

Justice Committee

Oral evidence: [The Work of the Ministry of Justice](#),
HC 418

Wednesday 7 March 2018

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Members present: Robert Neill (Chair); Mrs Kemi Badenoch; Ruth Cadbury; Alex Chalk; Bambos Charalambous; David Hanson; John Howell; Gavin Newlands; Victoria Prentis; Ellie Reeves; Ms Marie Rimmer.

Questions 80 - 167

Witness

[I](#): Rt Hon David Gauke MP, Lord Chancellor and Secretary of State for Justice.



Examination of witness

Witness: Rt Hon David Gauke MP.

Chair: Good morning, Lord Chancellor, and welcome to our evidence session. Before we start the formal business, we just have to go through the matter of our declarations of interest. I am a non-practising barrister and consultant to a law firm.

Victoria Prentis: I am a non-practising barrister and married to another barrister.

Alex Chalk: I am a barrister, married to a barrister.

Ellie Reeves: I am a non-practising barrister.

Bambos Charalambous: I am a non-practising solicitor.

Q80 **Chair:** There are some non-lawyers here as well, of whom you are not one, Lord Chancellor.

Mr Gauke: Perhaps I should say that I am a non-practising solicitor, married to another non-practising solicitor.

Q81 **Chair:** In that spirit of frankness, let us start the questions. Thank you for coming in comparatively early in your period of office. Congratulations from all of us on your appointment.

Many people have welcomed the fact that we have a lawyer as Lord Chancellor, although it is not required, but they are a bit concerned at the rapidity of turnover of your predecessors. This was one of the great offices of state. Do you feel that perhaps some work is required to restore its reputation as a central post within Government, rather than something that is passed around along the career chain?

Mr Gauke: First of all, thank you for your welcome. From my perspective, it is an enormous privilege to become Lord Chancellor and Secretary of State for Justice. I think it is one of the great offices of state. I suppose I would say that, wouldn't I? But I think it is a great privilege to hold this position. Of course, it is above my pay grade in terms of appointments. We have obviously had a period of time when a change of Prime Minister, a general election and the resignation of the First Secretary of State have resulted in some significant changes.

From my own perspective, I was in one Department for seven years and then in the next Department for seven months. I hope to emulate the first experience more than the second. I have already exceeded seven weeks, so maybe that is a good omen.

Q82 **Chair:** When you were sworn in, your speech put considerable stress on your recognition of the importance of the independence of the judiciary and the quality of British legal services. I have a couple of questions about that. Do you accept that the oath that you swear under the Constitutional Reform Act places you in a different position from any



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other Cabinet Minister?

Mr Gauke: Yes, it does, and I take that oath extremely seriously. It is the case that politicians and Ministers generally should uphold the rule of law. That is intrinsic to what we are about as a country. It is a strong protection for the rights of the individual. There is a strong case to be made that it is part of our economic case: belief in the rule of law, protecting the rights of the individual and the certainty that is provided by respect for the rule of law are the fundamentals for a successful market economy. I strongly believe in that, as well as the point about protecting the individual from the state as a matter of pure justice.

It is important for all politicians. It is not something that has suddenly come to me as a new thing, but there are particular responsibilities for the Lord Chancellor in upholding the independence of the judiciary and respecting the legal process. That is certainly something I intend to maintain while in position.

Q83 **Chair:** And doing that involves speaking out as and when necessary.

Mr Gauke: As and when necessary, yes.

Q84 **Chair:** And protecting against all-comers.

Mr Gauke: Yes, even if there is some cost to that.

Q85 **Chair:** I am grateful for that response. Equally, you are running a very big Department. Suppose that in 12 months' time we have a further meeting. What do you see as the things you would want to have achieved over the first 12 months in office? Where would you say, "I have made a good stab at being Secretary of State"?

Mr Gauke: It is a big and broad question, so stop me if I go on too long. Let me try to summarise. First of all, looking at prisons, in line with what I said yesterday in my speech to the Royal Society of Arts, we need to get the basics right. When it comes to things like cleanliness of prisons, dealing with the security of prisons and making progress on dealing with drugs, as I identified yesterday, I think a lot of problems in prisons, particularly more recently, have been driven by serious organised gangs operating in prisons to an extent we have not seen in the past. I am thinking in terms of making progress on that.

As I made clear, also on prisons, I believe that incentives work. Positive incentives have to be an important part of what we do within prisons. For example, I highlighted the way in which ROTL—release on temporary licence—could work. I would like to see us make progress on that. I would like to see us make progress on contact with family members. I would like to expand that, particularly focusing on those who have complied with the rules. There are other incentives in the system that I am keen to pursue. Those are some points on the prison system.

In terms of courts, I would like to continue to pursue the courts reform process. I believe that technology has a larger role to play in providing a



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court system that works for people. Pursuing that is going to be very important.

To go back to your previous question, I hope that in 12 months' time I have a good reputation for defending the rule of law. In terms of Brexit—we are never far away from discussing Brexit—I want to ensure that our Brexit settlement is one that is good for legal services in this country.

Q86 Chair: Should there be a separate set of negotiations for legal services within Brexit?

Mr Gauke: That is hard to say. If we look at the various aspects, some of the discussions might be pulled into what could be described as the economic discussions about free trade and getting a free trade agreement. Some of them perhaps more naturally belong with security. There is a case for addressing those issues. Some of those issues are intrinsically linked either with security or with the economic case. I am not sure that we would be able to pull out all the legal issues and say, "Here is the legal services bit that is separate from anything else."

Q87 Chair: I do not think you are on the Cabinet Committee for Brexit.

Mr Gauke: I am not on the Strategy and Negotiation Committee as a matter of course, although I have attended some of the meetings where we focused on judicial matters.

Q88 Chair: Issues such as civil co-operation, mutual enforceability of judgments and mutual recognition of professional qualifications are pretty fundamental from both the economic and legal co-operation point of view. How does the MOJ feed into the detail of those discussions?

Mr Gauke: We feed in very strongly. As I said, I have attended strategy and negotiation meetings where we have looked at some of those issues. There is the core of that committee, but as and when there have been issues that have been relevant for legal services or recognition of judgments and so on, I attend that particular committee. Of course, there are other committees as well, and more widely the MOJ is very involved. If you look at what the Prime Minister was saying on Friday, there was a lot that was relevant to judicial and justice matters, which I was pleased about. Our views are fully reflected in the deliberations of the Government as a whole.

Q89 Alex Chalk: It is no secret that the Department faces grave challenges, particularly in terms of the conditions in prisons, which is something you have referred to already. There is also no doubt, as you have indicated, that the role you play is an important constitutional role. I think those were the words you used yourself. Given that, can we have any real credible belief that the Government share that priority in circumstances where the average shelf life for a Secretary of State for Justice over the last five years is 18 months?



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Mr Gauke: I come back to my earlier answer. There have been particular reasons. Without getting into too much detail about each of my predecessors, the EU referendum and the change in leadership of our party meant that one of my predecessors was unlikely to continue as Justice Secretary. If you look at my immediate predecessor, I think it was because he did such a good job as Justice Secretary that he was promoted to the role that he currently performs. As far as I am concerned, my intention, desire and approach is to perform this role on the basis that I am in place for some time.

Q90 **Alex Chalk:** I do not want to overdo this point, but it is significant. Certainly in the past, it was perceived to be a destination job, if you like. In order to exercise the degree of latitude in the extent to which you stand up for the judiciary, and so on, it was perceived to be a destination job partly for that reason. Increasingly, people see it as a stepping-stone job. Indeed, the *Law Society Gazette* noted: "This critical cabinet post has been downgraded," and referred to it as a "middle-ranking post." That is a perception. Do you recognise that perception? Is there any substance to it?

Mr Gauke: No, I do not see that. Certainly when the Prime Minister offered me the position, at the risk of being indiscreet, she certainly considered it to be a promotion and, if you like, a reward. The test my mother has on these things, as a member of the public, is where you sit in the Cabinet photo, and you are on the front row, apparently. I use that purely as totemic. The reality is that it is seen as one of the senior positions. I suppose I would say that, wouldn't I? I certainly do not detect from the Prime Minister any suggestion that it is other than a very significant role.

Q91 **Alex Chalk:** If a newspaper tomorrow was to print a headline equivalent to "Judges are the enemies of the people," how would you expect to respond?

Mr Gauke: I would be critical of that. We have a number of important institutions in this country, one of which is freedom of the press. It is right that we have a vibrant press, and, at times, they will say things with which we disagree. It is also the case that the judiciary is extraordinarily important to this country. I come back to the points I was making earlier. Respect for the rule of law underpins a successful market economy, a successful society and a just society. There are circumstances where, if I felt it was right to be critical of what I saw as abuse, I would be. The Lord Chief Justice has drawn the distinction between criticism and abuse, but there comes a point where, as a believer in those institutions, yes, I would defend those institutions.

Q92 **Chair:** Before we move on to some of the specifics of, in particular, prisons, I want to come back on one of the points you raised about engagement with the judiciary. I know that you have engaged very early on with the senior judiciary.



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Mr Gauke: Yes.

Q93 **Chair:** Have you also taken steps to engage with other parts of the profession, the Bar Council and the Law Society, involving their expertise around Brexit, for example, and other matters?

Mr Gauke: Yes, I have. I have met both of them. I met them informally at my swearing-in ceremony, but I have had meetings with both the Bar Council and the Law Society. I hope to have a good and constructive relationship with them, and continue to engage. We discussed Brexit issues. That is clearly very high on the list for both organisations, and rightly so. I will continue to engage with them and the professions more widely.

Q94 **Chair:** Given the Prime Minister's speech, and the reference to a number of important matters such as company law and intellectual property law, is it still the Government's intention to complete ratification of the unified patent court agreement before the European Council on 23 March?

Mr Gauke: Can I check on that and confirm?

Chair: Sure.

Mr Gauke: I just want to be certain.

Q95 **Chair:** That is the sense we had, but you understand the importance of it.

Mr Gauke: I do. I think that may be right, but I would like to check.

Chair: Yes; understood. We flagged it up, and you will appreciate, from your background, the importance of that sector.

Q96 **John Howell:** Lord Chancellor, can I bring you on to the subject of prison safety and reform? I want to look particularly at violence and self-harm. We are concerned that violence and self-harm are continuing to increase. Would you like to comment on why that is the case, particularly in the context of how you are doing with prison officer recruitment, for example, and the control of new psychoactive substances within prisons?

Mr Gauke: First of all, you are right to highlight the issue. The levels of violence and self-harm are too high. They are unacceptably high. I made that point in my speech yesterday and highlighted it. I did not want to shy away from the issue. The number of prisoner-on-prisoner assaults and the number of prisoner-on-prison officer assaults, as well as the levels of self-harm, are all too high.

You rightly highlight a couple of issues. One is about staff numbers. It is right that we are recruiting additional staff—the 2,500 that were set out in autumn 2016. We are ahead of schedule in recruiting those officers. We are making good progress on that. The target was by the end of this year, and we are making very good progress.



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You are also right to highlight the new psychoactive substances. Certainly what I have picked up from visiting prisons is the way they have made running prisons much harder, and the influence they have on prisoners. It is not just the occasions when prisoners take the drugs and then immediately become violent. What I found almost more shocking was the way in which you would have problems a couple of weeks later when, essentially, drug debts were being repaid. Sometimes, there is enforcement of debts not being paid. Sometimes, there are cases when prisoners are repaying debts by acting as a heavy for the drug dealer and beating up another prisoner or a prison officer. That is extremely worrying.

How do we address these things? We need to do everything we can to stop the drugs getting in and to weaken the grip of the serious organised gangs. We need to continue to recruit the prison officers and enable them to provide support to prisoners. We need to get the basics right in terms of not having conditions that drive people towards drugs.

We have to make sure that prisons are not places of despondency, but that there is some hope in prisons and that incentives are there for people to progress, so that prisoners are not in the position where they think they have nothing to lose. All of that—the sticks and the carrots—can assist us in addressing the violence.

Q97 **John Howell:** Do you think that body-worn cameras have helped with this?

Mr Gauke: I think it is the right thing to do. The evidence is still emerging. They can certainly help us bring prosecutions against those who are guilty of violence. That has to play a role, so I am certainly supportive of them. In terms of producing clear evidence and a direct link, the evidence is still emerging. Yes, I am supportive of that move.

Q98 **Chair:** And organised crime within prisons.

Mr Gauke: If you were to ask me what struck me most about the prison system in the two months or so I have been in post, it is the sense that organised crime is much stronger in prisons than I had appreciated when I took this post. It will be very hard to make progress on a lot of things unless and until we have addressed that.

I am very ambitious in what we can do on rehabilitation and so on, but organised crime is seen as standing in the way of that, pushing drugs and driving prisoners into behaviour that is very far from conducive to the positive steps needed to make progress. Unless you can address that, we will be held back and will not make the progress that we need to make.

Q99 **Victoria Prentis:** Carrying on with that theme, we know that drugs get into prisons on bits of paper—post—and in drones, and the use of mobile phones is very instrumental in how they are distributed, both from outside and within prisons. Are you happy to take really quite drastic action; for example, photocopying mail and blocking mobile phone signals



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in the near future in order to deal with the spice problem?

Mr Gauke: Yes. I hope to be able to say a little bit more about blocking mobile phones in the near future. On the point about photocopying mail, I highlighted in my speech yesterday the way that, apparently, children's paintings are used as a means of getting psychoactive substances into prisons.

Victoria Prentis: Yes, it's true.

Mr Gauke: Whenever I have said that to people, a lot of them have found it very shocking.

Q100 **Victoria Prentis:** And fake solicitors' letters.

Mr Gauke: Yes indeed, soaked in drugs and so on. We have to look at our options, whether it is photocopying or whatever. It is clearly something we will have to address.

Q101 **Victoria Prentis:** Our Chair asked you questions about your work, and I hope you will still be in post and evaluating your performance as Secretary of State in a year. It is implicit in what you have said that you hope to have a reduction in prison numbers. I understand that you are reluctant to put a figure on it, from what you said yesterday, but is that definitely a strong drive for you?

Mr Gauke: That would be the direction I would like to achieve. I am not necessarily setting it out as the metric on which I want to be assessed. There are a number of factors that drive prison numbers, some of which we can make progress on. I come back to what we can do to stop the drugs getting in, and so on. Clearly, if prison numbers were stable or falling, it would give us scope to deal with some maintenance issues, for example.

At the moment, there is a little bit of a buffer within the system. We are 2,500 short of capacity, and numbers did not increase in January and February in the way they did in previous years. That enables the Prison Service to take out some prison cells in places where there are particular problems. At Liverpool, for example, something like 172 cells are not being used at the moment while we address some of the problems in that prison. It enables us to undertake repairs and so on. The degree to which prison numbers give us a little bit of flexibility within the Prison Service enables us to do some good work.

Q102 **Victoria Prentis:** One of the difficulties we have had as a Committee in evaluating the performance of the MOJ is the non-provision of data. One of the items we have repeatedly asked for is meaningful data on time spent out of cell. If you are out of your cell, you can be educated, treated, working or doing something purposeful. If you are in your cell, broadly you cannot. Can you undertake to work with your officials to provide that to us?



Mr Gauke: Yes. Let me take that away and see what we can do. I am conscious of a point that the Prison Officers Association made to me, and I relay it to provide the other side of the argument. There are risks of perverse incentives. They have made the argument to me that there have been occasions when there has been tension in a prison and they have been concerned about it. They felt that governors felt compelled to let people out of their cells in a way that did not address the tension, and then problems escalated.

In general normal circumstances, we do not want people in cells for 23 hours a day. That is only going to store up problems, and it is really difficult, but I am also conscious of the argument that the POA put to me, that governors need the confidence and discretion to say, "In the particular circumstances we are in at the moment, one needs to be careful." I need to give some thought and evaluation as to how strong an argument that is, but I hope it is helpful to the Committee to set out their view on that.

Q103 **Ruth Cadbury:** Focusing on violence and self-harm and the lack of access to positive programmes, I accept that nobody could have predicted the unforeseen problem of psychoactive substances—that came out of left field—but the effect of prison officer numbers and the cutbacks that you are now having to put back in place was predicted by a lot of organisations and partners, not just the POA. You would probably accept that those budget cuts were not reflected in the change in the service. There were still as many, if not more, prisoners but fewer prison officers. Would you accept that the problems we are now seeing could have been predicted and that the budget cuts have been a major force that have caused a lot of these problems; and you are now having to put back in place what was taken away?

Mr Gauke: The way I would put it is that there were some very difficult decisions that had to be made in 2010 in terms of the public finances.

Ruth Cadbury: We can discuss that another time.

Mr Gauke: I suspect that neither of us necessarily wants a rerun of the arguments of that time. I was obviously in the Treasury at that point. I would make the point that some difficult decisions had to be made. A decision was made in 2016 when I was Chief Secretary to the Treasury, and I was supportive of the proposal that Liz Truss came forward with about the need for additional prison officers. We clearly needed to respond to some of the pressures, particularly in some parts of the country and with some prisons, and there was a need to increase the number of prison officers. I think the right decision was made in 2016. We are making good progress on that, and we are going to continue to see the number of prison officers increase over the course of this year. That helps us to address some of the problems.

Coming back to the decisions that were made in 2010 and thereafter, that was before we had seen the impact of new psychoactive substances.



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As you said, that came, to some extent, out of left field. It is right that we are pragmatic and respond to that, and that is exactly what the Government are doing.

Q104 **Ruth Cadbury:** I have one other question on the budget. Where is the finance coming from for the additional prison officers? Is it from elsewhere in the Department?

Mr Gauke: It was part of a package that was agreed in autumn 2016. There was an additional £100 million.

Ruth Cadbury: That was before I was on this Committee, so apologies.

Q105 **Mrs Badenoch:** Secretary of State, you have a target of an extra 2,500 prison officers by December 2018. Last month, the Ministry announced that it was nine months ahead of schedule in meeting it, which was very welcome. However, there are still issues with recruitment, especially in London, which had a net gain of just 22 officers. What is your assessment of the impact of pay rises and additional allowances on recruitment and retention?

Mr Gauke: One of the things that we have previously done is put in place particular incentives where there is a need, trying to attract more prison officers in areas where competition is greatest and the labour market is tightest. I have a prison in my constituency called The Mount, and it faces some of those challenges in Hertfordshire. We have not yet completed that process. As you say, we are nine months ahead of schedule, but I am conscious that we are not yet done. There are still prisons that will see significant increases in prison officers over the months ahead. I think that is important, but I would be the first to acknowledge that there are variations across the country as to how easy or otherwise it is to attract staff. Overall, we are making good progress.

Q106 **Mrs Badenoch:** It is particularly bad in London. I recognise what you are saying about the regional variations. Last month, there was a BBC article that had comments from the Prison Officers Association. They said that the Government's recruitment campaign was "nothing more than smoke and mirrors." When prison officers who have gone through the process talk about the numbers of people leaving—2,000, apparently, last year, of whom 487 were new recruits—it sounds like the turnover is high and bad. Do you have any plans to revise the current approach? It cannot just be about pay; it is also about conditions. That is what they say they are concerned about.

Mr Gauke: First of all, to be clear, the 2,500 is a net increase. It is not the gross increase. As I say, we are making progress on that. You are right to say that it is not just about pay. There is also the morale issue, but there is determination to recruit more staff. I hope the progress that I believe we can make in stopping drugs getting in and reducing violence will help staff morale.



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We should also recognise, and I should recognise, as I pointed out yesterday, the incredibly important job that prison officers do. Almost by definition, it is not in the public view. That can be missed, and I certainly acknowledge the importance of the work they do and the dedication they provide. I had the pleasure of meeting a number of new recruits to the Prison Service who were undergoing their training. I was particularly impressed by the motivation of many of those new recruits. They wanted to do the job because they saw it as an opportunity for turning people's lives around. They had very high aspirations to help prisoners rehabilitate. That should be recognised, and I hope that over the period ahead there is a wider recognition of the important role that prison officers play. I certainly want to make that case.

Q107 Mrs Badenoch: When you meet prison officers, what do they tell you about what they would like to see going forward?

Mr Gauke: There is obviously, and rightly, concern about violence. We saw a ghastly incident at Bedford over the weekend. The number of incidents is far too high, and prison officers want to ensure that it is brought down. I think prison officers want to work with us and governors to ensure that that can happen.

I have detected once or twice a sense that they feel they do not get the public recognition that they might do. As I say, I want to be the first to acknowledge what they do and the important work they undertake.

Q108 Mrs Badenoch: Finally, Secretary of State, going back to pay, a 1.7% pay rise for prison officers was announced last September. It was partly to be funded by efficiency savings. Has the Ministry identified those efficiencies? On top of the funded amounts, £11 million is required to pay the prison officers' salary bill.

Mr Gauke: We are constantly looking to find efficiencies and to improve the way we spend taxpayers' money. That pay increase will be delivered. Obviously, we will look at the next pay review recommendation on that, but we will fulfil the obligations we set out in terms of that pay.

Q109 Mrs Badenoch: But nothing new; it is just an ongoing process, nothing specific.

Mr Gauke: Generally, it is always important to be looking at ways in which we can find efficiencies within the system.

Q110 Ellie Reeves: I want to come in on the issue of prison officers and retention, and pick up on the points that have been raised. I welcome the 2,500 but would wish it to go further. There is a big issue around retention. My understanding is that a third of prison officers leave within two years of service, which means that, if you recruit 2,500, 800 of them are going to leave in the first two years. Last year alone, 1,000 prison officers with more than five years' experience left the service, so we are losing experienced staff.



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In real terms, the pay offer amounts to a pay cut for officers. I understand what you are saying, but this is a really massive issue that needs some very specific answers. I just want to get from you exactly what the Department is going to do to make sure that we retain experienced prison officers as well as the newly recruited ones.

Mr Gauke: The first point to make is that pay has to be put into the context of the public finances more widely. I do not want to over-promise, because we have a tight budget. Yes, we can find efficiency savings, but that is the context in which we have to operate.

You are right to raise the point that clearly it is better to retain staff, particularly experienced staff. In the case of new recruits, there will always be an element who find that prison life might not be for them, and I completely understand that. To the extent that we can reduce that turnover, clearly that is helpful.

I would put it this way. What is very important, both short term and long term, is to demonstrate the way in which the role of a prison officer can be very fulfilling. It is a significant role in terms of trying to rehabilitate prisoners, as well as providing security and so on. I was encouraged by the attitude that I heard from a lot of new recruits. There was a real sense of its being a vocation. If we can attract people like that and demonstrate to them that as prison officers they can really make a difference, it will help us to retain the staff we want to retain.

Q111 **Chair:** The attitude of new recruits is great, Lord Chancellor, but what about the state of morale, which we often have raised, of the experienced, long-serving officers who have the knowledge of how to deal with a difficult situation on the wing? Is there not a real issue to be dealt with about the haemorrhaging in some cases of more experienced members of staff?

Mr Gauke: The position is not uniform across the country. In some places, that is an issue. On morale, I come back a little bit to the issue that, for example, organised criminal gangs are influential within prisons and levels of drug use are far too high. That is going to have an impact on prison officers. It makes their daily job much less pleasant. To go back to the point I made before, it makes it harder to do the rehabilitative work that a lot of prison officers want to assist with.

As I said, we also have to remember that we are successfully recruiting people into the system. We now have more prison officers than we have had since 2013. I completely recognise the challenge, but there also has to be an acknowledgement that we are making some progress.

Q112 **Bambos Charalambous:** You mentioned in your answer that many prison officers join the service to help with rehabilitation of offenders. There are also a number of other agencies that assist in that process. In previous sessions, we have heard from them about some difficulties they have, one of which was prisoners applying for universal credit while in



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prison. They do not have an address, and that causes a problem. I wondered if you had any thoughts on how they might be able to apply while in prison, so that when they are released they receive benefit, which would, therefore, perhaps stop them being tempted to go back to crime.

Mr Gauke: It is a good point. If I may make a broad point, I am very keen to work with other Government Departments in this and other areas. It seems to me that a lot of the levers for reducing reoffending do not necessarily fall within the MOJ. Some of them do, but not all of them. Ensuring that there is a smooth integration into society, and preventing a big jump from being in prison one day to not the next day, making life very difficult as a consequence, is something I am very keen to address. DWP is my old Department. There is already a lot of good work with, for example, job and work coaches going into prisons. I am keen to work closely with DWP to do as much of that as possible.

One of the challenges with universal credit is the need to use email addresses. That does not currently work. There is no easy, overnight solution to that, but it is something I want to look at to see what we can do. It is worth making the point that with universal credit it is possible for people to get advances, including if necessary same-day advances. That was something I was keen to promote when I was at DWP. In that sense, there do not need to be long delays, but it is a fair challenge. What can MOJ and DWP do, working together, to ensure that the process can be as smooth as possible?

Q113 **Chair:** It will need to be. You emphasised rehabilitation a lot in your speech yesterday, Lord Chancellor. You also referred in particular to the education and employment strategy. I think one of the passages in your speech was about work as a route out of crime. How does that employment and education strategy fit with the termination of the National Careers Service in prisons at the end of this month?

Mr Gauke: We have to spend our money in the most effective way possible. We have to make choices as to which is the best way of doing that. We are hoping to publish the employment and education strategy before very much longer. I take the view that employment is very important. I mentioned yesterday, as I have already mentioned today, that I am keen to look at what more we can do with ROTL in the context of work. There are different ways in which one can pursue this objective, but I am keen to pursue the particular point about employment to a greater extent.

Q114 **Chair:** A particular concern raised with us by organisations such as the Prisoner Learning Alliance and others is that the careers service contract ends at the end of March. The proposed devolution of the education and careers budgets to governors does not start until April 2019. What is going to be done in the 11-month gap between the two?



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Mr Gauke: As I said, I hope to be able to say more on employment and education before very much longer. We are keen to ensure that it is a system that works to enable people to get into work. There is not much more I can say today, but I hope to be able to say more shortly.

Q115 **Chair:** We have written to the Minister of State about it. Could I urge you to look at the particular issue of the potential gap in provision?

Mr Gauke: Yes.

Q116 **Ruth Cadbury:** Will people get careers advice between now and April next year?

Mr Gauke: As I say, I hope to be able to say more on this very shortly

Chair: You are seized of the point, at any rate.

Q117 **Alex Chalk:** Can I turn to the issue of access to justice? In your swearing-in speech, earlier this year, you said, "Whether in criminal or civil law, the UK's legal system is respected around the world". Do you agree with me that underpinning that respect is an understanding that people, whatever their background, income or personal circumstances, have access to justice, and that if that starts to erode so indeed will respect for the UK's legal system around the world?

Mr Gauke: I want to ensure that people have access to justice, but we also have to step back and ask whether this is necessarily about particular buildings or doing things in the way they have always been done. That is why I am keen to pursue court reform and making use of digital technology, so that more people are able to access justice through that technology and so on and so forth.

Q118 **Alex Chalk:** I understand what you want to do, but I am interested in the principle. Do you accept that access to justice is a fundamental pillar upon which our international reputation is built?

Mr Gauke: It is part of what we are, so, yes, I accept that we want to ensure that people have access to justice. Perhaps anticipating the line of questioning, Mr Chalk, I come back to the fact that we had to make some difficult decisions in terms of public spending. For example, it is still the case that we spend £1.6 billion a year on legal aid. We are currently undertaking a review of LASPO. I can confirm to the Committee that the review panels and so on are in the process of being set up. We are making progress on that. I am also conscious of the pressures on the public finances.

Alex Chalk: That review is no doubt being conducted because the Ministry recognises the importance of assessing whether that crucial piece of legislation has done what it was intended to do. Correct?

Mr Gauke: Correct.

Alex Chalk: It is obviously important that the review is done in an extremely rigorous way, given the seriousness of the matters involved.



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Would you agree with that?

Mr Gauke: Yes.

Q119 **Alex Chalk:** The concern is that the Ministry is not planning to commission any original research at all, and instead is relying on input from external stakeholders. Can we really be satisfied that it is in fact going to be treated with the rigour it deserves?

Mr Gauke: Yes, I think you can. We are making use of a wide range of external stakeholders. That is the right process to undertake. We are engaging with those who have an interest in this area, and it is right that we proceed in that way.

Q120 **Alex Chalk:** I do not think anybody is suggesting for a second that it is not right to take evidence from external stakeholders. The question is this: given that there was a lot of criticism about the narrow evidence base that gave rise to LASPO in the first place, is there not a danger of repeating that mistake if you are not doing your own original research as well? Do you see the point?

Mr Gauke: I take your point, but I think the approach we are taking is reasonable. We are working with external stakeholders who can bring a great deal of evidence to this work. I am pleased that we are able to proceed with the next stage.

Q121 **Alex Chalk:** I want to ask you about timing. Are you able to assure this Committee that you will be able to keep to the summer recess deadline that was imposed by your predecessor for completing the review?

Mr Gauke: That is an ambitious timetable. I want to look at whether it is deliverable, to be honest. It is more important to get this right than to hit a particular timeframe. It is likely that it will take us longer to do that than the summer timetable, to be clear with you, but it is obviously something we need to make progress with. As I say, my focus is on getting it right rather than hitting any particular timetable.

Q122 **Alex Chalk:** Of course, we would all sympathise with the desire to get things right and not do a rushed job, but this has been a long time coming, and a lot of people have waited for it for some time. When will you be able to indicate what the revised timetable will be?

Mr Gauke: I hope to be able to do so before very much longer. I certainly understand why people want us to proceed with it. At the moment, I think the summer timetable looks ambitious given the level of work that needs to be undertaken. I would certainly want the process to be making progress. I do not want us to be slipping into next year, for example.

Q123 **Chair:** You have just written to us, Lord Chancellor, saying that invitations will be sent to the consultative groups this week.

Mr Gauke: Indeed.



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Q124 **Chair:** That obviously includes the professional users. Will it be end users of the system as well?

Mr Gauke: There is a very broad range of people we want to engage with, so yes.

Chair: Will the terms of reference be published and available?

Mr Gauke: Yes.

Q125 **Bambos Charalambous:** This morning, I attended the APPG on legal aid. We heard from Lord Lowe and the former Attorney General Dominic Grieve. They were both in agreement about the need for early intervention and legal advice to help people. They see that as a preventive measure against more costs further down the line. Is that something you would look at in the LASPO review?

Mr Gauke: I am sure that the LASPO review will look at that and other arguments in the area. Yes, that is part of the process. At this stage, I do not want to be drawn into how we are going to respond to that process, but I am sure it will be part of the review.

Q126 **Victoria Prentis:** Another aspect of access to justice is, of course, the availability of courts. The court closure problem is something we have corresponded with your Department about recently. Do you think it is acceptable that, following the closure of Northallerton magistrates, if it happens, it will be impossible for witnesses, court users and people who work in the court to reach the new proposed court, which I think is Harrogate, by public transport and back again in a day?

Mr Gauke: I think we have to put this in context. I set out some of the statistics in oral questions yesterday. The use of courts is currently running at something like 58%. A significant number of courts are using less than 50% of their capacity. At a time when it is very important that we use public resources—taxpayers' money—very carefully, and at a time when we are increasing the availability of digital solutions to a lot of this, we have to make some tough decisions sometimes in terms of the court estate, so that we can realise some of that court estate and reinvest it back into the system. We have to look at things in a way that sometimes will be different from what we have had in the past.

Q127 **Victoria Prentis:** I confess that this is close to home. Banbury magistrates court is also earmarked for closure. One of my concerns is that the evidence that the Department has obtained is not sufficiently detailed or good on which to make such important decisions. For example, Banbury magistrates has some slack. It sat for 2,211 hours last year, but it is used about 58% of the time, coincidentally. However, Oxford, which would be expected to pick up the slack, does not have 2,211 hours of sitting court time available. When I questioned the Department, I got answers like, "We can sit on Saturdays." Has that really been thought through with magistrates and court staff, and in relation to the availability of everybody else who needs to keep the court



running?

Mr Gauke: My understanding is that we are able to accommodate changes as a consequence of court closures. There is considerable public consultation on these issues in terms of understanding what the implications would be. I know that there has been some investment in the Oxford facilities, which I have visited. It has created, for example, another court from rooms previously used for storage. My understanding is that Oxford's capability will be capable of dealing with the Banbury closure, but I will happily look again.

Q128 **Victoria Prentis:** I do not want to get too detailed about it, but are you committed to the idea that magistrates should, essentially, provide local justice?

Mr Gauke: That has historically always been the role of magistrates, but I come back to the point that we can reduce demand on courts by providing new ways of doing things that are more convenient to all involved. At a time when we have to make tough decisions as to how public money is used, inevitably there is going to be some reconfiguration of our court system.

Q129 **Victoria Prentis:** Are you actively looking at having courts in different sorts of buildings?

Mr Gauke: Yes. I am keen to explore, in the context of what we can do about efficiently using resources, whether there could be more flexibility in terms of courts in other buildings or whether other organisations could make use of courts. There are some challenges, I know, with constraints because of particular design requirements for courts. It is a point I have raised with officials. If there are means whereby we can have more local services through more innovative use of other types of building, it is something we should certainly look at.

Q130 **Victoria Prentis:** As well as information about travel times you would like, as part of the consultation, to look at real alternatives.

Mr Gauke: The point I would make is that, if there is a good business case and practical ways in which other buildings can be used, why would one not want to go down that route?

Q131 **Chair:** Have you met the Magistrates Association yet, Lord Chancellor?

Mr Gauke: I know Lucy Frazer has done so. I have met the previous chair of the Magistrates Association. I have not met the current one as yet, but I know that Lucy has.

Chair: Perhaps I could just mention the report that this Committee produced in the previous Parliament on the role of the magistracy. It goes into a lot more detail on some of the matters we have just been asking about.

Q132 **Ruth Cadbury:** Our recent letter also commented on the lack of research or evaluation to support the move towards virtual courts and digital



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processes, which you have referred to as one of the potential solutions for the issue of court estates. The last research the MOJ did on virtual courts was that actually they were expensive to set up and run, so there is no cost saving there. There is also our concern, and I guess your concern, about what steps you are taking to ensure that more online and digital processes deliver enhanced justice rather than undermining access to it, particularly for older people, people with less IT access and people for whom English is not their first language or who have literacy issues. I do not know whether you have had a chance to see our letter, and whether you have a comment.

Mr Gauke: One always has to be sensitive to those who, for one reason or another, are digitally excluded. I recognise that point. We have done some very encouraging pilots using digital technology. We can now look to expand, over the period ahead, ways in which things can be done differently that really improve the experience of all concerned. I am keen to continue to pursue that, but I certainly take on board the point that there are some people who find digital technology difficult. That group is probably shrinking as a proportion of the population, but none the less it continues to exist.

Q133 **Chair:** Lord Chancellor, you talked about LASPO. We have to be realistic about the timeframe. I know there is a lot to read when you come into a Department. Have you had a chance to read Lord Mance's speech in the judgment in the Unison case?

Mr Gauke: I have not read that speech in full. I have read a summary of the Unison case. We are obviously considering our response.

Q134 **Chair:** I understand that, and I appreciate that it relates purely to the fee regime in relation to certain tribunals. The point Mr Chalk was raising was that the Supreme Court makes it very clear there that access to justice cannot be regarded as a purely private matter between the parties to litigation. It is a public good, and not simply a transactional matter. Does that basic philosophy chime with where you are coming from?

Mr Gauke: I completely understand that point. I am not arguing that it is a purely transactional matter. I am also conscious that, if there are ways in which we can achieve access to justice by making use of routes that were not previously available to us, we should be prepared to pursue them.

Q135 **David Hanson:** I want to look at contract management in the Department. Have you had a chance yet to assess the ability of the MOJ to design contracts and manage private sector companies to deliver contracts on behalf of the Department?

Mr Gauke: It is my assessment that the MOJ's capability there is improving. Although this is not precisely the question you were asking, the way that MOJ dealt with Carillion and set up the GovCo has been successful and happened very smoothly. It was able to move very quickly in that area. I know that John Manzoni has been very complimentary



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about what the MOJ has done in that particular area. The sense I have is that there has been a big focus in the Department over the past couple of years to improve its capability in that area, which is obviously something I welcome.

Q136 David Hanson: Can we look at some specific examples? Can you tell me if the Department is on track to make the savings of £150 million it promised on the facilities management contract in prisons?

Mr Gauke: I will have to check as to precisely where we are on the progress of that. If we are looking at facilities management within prisons, there were clearly some difficulties with both Carillion and Amey, particularly in the early months. We know what has happened with Carillion, but in terms of Amey we are making progress.

Q137 David Hanson: Well, 82 of the 99 independent monitoring boards in prisons last year made a complaint about the facilities management services by both Amey and Carillion. On a PQ last week from me, your Minister, Rory Stewart, said that Carillion was fined £4 million last year before it collapsed, and Amey was fined over £2 million for underperformance. What mechanisms are in place to manage that type of performance, and are you satisfied? I got the impression that your Minister and the chief operating officer were not.

Mr Gauke: There is still work to be done, but there has been some progress. There were some particular problems when those contracts were initially in place. We have made progress, but there is still more to go. We have to recognise that issues such as the level of vandalism have made it harder. I am not absolving either Carillion or Amey from all criticism on this, but the level of vandalism we have seen, linked to drugs, has made life more difficult than it might have been.

In my experience, when visiting prisons, I have certainly seen cases of governors who have taken over prisons with real problems. They have focused on cleanliness. They have deployed more prisoners to deal with cleanliness and they have made progress. The facilities management has not got in the way of that.

Q138 David Hanson: The 2,000 jobs backlog at Liverpool was raised specifically in the report and has caused part of the problems in relation to issues of self-harm and suicide in prisons, so it does cause some issues.

Mr Gauke: I am not disagreeing with you on that, Mr Hanson. What I am saying, though, is that I have seen circumstances where there have been prisons that have faced some of those difficulties, but it has been possible to make progress.

Q139 David Hanson: Was there any cost to the taxpayer with the collapse of Carillion, in the MOJ?



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Mr Gauke: It is probably too early to give any numbers on that. Our focus has been on ensuring that the collapse was dealt with in a way that did not disadvantage prisons, and that we were able to move smoothly on that. I think that has been successful. In terms of numbers, I am not sure that I am in a position to give you any today.

Q140 David Hanson: The Amey contract is up for renewal in two years' time. The Carillion contract, as you say, has been taken back in-house. Is the Government's plan to continue to outsource facilities management either when those contracts expire or when the review of Carillion's collapse has been undertaken?

Mr Gauke: The way I would put it is that I have an entirely pragmatic view on this. What I want is something that works. If we are in a position, where there is a business case in terms of the quality and support provided, to renew with a private contractor, I certainly do not have a problem with that. Equally, if that case is not there, we would need to look anew. It is too early to reach a conclusion on that. Sometimes, this debate gets incredibly simplified into public good and private bad, and sometimes vice versa. I want to be completely pragmatic about it.

Q141 David Hanson: Can we look at the electronic monitoring contract? It was established five years ago. It planned to save £30 million. Could you tell us how much has been saved to date and whether any progress has been made on the contract?

Mr Gauke: As you will be aware, there were some real problems with that contract. We ended up with an off-the-shelf package. In terms of the next generation, we are making good progress to ensure that it will be in place for early 2019. That is where we are at the moment. It is a really important process because there is a lot we can do with electronic tagging if we get it right.

Q142 David Hanson: We will come on to CRCs with my colleague in a moment, but I go back to my original question. Given the lack of £150 million savings on facilities management, given the lack of £30 million savings on electronic monitoring management and given the challenges we are going to hear about in a moment on CRCs, are you happy with the design, performance and management of contracts by the MOJ?

Mr Gauke: As was implicit in my earlier answer, historically there have been problems with the MOJ. There has been a significant focus on this in the last couple of years. The view across Government is that the MOJ's capability and capacity in this area has improved and is improving. As I said, with tagging there were clearly a number of problems, but we are on course to proceed early next year with the new contract. I think the MOJ's ability there is something that has been strengthened.

Q143 Chair: You talked about the role of governors and so on. Generally, is the policy that your predecessors had of devolving budgets to governors going to be delayed?



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Mr Gauke: On devolution of powers to governors, and coming back to my point yesterday about incentives, the area I am particularly focused on at the moment is giving governors greater control over incentives for prisoners, particularly positive incentives.

Q144 **Chair:** You see it as that rather than otherwise.

Mr Gauke: That is my particular focus at the moment. In general, I am supportive of allowing governors to govern.

Q145 **Ellie Reeves:** I want to talk about CRCs—another part of the justice system that has been outsourced. These are probation services for low and medium-risk offenders. As I am sure you are aware, they have been heavily criticised by the inspectorate, with them only meeting one third of their targets. I think the chief inspector for probation said that if through the gate resettlement was removed, the difference to a prisoner's prospects on release would be negligible, because the probation services are just not fulfilling their duties. Staff have exceptional workloads and very often do not have the tools to do their job. This is an outsourcing model that has failed, isn't it?

Mr Gauke: No, I would not put it that way. I would say that there are genuine challenges with probation in this context, and we want to work with the CRCs to make improvements. It is worth bearing in mind that, until those reforms were brought in, prisoners sentenced to less than 12 months did not get any supervision at all, so we are talking about an expansion of support for a group of 40,000 or so that was not previously happening.

It is also the case that we have seen a reduction in reoffending of 2% with that group. It is not a dramatic fall, but we have seen a fall. The challenge is that that group is reoffending with greater frequency. We are talking about a particularly hard group that tend to be the frequent, persistent and very often low-level crimes, but we are determined to work with the CRCs to ensure that we can improve the service.

Q146 **Ellie Reeves:** In terms of the supervision, isn't the reality that not a lot of supervision is going on because of workloads, and so on? We have heard stories of supervision taking place by telephone, and people being released from prison and not having any contact from their CRC for many months. Isn't this a missed opportunity to provide supervision to offenders?

Mr Gauke: I come back to the point that we have to remember that some of the offenders in this group were not previously supervised at all. We need to work with CRCs to ensure that this can work. Given the structure, and given that we have a large number of CRCs around the country, I would accept that the picture is mixed. We get some very good reports, for example, from Cumbria and Lancashire, and Durham and Cleveland. There will be a report on London, which has had its difficulties, but we are getting something later this week and my understanding, without giving too much away, is that it might be more encouraging.



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The picture is mixed. Is it at the moment where I would want it to be across the board? No, it is not, but equally there are a lot of new ways of doing it, in the context of expanding the service to a group that previously did not get any support. One should not necessarily compare it with what the NPS does all the time, because those are the more serious cases. More is spent on each case, and the experienced staff within the probation service tended to go with the NPS. The good progress that the NPS has been making can be a little unfair if one compares the two.

Q147 Ellie Reeves: But if the NPS is performing a lot better, why doesn't probation for medium and low-risk offenders also go into the body of the NPS? You said it is different across the country and there is a fragmented system of CRCs. Why doesn't it all get carried out by the NPS?

Mr Gauke: The NPS deals with the more serious cases. It gets more resources per case and it tends to get more experienced staff per case. The point of the CRCs was to see whether, with a degree of innovation and payment by results, we could expand the level of supervision from what we had previously.

Q148 Ellie Reeves: The payment structure has not worked, has it? My understanding is that in fact the Government have had to give an additional £42 million to CRCs to keep them afloat, and the payment mechanisms have now been changed, so it is likely to cost a further £300 million until the contracts come to an end in 2022. It seems that it is costing a lot more money than was anticipated and the service is not doing very well, based on what the inspectorate has said. It is difficult to square that circle, isn't it?

Mr Gauke: The first point to make is that we are actually paying out less to CRCs than we had anticipated, but your point about the payment structure for the original contracts, and whether there is more work we need to do on that, is right. Essentially, we were finding that the payments did not cover the fixed costs of CRCs. It is right that we looked at that last year and changed it. To be clear, the sums we are paying out are not more than was anticipated; they are less than was anticipated. But you are right to say that we needed to look at the payment structures, and we have looked at them again. We had to do so because, without doing that, we would receive an impact on the quality of support and supervision that would have been unfortunate. It is right that the Department reached the decision that it did.

Q149 Ellie Reeves: Is it right to say that when these contracts were let, everyone got it wrong about how much they would cost, and about the fixed costs? Were mistakes made in setting the contracts initially?

Mr Gauke: It is right to say that there were some assumptions made, in large part by the CRCs, in terms of the level of work they would have and the progress they would be able to make on the frequency of reoffending, that have not met those expectations. What do you do in those circumstances? Do you say, "We'll let the system collapse," or do you



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ensure that the system can continue to operate? That was the decision that was made, and I think it was the pragmatic decision.

Q150 David Hanson: Going back to my point, Lord Chancellor, there is a pattern here, isn't there? Facilities management is not making the savings, and Carillion has collapsed. Electronic monitoring has not made the savings, and it is delayed five years. The CRCs have just had a £340 million bail-out and are still not necessarily delivering the services. This is not necessarily about public sector versus private sector. It is potentially about the management structure and the ability to manage contracts in the MOJ with outsourced material.

Mr Gauke: We have just been having a conversation about contracts that were essentially negotiated in 2014. In the circumstances we were in as a Department last year, the sensible approach was to look again at some of the parameters of that contract in order to ensure that we can provide the probation support that is necessary. We can come back to some of the issues that go back five years, if you are looking at tagging. Clearly there are problems.

The general point I am making is that the capacity of the Department, from what I have seen and what I hear, including from others within Government, has improved in the last couple of years. In that context, we are working very closely—to return to Ms Reeves's questions—with the CRCs to see what we can do to improve services where that is necessary.

Q151 Ellie Reeves: You will know that we are doing a review of transforming rehabilitation, and that we met third-sector providers on some of those contracts who are also working on other contracts in and around the service on reducing reoffending and rehabilitation. Their comments to us are that the Department is not working to a true outcome-based culture but is instead still looking at tick-boxes.

Their other concern is that governors are not actually empowered in the way they would like to see for working with prisoners at the earliest relevant stage on their long-term success. What we want to know is this. Is the review you are looking at—your response to my colleague's two questions—just going to be tinkering around the edges, or are you serious about a proper review that actually looks at outcomes in the long term for people currently in the criminal justice system?

Mr Gauke: To be fair, transforming rehabilitation was always focused on the long-term outcomes.

Q152 Ellie Reeves: But it is not happening that way.

Mr Gauke: I would certainly want to continue to be focused on those outcomes. I think that is the right response. I want to look at it very carefully, and we are working with the CRCs to ensure that we can meet those outcomes. That is certainly what I want to do.



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Q153 Ms Marie Rimmer: Notwithstanding the court closure and consolidation programme and the new-for-old prison programme, both the courts and prisons estates require substantial and significant upgrading. The Ministry of Defence has a modernisation strategy for its estate up to 2040. What is the Ministry of Justice's long-term plan for the maintenance and modernisation of the prisons and courts estates?

Mr Gauke: As you say, we have two big programmes on the courts estate and the prisons estate. As I hope I have set out this morning, my belief is that there are opportunities, to talk about the courts estate for a moment, for transforming the way in which justice can be delivered. There is work within the Department on something called Justice 2030, which is very much a forward look as to what the justice system could look like, thinking very strategically about the ways in which technology can assist us in delivering a justice system. There is that long-term plan.

You mentioned the prisons estate. We need to modernise our prisons estate. We need to ensure that we have a prisons estate that is fit for purpose.

Q154 Ms Marie Rimmer: Lord Chancellor, those are words, but what is the action plan to deliver them? Is there an action plan, or is it just firefighting or reacting to very poor inspectors' reports?

Mr Gauke: If we are looking at courts, I think we are taking a very strategic approach in terms of the courts estate. It is the same with the prisons estate. We have set out the case for an additional 10,000 places in new prisons. For example, we already have Berwyn Prison, which, when fully operational, will have over 2,000 places. There is already work under way with Glen Parva and Wellingborough on new prisons there. We have a new house block planned at Stocken. There is work in place, and it is about ensuring that we have a modern prison estate that is fit for purpose.

Q155 Ms Marie Rimmer: What are the projected running and maintenance costs for decent prisons over the remaining years of this Parliament?

Mr Gauke: That is a very broad question, because it depends on the nature of the prison we are talking about. The fact is that more modern prisons tend to be cheaper to run.

Q156 Ms Marie Rimmer: We are talking about the whole prison estate. What are the projected running and maintenance costs for the prison estate?

Mr Gauke: I can certainly provide you with those numbers. I was focusing really on the point that more modern prisons tend to be cheaper to run. There are a number of factors that determine the cost per prisoner.

Q157 Ms Marie Rimmer: We are aware of that, but what is the cost of the other prisons? Can you let us have the detail of that?

Mr Gauke: Just to be clear, you want the overall aggregate cost.



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Q158 **Ms Marie Rimmer:** Yes; the actual projected running and maintenance costs for decent prisons over the remaining years of this Parliament.

Mr Gauke: We will certainly let you know.

Q159 **Ms Marie Rimmer:** Could you give us an assurance, when you give us those figures, that they will be sustainable?

Mr Gauke: It is a really important point that in work on the prisons estate we think about the long term and sustainability, and that we operate within a budget in such a way that it is sustainable.

Q160 **Ms Marie Rimmer:** How have you learned from the planning, building and operation of Berwyn for future prison estate management?

Mr Gauke: Berwyn has obviously already opened. It is increasing the number of prisoners that it has up to the 2,000 number. That process has obviously delivered. There is always plenty to learn from any experience of building new prisons. I do not know whether there is a particular point you are getting at in terms of that experience.

Q161 **Ms Marie Rimmer:** We know that two of the prisons that were due to close and be rebuilt will now remain open until 2019 because of the unforeseen prison population, which does not say much for planning. Several private sector prison contracts are due to come to an end in the next two to five years. The previous Secretary of State told the Committee that the intention was for capital investment in prisons to build prisons in the public sector. How do you intend to approach this issue, given that the Altcourse contract comes to an end in 2020?

Mr Gauke: I come back a little bit to the answers I gave Mr Hanson. I have an entirely pragmatic view of the delivery of prisons. My colleague Rory Stewart visited Altcourse, for example, as well as visiting HMP Liverpool. Altcourse is a pretty successful prison in many respects. My view is that I do not have an antipathy towards prisons being provided in the private sector, nor do I take an ideological approach to it. I think that is sensible. There is a role for both the private and public sectors to play in our prison service.

Q162 **Ms Marie Rimmer:** What are you doing about looking at what is happening in the new prisons in the PFI area?

Mr Gauke: Is your point about what will happen when the contracts come to an end?

Q163 **Ms Marie Rimmer:** What contract monitoring is going on in PFI prisons?

Mr Gauke: Of course, the Department monitors those contracts very closely, and the performance of the PFI prisons, to ensure that they are fulfilling their contractual obligations.

Q164 **Ms Marie Rimmer:** But there are no facts behind them as yet.

Mr Gauke: Not yet.



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Chair: I am anxious to get Mr Newlands in before we conclude.

Q165 **Gavin Newlands:** I want to move on to another important question. In the future prison estate, the future prison population is obviously itself a huge factor. In Scotland, our problems were never as acute as they are down here, but the population increased year on year for two decades. The introduction of the presumption against short sentences has stabilised that population. In fact, it has started to fall. If you combine this with the recidivism rates for 16 and 17-year-olds, you have a successful policy, so much so that we are consulting on it and extending it to 12 months. Your colleague Phillip Lee was interested in the policy and suggested that he would visit Scotland to see it in practice. Do you share his enthusiastic interest, and would you like to see a similar policy in England and Wales?

Mr Gauke: I am certainly interested in the experience that Scotland has had. I notice that my parliamentary colleague Sir Edward Leigh asked a question along those lines in Justice questions yesterday.

My point on this is quite similar to my point about the prison population as a whole. If there are ways in which we can provide non-custodial sentences that have the confidence of the judiciary and magistrates, the case for non-custodial sentences versus short sentences can be quite strong. I do not know whether we would go in the direction of no sentences below 12 months or so, which is the approach that was taken in Scotland. We would obviously want to look at the evidence that emerges from Scotland on that.

The point I would make at this stage is that I would like to see what we can do to ensure that there are options available for sentencing, so that people do not necessarily go down the route of short sentences. I recognise the point that rates of reoffending with short sentences are extremely high. In terms of deterring reoffending, I take the point that short sentences do not seem to be working effectively at the moment.

Q166 **Ruth Cadbury:** Will your Justice 2030 strategy include a review of community sentencing? That was the question I raised with you yesterday.

Mr Gauke: It is a fair challenge. It is not just an issue that we face in England and Wales. Faith and confidence in community sentencing, if one can get that, means that there is a really big prize in terms of improving rehabilitation, reducing reoffending and reducing the pressure on the prison population. I share that view, but equally I think we have to be realistic. It is not always as easy to deliver successful community sentences. If this Committee has international experience that it wants to explore and point in our direction, I would be interested to engage with you on that.

Q167 **Chair:** That is very helpful. All of that ultimately comes against a background of financial challenge, doesn't it? The resource budget is reducing from £6.6 billion down to £6 billion by 2019-20, and there is a



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reduction in the capital as well over the same period. Is it going to be possible to deliver the sort of decent estate and the programmes you are talking about under those constraints?

Mr Gauke: It is a tough settlement, but my view is that as a Department our focus has to be on doing everything we can to deliver our objectives with that settlement, ensuring that we obtain the best value for money for the taxpayer. I see my job as working with what we have and setting out an approach that meets the objectives, and also thinks about the long term, to ensure that we have a sustainable justice system that is in a secure position not just over the course of the years of this Parliament but beyond.

Chair: Lord Chancellor, thank you for your time and for your evidence. I hope that in the course of this Parliament, there will be a number of occasions when you give evidence before us again. We wish you well in the post and look forward to working with you. Thank you very much.