much lower than 10 years ago. Of those children, the figures from 2018-19 suggest that 53% are in for violent crime. We have a small concentration of children who have been charged with very violent offences, so how we work with those children is critical. We are very interested in the secure school, and I am sure we will come on to talk about that in a moment, and we are very interested in how we work in the different sectors, in secure children's homes, STCs and YOIs.

I am very conscious that by introducing the secure school into the mix we have four different types of provision. We are interested in understanding and answering the perennial question of what works and what is the best for children. Among the things that we are learning through Covid, to which the Minister has already alluded, is the sense of having smaller groups and small units, which provides a level of safety and security for children. How do we exploit that and build on that learning, and can that be done within the YOI estate? Can we replicate that in Feltham, Wetherby, Werrington and Parc? I think that in some cases we can, but the evidence drives us to a point where we know that smaller units and good-quality relationships with staff are paramount. As to whether that can be replicated in different environments, we need to build an evidence base around it.

Q294 **Rob Butler:** The Chair will ask questions about secure schools in a bit, so I do not want to pre-empt that. Would you say that the current system that we have of the different models—YOI, STC and SCH—is actually fit for purpose for the young people who are housed there at the moment?

**Helga Swidenbank:** We caught the end of the last session, and it was interesting to hear what some of the young people were saying, and what the Children's Commissioner was saying, about levels of violence and self-harm. Of course, we are worried about those; they are prevalent not just in the YOI estate but in the secure children's home estate and the STC estate. It might be that there is no one model that is the right model.

What is interesting is how we provide models that suit the different needs of different populations. For example, we have a small group of girls. How do we provide a service that really meets their needs? We also have a group of children and young people who will be moving into the adult estate. How do we provide a service that will meet their needs? Then we have the remand population and a population serving shorter sentences. In my view, we need to think about how we create a diverse set of environments for the different needs of those populations; they are not



one homogenous group, so we need to think about things in quite a flexible way.

Q295 **Rob Butler:** Are we almost trying too hard to find a model that works? Should we be looking at it from the other end, and thinking about everyone as an individual, as hard as that would be?

**Helga Swidenbank:** There is an argument for that, particularly given the low numbers, and particularly given that we have under 700 children in custody at the moment. How we might be able to look at those segments of children is very interesting.

Q296 **Rob Butler:** Until we get there, we've got what we've got. Could you outline briefly some of the main operational challenges in the youth secure estate at the moment?

**Helga Swidenbank:** The main challenges sit within the YOI estate. We have talked about levels of self-harm and violence. We are working hard to address those through some of the reform activity that we have invested in over the last two years, but I am under no illusion that the activity will take some time to begin to show dividends.

Some of that activity includes the work we are doing with our workforce; we are investing in a youth justice qualification, and we will be moving people who are successful in that into promoted positions. We are investing in education provision, and we are investing in physical environments. There is a lot of work happening to ensure that what we currently have in YOIs is improved and better targeted at the needs of children.

Q297 **Rob Butler:** You have talked a lot about things you are investing in. Have you got enough resource from the Minister, who is sitting close enough to hear, for that investment? More broadly, as the Youth Custody Service, is your voice being heard both by Ministers and by HMPPS? After all, your population is less than 1% of the total custodial population.

**Helga Swidenbank:** I will answer the second point first. One of the things that I am able to bring, and my position on the HMPPS leadership team is able to bring, is the voice of children at the boardroom table. We have a CEO who is incredibly responsive to the needs of children; with her background, she understands the context from which many of the children come. I feel that I am very supported by the CEO and the senior team for children and young people. There is always more room for us to be given a voice; we are small, but there is an absolute awareness among senior people and Ministers that this is an important population with complex needs, and we need to get it right.

Q298 **Rob Butler:** What about money? Are you getting enough money from the Minister?

**Helga Swidenbank:** We could always do with more money.

Q299 **Rob Butler:** Minister, is any more money forthcoming?



## HOUSE OF COMMONS

**Lucy Frazer:** There is a spending review coming up, as you know, but we should not shy away from this; we got £13 million for the youth estate in the recent announcement in relation to funding, which will help us to improve some of the structural issues, such as putting in more showers, and some of the physical structure, as well as the technology. The youth estate voice has been heard in the latest announcement in relation to funding. A spending review is coming up, and I am sure you will be making bids in relation to the youth estate.

Q300 **Rob Butler:** Youth justice is now back in your remit, as the Prisons and Probation Minister; it was separated. What advantages does that bring? Some people might be worried that it gets overwhelmed by all your responsibilities for dealing with adults.

**Lucy Frazer:** We have a very exciting strategy and a very exciting opportunity in relation to the secure schools, which will change the nature of the delivery of custodial services to young people, in that we can now start doing what the panel that you had before were talking about. We can have an individual approach that focuses on education and helping people with their mental health issues to help them to turn their lives around. I am very pleased to be inheriting the portfolio at a critical juncture, where there is a policy that we can now deliver.

Q301 **Rob Butler:** With respect, do you have enough time in your schedule to focus properly on youth justice, as well as the massive responsibilities that you understandably have towards adults?

**Lucy Frazer:** Every Minister has a very busy portfolio, but every aspect of the portfolio needs to have its time, and the youth custodial element of it absolutely takes my time.

Q302 **Paula Barker:** Minister, could you update us on progress in respect of the use of pain-inducing techniques? When will their use be removed from the manual on minimising and managing physical restraint?

**Lucy Frazer:** You are obviously very up to date on our report, which we have just published, in relation to Charlie Taylor's review of pain-inducing techniques, where we accepted all 15 of his recommendations. You have highlighted one of those, which is that we will remove it from the syllabus. We have people in the YCS who are making sure that we implement all those recommendations. Helga, do you want to come in on the precise timing for the implementation?

**Helga Swidenbank:** I am not in a position to be able to give you precise timing at the moment, because we currently have a team working through a review of the syllabus. As soon as we have done that, we will be able to inform the Committee of the timescales for the changes we are making. We are committed to doing that, and we are actively working our way through redesigning the syllabus of the course for delivery to our frontline staff.

Q303 **Paula Barker:** The next question is for the Minister and for Helga. What



## HOUSE OF COMMONS

is being done to address the issues identified by HMIP and the separation taskforce in respect of separation or solitary confinement, whichever way you want to term it?

**Lucy Frazer:** You will have seen that we responded to the thematic report that HMIP put out. Sir Alan Wood did a further report, which we published about a month ago, and we have identified a number of actions. We have already taken a number of actions and responded immediately to the HMIP report, including on collection of data centrally and central oversight of that data. We are now putting in place a policy and setting up a new policy on separation.

**Helga Swidenbank:** I might have said before to the Committee that that report was very difficult reading for all of us in the YCS estate. On the immediate action that we took in response to the thematic, the fieldwork was done this time last year and published in January, and a lot of work has happened since then. The immediate action that we took was to put someone in post to ensure that we got our governance right and were following our own systems and procedures.

In addition, we have just started to review the policy. One of the criticisms that the inspector made was that the policy was very adult and was not fit for purpose for children. We now have a dedicated policy officer who has started a piece of work to look at how we might design a policy that is specific for children. That work has just started and will be ongoing. Again, once it is completed, we will be happy to share it with you.

Q304 **Paula Barker:** Do you have any sort of timescale for the implementation of the policy? As you identified, we are talking about the difference between adults and children. From panel 1 today, we heard about some children being in their cells for 23 hours at a time. Is there any sort of timescale or urgency around the implementation of the policy?

**Helga Swidenbank:** We are really keen to get it right and to do good-quality research and engage with stakeholders in relation to policy. We are looking to a number of months before we will be able to publish the policy; in the meantime, we have tightened up on our governance and our data gathering. I know that governors are absolutely focused on the need to ensure that we have our separation practices and procedure working as well as they can be.

Q305 **Chair:** You referred to the inspectorate's report. A broader concern about the proportionality of use of force within the youth estate was flagged up in that report, with some specific instances given where it seems that oversight had not been as good as it might have been. Are those the sorts of things that you are taking on board?

**Helga Swidenbank:** Yes, absolutely. It is also mopped up by the work that we are doing in response to Charlie Taylor's pain-inducing techniques review. There is a specific strand of work, looking at how we are using force, and a specific piece of work looking at separation, but they are



## HOUSE OF COMMONS

associated; they are closely linked, because it is about behaviour management.

**Q306 Richard Burgon:** This is to the Minister and Helga. As we heard earlier, self-harm incidents are at the highest they have been in the past five years. In as much detail as you think you can share with us today, what is the Ministry of Justice and the Youth Custody Service doing to address this dreadful situation?

**Lucy Frazer:** One of the answers is what we were talking about before, about the individual care that we give to those in our care. The Secure Stairs framework that we have rolled out across the regime teaches staff about trauma-informed work and gives them the tools that they need to deal with individuals in their care on an individual, case-by-case basis, to understand what their needs are. I hope that the roll-out of that framework will help those who are in our custody.

**Q307 Richard Burgon:** Helga, do you have anything to add?

**Helga Swidenbank:** Perhaps I could expand further on Secure Stairs, and I will invite Caroline to come in as well. Caroline, as our main NHS partner, has helped to fund that piece of work. We started implementing Secure Stairs in our secure children's homes, and it is now active in our STCs and YOIs.

The secure bit is the bit that talks about how we support staff to look after the children in our care, and the stairs bit is how we wrap a formulation-based approach around looking after children in our care. That is a multidisciplinary approach that identifies what the child needs. The phraseology used in our settings is "My story". Basically, a child talks through with professionals what their story is, and our response is to wrap around a number of different services to help us to support that child during the course of their time with us. That is still being embedded. One thing that Covid has allowed us to do is to accelerate that and be able to talk to our staff and partners about what it means and how they can work with Secure Stairs. Is it okay for Caroline to come in, as she is one of our partners?

**Chair:** Yes, indeed.

**Caroline Twitchett:** It is important to see that the framework for integrated care, which Secure Stairs comes under, is funded by the mental health transformation that I spoke about earlier. It is the framework that we will use for complex needs work in the community. The reason it is called Secure Stairs is that it was scoped and developed specifically for the secure estate, to be honest, for some of the difficulties and challenges that the secure estate has, which are different in SCHs, STCs and YOIs. The Secure Stairs programme, as Helga said, recognises the challenges of looking after children with very complex and challenging needs 24/7, and it supports staff with reflective practice and trauma-informed training. That is all staff, from the top of YCS right down to cleaners and cooks.



## HOUSE OF COMMONS

It is about having a framework whereby we all sign up to the same thing, which is around identifying with the children. The children have called it "My story". It is called a psychologically informed formulation, which is a bit of a mouthful, so it is quite nice that they have called it "My story". "My story" sets the context of their upbringing; it is not just their diagnosis or what they have done. As we know, sadly, children who have grown up in domestic violence are wired in a certain way to respond to certain situations. They deal with anxiety differently, and certain things make them anxious that are quite different. It is very much about making it around the child and all the services working towards one plan in helping the child as part of the overall pathway.

As Helga and the Minister said, Covid has been a great time of learning, not necessarily for us to pause, because I do not think we have. There has been a great opportunity with Secure Stairs to have more time working with staff and young people, and think about those relationships. Like everything that was said by the Children's Commissioner and the young people, it is around how we pull that together to further inform a way forward to ensure that these vulnerable children have the care that they need, formed in a developmental framework.

As we know, children have a second stage of brain development, and it is about when we have those children in our care. Rather than talking about rehabilitation, we are talking about development and how we support, with the best education and health specialists, a way forward for their development. Obviously, that is with the end result of reducing reoffending, because we introduce compassion and empathy, particularly for victims, which might not have been there before.

**Q308 Richard Burgon:** Thanks for that. It is really useful. I have two questions. First, does anybody want to offer their perspective on how they feel about progress in the implementation of Stairs? Secondly, I am conscious that funding from NHS England and NHS Improvement is set to end in 2021 for Secure Stairs. What is the future of the model beyond 2021? Is it the case, Minister, that you will seek additional funding? Is it your vision to continue it beyond 2021?

**Lucy Frazer:** I am committed to it, but it is an NHS-funded initiative, so it is NHS money. But as I understand it—Caroline can come in on this—it is funded beyond that period and is a long-term programme. Perhaps Caroline would like to come in.

**Caroline Twitchett:** Yes, I am delighted to confirm that the mental health transformation money is in our revenue and sits in our health budgets going forward, which I am sure that everybody will be very pleased about.

**Q309 Richard Burgon:** What mental health provision is available in the rest of the estate? I would be interested in hearing your views, Minister, and Caroline's in particular, on mental health provision across the rest of the estate. Anybody who visits the estate knows from speaking with people



## HOUSE OF COMMONS

there what acute mental health problems there are before people end up in the estate, but they end up being exacerbated in there all too often, which then causes problems when they come out.

**Lucy Frazer:** The partnership agreement that we have with the NHS is one of parity of esteem with that in the community. Children should have access, provided by the NHS, to the same provision that they would have outside the estate. Caroline, do you want to come in on that further?

**Caroline Twitchett:** It is incredibly important that it is about equality with what a child would expect in the community. On a needs assessment, children in custody have a much higher advantage from mental health provision in custody. What I probably should have said is that the Secure Stairs money from the health side is, essentially, paying for extra specialist mental health staff. We have trebled the funding specifically in relation to mental health with the Secure Stairs funding, and that looks at an array of needs in mental health. As I said earlier, children's mental health is a spectrum, and we do not see the level of specific mental illness that you would see within the wider population. What we see is a huge amount of neuro-disability, often sadly comorbid with mental health conditions.

We struggle with some transfers of young people into health, because there are a small number of very challenging young people, and we have not got that right yet. We currently have a review under way on what our response should be across health, welfare and youth justice in relation to that very small cohort, and we plan to take that forward. On mental health provision for young people, we are fortunate that for young people we have a far greater funding resource and that we have a very clear process of joining up, through Secure Stairs, and integrating that work, so that we are looking not just at mental illness but at psychological damage and repair for these young people. Obviously, that has been at the forefront during Covid. I appreciate that, as other people have said, children are not at risk of Covid as adults are, but children in the secure estate are a very vulnerable sector, so their psychological wellbeing is paramount for everyone.

Q310 **Chair:** Minister, you have been a very strong and vocal supporter of secure schools, as you said earlier. You have said it on a number of occasions to us and elsewhere.

**Lucy Frazer:** Absolutely, yes.

Q311 **Chair:** We are now in a position where the first school, which will be at Medway, is due to open in 2022. The concern we have is that the Charlie Taylor report was in 2015, and the Government accepted it straightaway, and said that it was a good thing and the right route to go, which seems to be the case. Originally, there were going to be two; that was in 2017, when the Government committed to two, north and south. Then we have one on the stocks, which in the end will be the conversion of Medway, by 2020, and now it will be in 2022. How come the delay?



## HOUSE OF COMMONS

**Lucy Frazer:** I understand that it is very frustrating. In the part of the earlier session that I heard, everyone was in support of it, and that is certainly my feeling when I speak to people in the sector. It is something that we absolutely must do. I have only been in charge of this portfolio since January, and it is a new system, which brings with it challenges.

Among the challenges that we have had to deal with is making sure that the particular site is satisfactory to Ofsted. We have managed to ensure that it is, but it has taken some time. There are some regulatory issues that we need to resolve; obviously, we are liaising closely with Oasis. I have met them and am very excited about their passion. I am very keen to roll out the rest of them very quickly, which of course will be a matter of the spending review.

Q312 **Chair:** Three years turning into five years seems an awfully long time to sort out site suitability and regulatory issues with Ofsted. The suggestion is that not everybody in the system, which was challenged by the Charlie Taylor review, shares your enthusiasm, Minister, and you are having to push uphill.

**Lucy Frazer:** I am sorry, but I cannot go backwards; I can only talk about the things that have come directly to my attention.

Q313 **Chair:** I am talking about the Prison Service as a whole. They did not care for the Charlie Taylor review, because it challenged all their assumptions. Ministers are having to push against a reluctant system. That is the thought that some people have. Tell me why it might be an unfair characterisation.

**Lucy Frazer:** My experience is that the people I talk to are very engaged in making it happen, and I think we will make it happen. But it is a new system with new providers and a new regulatory framework, so those things need to be resolved, and I am confident that they will be. Then, of course, if we go forward, we will need to find sites and a whole load of other matters will need to be resolved, but we will resolve them.

We have discussed this previously. Of course, it is a system that we want to implement, but we can at the same time make sure that what we operate within the structures that we already have operates more like that than a pure custodial setting. We have already talked significantly about Secure Stairs, and the environment and interaction that people have with staff. We have introduced the foundation course that Helga talked about, training up our staff. We have talked about the work in smaller units. All those things can happen whatever setting our children are held in.

Q314 **Chair:** You referred to the spending review. I know that you and the Justice Secretary are strong supporters of the programme. Is it actually that, up until now, the Government as a whole have never been prepared to put the money behind it, because the Department is strapped for money in a raft of other areas and youth justice has not always been the



## HOUSE OF COMMONS

priority, as Mr Butler says?

**Lucy Frazer:** Prior to my time, we got the money for the first bit. I have only been in charge of youth justice since January, so it would be unfair of me to comment on discussions that have taken place already.

Q315 **Chair:** Is there a worry that there will be slippage again from 2022?

**Lucy Frazer:** I think that, as I mentioned, everybody is committed to the programme, so I am hopeful.

Q316 **Chair:** Covid will not impact on the use of Medway?

**Lucy Frazer:** No, we took over Medway for the adult male estate on the basis that we would return it, when it was needed, for the children's estate.

Q317 **Rob Butler:** Minister, you have answered an element of what I wanted to ask, which was about what goes on in the rest of the estate while we are waiting. It will take a long time, even once we have the first secure school, to see whether or not it is successful. People will need to go through it, and then we will need to wait a year or two to judge whether they have reoffended or not, and then what lessons are to be learned. I am reassured that ongoing lessons will be learned.

In all that time—five, six or seven years—young people will be coming through the youth custody system. I use the words “coming through” carefully; a lot of them will be sentenced to very lengthy periods in custody. What are you going to do to help them to transition from being 16 or 17, and treated as a child, to their early 20s, when they are not quite fully adults? They are in the young adult space, and they cannot have all the resource available in the Youth Custody Service, but they are not necessarily ready to be treated as fully-fledged adults, if you like, so there is a bit of a gap. Is that something where, now that you have the whole portfolio, you can make a difference, with help from the expertise of Helga and her team? Sorry, it is a very long question.

**Lucy Frazer:** No, it is a good question, and one that vexes the team, and that we have discussed. We are doing a number of things to make sure that the transition is easier. We want to ensure that the question as to their transition—where they should go and how they should be integrated—is assessed at a much earlier stage in their sentence, so that they are ready and go to the right place, and the right place is ready to receive them and understands them. At the moment, we are talking to stakeholders about what that transition should look like. We are also very interested in integrating a similar model to the one that we talked about in relation to Secure Stairs for the older cohort, to see whether that is something that would work, which we think it would.

Q318 **Maria Eagle:** This is on resettlement. I know it is a big issue to introduce right at the end. This is a question for all the witnesses. The inspectors of prisons and of probation have both said that too much of the work done by staff in YOIs, YOTs and external agencies is ineffective and does not



deliver good resettlement outcomes for children. Why do the witnesses think that is? Minister, what are you going to do to ensure that the resettlement needs of children are being met on their release from the secure estate?

**Lucy Frazer:** We are doing a number of things. The probation inspectorate recently picked this up and is planning to include an assessment of resettlement as a specific section of its youth offending team inspection framework for the first time. I support that, because it is absolutely critical that we hold accountable those in probation, and, indeed, prison governors, for the resettlement work that is going on. We have to ensure that those responsible for making sure that there is good resettlement are held accountable. Then I think it will become, hopefully, more of a priority, and further work will be done. That is one thing that we will do.

Those people need tools and support on a multi-agency basis to ensure that housing and jobs are available. As I mentioned in response to an earlier question, MOJ, DFE and MHCLG officials have established a children's accommodation working group to ensure that children have homes to go to as well. We have the New Futures Network, which was set up to be a link between prisons and employers to ensure that, when people come out of prison, they get jobs. We need to do all of that much earlier, and work with offenders much earlier, to ensure that they resettle well.

Q319 **Maria Eagle:** I am glad that you mentioned accountability. This Committee holds Ministers accountable, so we will be looking fairly closely at what comes out of it, as well. At the moment, too much of it is deemed ineffective by the inspectorates, and that cannot be good.

**Lucy Frazer:** I think lots of work will be done, and I am very happy to come before the Committee in due course and report on how it is going.

Q320 **Chair:** Are there any observations from the other witnesses?

**Helga Swidenbank:** I am happy to talk a bit about what is happening locally. We have done some work with the YJB, which has a constructive resettlement approach. We have been working in alignment with the YJB to adopt the same approach so that there is continuity between what is going on in the community and what is going on in custody. We have been working with them over the last 12 months to do that, and we have reviewed our casework teams and our approach to casework and resettlement. We have just done a trainees analysis with our casework teams to make sure that they have the right training to be able to allow them to do the work that the Minister described.

In addition, we are establishing closer working relationships, nationally and locally, with directors of children's services. My team and I are doing it on a national level, and I know that governors are doing some really interesting work locally, with their local directors of children's services. There are a number of interesting things going on locally to strengthen



## HOUSE OF COMMONS

lines of communication and relationships, which are really important to ensure that children are able to move effectively from custody into the community. A lot of work is happening, which I am optimistic will support what the Minister has described.

**Q321 Chair:** This is the last evidence session in our inquiry. I have one final thought for you, Minister. Some of the evidence that we have heard—not all, but some—suggests that it is time to look again at the age of criminal responsibility. Ours is the lowest in Europe, markedly in some cases and not so much in others. People might have a particular angle that they are coming from, but the Youth Justice Board says that there is sufficient evidence on that. Are the Government going to do anything about it?

**Lucy Frazer:** I hear what you say. We are putting a lot of money into diverting people from the justice system, but I do not expect that we will be changing the age of criminal responsibility.

**Q322 Chair:** I am interested. Can you think of any rational reason why it should be two years lower in England than in Scotland?

**Lucy Frazer:** I am aware that there is disparity across a number of jurisdictions, and we have one of the lowest in that regard. At the moment, we are focusing our attention on ensuring that we divert people away from the justice system and we are looking very carefully at sentencing provision.

**Chair:** That is a sort of very elegant no.

Thank you very much for your time, Minister, Ms Swidenbank and Caroline. Thank you all very much for your time and evidence today.