



Justice Committee

Oral evidence: [The work of the Ministry of Justice](#),
HC 869

Tuesday 1 March 2022

Ordered by the House of Commons to be published on 1 March 2022.

[Watch the meeting](#)

Members present: Sir Robert Neill (Chair); Ms Diane Abbott; Rob Butler; Angela Crawley; Maria Eagle; Paul Maynard; Dr Kieran Mullan.

Questions 107 - 231

Witnesses

I: Antonia Romeo, Permanent Secretary, Ministry of Justice; James McEwen, Chief Operating Officer, Ministry of Justice; Jo Farrar, Second Permanent Secretary and Chief Executive Officer, Her Majesty's Prison and Probation Service; and Kevin Sadler, Acting Chief Executive, Her Majesty's Courts and Tribunals Service.

Examination of witnesses

Witnesses: Antonia Romeo, James McEwen, Jo Farrar and Kevin Sadler.

Chair: Welcome to this session of the Justice Committee. Welcome to our witnesses. I will ask them to introduce themselves in a moment. Before that, we have to make our declarations of interest. I am a non-practising barrister and former consultant to a law firm.

Maria Eagle: I am a non-practising solicitor.

Rob Butler: Prior to my election I was the magistrate member of the Sentencing Council and, crucially here, a non-executive director of HMPPS.

Q107 **Chair:** Ms Romeo and colleagues, it is good to see you. Perhaps you would like to introduce yourselves for the record, and then we will go straight to the questions.

Antonia Romeo: I am Antonia Romeo, permanent secretary at the Ministry of Justice and principal accounting officer.

James McEwen: I am James McEwen, chief operating officer at the Ministry of Justice.

Kevin Sadler: I am Kevin Sadler, acting chief executive of HMCTS.

Jo Farrar: I am Jo Farrar, second permanent secretary and chief executive officer of HMPPS.

Q108 **Chair:** Can I start with you, Ms Romeo? What are your top priorities for the Department? I understand that the Secretary of State has political priorities, but what are your operational top priorities? I have seen your report, the estimates and so on.

Antonia Romeo: First, the Deputy Prime Minister's priorities are policy and delivery priorities for the Department. My priorities are to ensure that the Department is fit for purpose to deliver those, and advising him on that as his principal policy adviser.

I have three main priorities as principal accounting officer. The first is the recovery of our services post pandemic. That includes ensuring that we have enough staff and resourcing in the right place to deliver that. We need to focus on all victims, in particular victims of rape and serious sexual offences, swift access to justice and getting our services back to normal.

Secondly, there are our major transformation programmes, including the courts reform programme. Doubtless, we will come on to talk about some of these. There is the major prison build programme—a huge infrastructure project—and the need to have a good grip on the delivery of those programmes. The third thing is capability and resourcing for the Department as a whole. This is about building capability. I have recently



HOUSE OF COMMONS

written to you, Sir Bob, on ensuring that we have increased capability on data delivery and digital, and that we have sufficient staff and resources, and that includes the process currently under way on the allocation of our finances.

Q109 Chair: Your predecessor said he wanted to see the Department as the most data-driven in Whitehall. Where do you think we are in relation to that?

Antonia Romeo: I completely agree with Sir Richard. We are a very data and evidenced-based organisation. A lot of what we do is to take the flow through the whole of the criminal justice system, so we have to get our forecasting, data and evidence right. This is one of the reasons why I have just recruited, as you know, a new board-level director general to focus on performance, analysis and strategy, and in particular to put evidence at the heart of our decision making. I do not think we are there yet. We have a lot of excellent analysis and a lot of data. It is a very complex picture. We also work in a much broader system that includes the Home Office, the police and the CPS. Understanding that is something we have to do across the whole of the CJS, and we are working hard on it with partners.

Q110 Chair: I know you follow the evidence that we receive from time to time. You will know that Dr Byrom, for example, has often commented on the data situation. Do you disagree with her analysis? She is quite critical about linking the data with driving policy.

Antonia Romeo: Dr Byrom has done a very important report, to which we have responded, and we are doing a lot of work with her on that. Data never tells you the whole picture. There is a significant way we can go to improve it. I reiterate the invitation I made to the Committee the last time I was in front of you—an invitation to look at some of our modelling, if that would be helpful.

It is clear that we have to improve our understanding of data across the whole system. This is not something we can do alone. We are working very closely with the Home Office, the CPS, AGO and police colleagues. For example, understanding the flow from the 20,000 new police officers and what they will be focusing on, and what that means for both our court system and our prison capacity, is absolutely crucial. Understanding that, when you work on a lag time, as we do, on things like prison build is essential. We need to get an even better grip, but I do not think we are in a bad place. We are doing well, but there is a way to go to improve.

Q111 Chair: Will the new director general have a unit specifically to deal with those aspects? Will you reprioritise staffing, recruit additional staff or what?

Antonia Romeo: Yes. They will be responsible for analysis, strategy and innovation and performance. The Deputy Prime Minister is focused on ensuring that we have the right key performance indicators in place so that we know when we are on track. They will be responsible for all that



HOUSE OF COMMONS

work. They will also be leading, with the Home Office, work to ensure that we are joined up across the CJS on data. That work will be really important.

Q112 Chair: Looking at your strategic objectives for 2021-22, in the delivery plan you have three strategic objectives: protecting the public from serious offenders; reducing reoffending; and swift access to justice. Would you say we have made progress on any of those? Are we protecting the public more?

Antonia Romeo: We have made a lot of progress in a number of those areas. To take protecting the public, we have already built 2,700 of the new prison places as part of our 20,000 prison-place programme, and we have brought over 7,000 staff into the probation service under the probation unification programme. Covid has had a big impact, but we have controlled it within our system and we are now coming out of that, so on protecting the public a lot of progress has been made.

On reducing reoffending, we secured £550 million over the SR to focus on prison leavers' work, accommodation and employment. This will be really significant in what we are able to deliver. We are spending £70 million in total on reducing reoffending work this year. That is a significant uplift. We have also been rolling out additional tags—alcohol abstinence and so on—as the Committee is aware. A lot of work has happened already and progress has been made on reducing reoffending.

On swift access to justice, the pandemic has had a significant impact on our ability to keep the flow going through the courts, but we have a big programme to reduce the outstanding case load. We have 32 Nightingale courts until the end of this year. On the remainder of our estate, the reduction of social distancing requirements has made a significant difference to our ability to get that flow going. The national scorecards that we have recently published will make a real difference in understanding where in the process the system is slower and what we can do to improve that. It has been a big year for us so far, but we have a massively ambitious programme that the Deputy Prime Minister is leading and we are very much geared up to delivering it.

Q113 Chair: Is there a systemic problem in protecting the public? One of the things the public might think about in terms of protection is outside your Department's remit: preventing the crimes, as opposed to locking people up once they have committed them. Do we need to look again at the structure of Departments?

Antonia Romeo: Criminal justice is a system, so it is all about how we are working together. You can make any number of structural changes; there will always be a line or a border somewhere. What matters is whether the whole system is geared up and aligned with the right incentives in the right place to deliver. I think that under the criminal justice action plan that we launched last year, which we are very closely tracking, we are in a position to do that.



HOUSE OF COMMONS

The Deputy Prime Minister chairs regular meetings with the key principals on that. I chair a meeting, the criminal justice action group, with the DPP, the permanent secretary to the Home Office and a number of others. The police, the courts and a number of other players are there. We work together to ensure that we are all focused on reducing the outstanding case load, a better service for victims and a better flowthrough. The scorecards are a good example of that, because they are all about improving timeliness for victims and everyone involved but also ensuring that we maintain quality. We are very aware that we must not end up in a position where one part of the system can improve its own timeliness by kicking the can down the road to another part of the system. It is all about quality and working together, understanding that we need a whole-system approach.

The Prime Minister's criminal justice taskforce, which sets a number of metrics for us, is a crucial way we do that, because the metrics are all about shared ownership. It is about understanding what individual Departments are accountable for, but also how we need to work together to deliver for the benefit of citizens, victims, witnesses and other users of the system.

Q114 **Chair:** From an official's point of view, how does that taskforce work in practice?

Antonia Romeo: The flow is really good. As you know, I have recently marked a year back in the Department. The joint working across the various bits of the system is as good as I have ever seen it. A lot of that flows from the fact that the PM is chairing the taskforce. That then flows down. The DPM is chairing a steering group. We have action groups underneath that. We have a good flow through the system of the things we all need to focus on to improve timeliness, quality and other things in the system.

Q115 **Chair:** You referred to swift access to justice and the pandemic. That is fine, but we have plenty of evidence to show that the backlog was unacceptable, particularly in the Crown courts, way before the pandemic, and has been for a number of years. I assume that the ambition has to go further than simply making up the backlog from the pandemic; we want to drive it down below the figures pre-pandemic, don't we?

Antonia Romeo: As is public information, we have been funded to drive down the backlog—the outstanding case load—to 53,000, which we think is achievable. We want to recover the system as quickly as possible, but in a way that is achievable. There are a number of constraints, including constraints on judicial capacity. We seek to recruit a number of additional judges to help speed up the system.

Having taken quite a significant hit to our ability to get those cases through the system, coming out of it is not just a physical capacity question; it is also whether we have the judges. Essentially, how many sitting days can we deliver? We have a known plan for that, which is



HOUSE OF COMMONS

105,000 sitting days and 106,500 in the three years of the spending review. We have been funded for that. That will get the backlog down to 53,000 by March 2025. Of course, if there are opportunities to bring it down further faster, we will seek to do that, within the obvious constraints of finances and judicial capacity.

Q116 **Chair:** What do you think is an acceptable delay in cases? We have seen it go up to two or three years before contested criminal cases are listed. That is clearly unacceptable, isn't it?

Antonia Romeo: We are very well aware that what really matters is the experience of an individual victim and of those involved in the case, and there is no acceptable delay on that front. We are operating a system which seeks to speed up timeliness as much as possible, although not at the expense of quality. I do not think any level is acceptable, but as accounting officer, what you would expect me to do appropriately and responsibly within the funding envelope that I have, and what is possible with judicial capacity, is to bring down that backlog as quickly as possible in a way that will benefit victims, citizens and users of our system.

Q117 **Chair:** You referred to the experience of victims in the criminal courts. What about the parties in civil matters? Are you satisfied that, particularly in the county court, they are getting an adequate service?

Antonia Romeo: Kevin will want to comment on this. It's difficult. There were delays throughout the system. The system as a whole took a big hit, like all systems, by the way; it is not exclusive to the justice system. All systems in the public and private sectors took a big hit due to the pandemic. We have had outstanding cases. The waiting list in family cases, as well as in civil cases and tribunals, is something we want to reduce significantly. We are concerned about all of it, and what we are seeking to do now through the allocations process is ensure that we maximise the funding we can deploy in order to improve timeliness.

Q118 **Chair:** Mr Sadler, we will go into this in more detail, but the sense I get from people who come to me—constituents and practitioners—is that, understandably, there is a lot of emphasis on the Crown court because it handles more serious, high-profile cases and custody matters. A lot of investment has gone into the High Court, which has worked efficiently and well, but at county court level, the smaller numbers of civil cases and family work have been the Cinderellas in all of this. Do you recognise that criticism?

Kevin Sadler: I have heard that criticism.

Q119 **Chair:** It is a fair one, isn't it?

Kevin Sadler: There are two points. The first point is that reform is not yet complete in the civil jurisdiction and, therefore, the civil jurisdiction suffered more because of its reliance on paper than other jurisdictions as a result of the pandemic. That did not help us. I am looking forward to completing reform and delivering the kind of resilience and digital



HOUSE OF COMMONS

working that we have demonstrated we can achieve in other parts of the system.

The second point is that we are very focused on improving civil performance. We have sat more sitting days in civil jurisdiction than ever before. It was 9% higher in January 2022 than in February 2020, pre-Covid. In most of the country, you can get a hearing date within the next three months in civil. Noting your location, we have a particular challenge in London and the south-east.

Q120 **Chair:** You anticipated where I might be going.

Kevin Sadler: We do not have enough judges in London and the south-east. Unfortunately, our recruitment requests for district judges have not been met in full over the last few years. That has been particularly the case in London and the south-east. It used to be quite easy to get them in London and the south-east, and it was in the south-west and north-east that it was a struggle, but now it is much harder to get district judges in London and the south-east.

We are working very closely with the Master of the Rolls to look at whether any district judge activity could be done by administrators rather than district judges, and we are looking at the benefits of digitisation. We are working with the Department on dispute resolution to see whether we can solve people's problems before they even get to court, which is obviously helpful for the people involved. It is definitely an improving picture, and we need to get London and the south-east to catch up with the rest of the country.

Q121 **Chair:** Is there perhaps an argument for differential rates for fee-paid judges if you want to attract people in London and the south-east? I am told there is also a shortage of recorders in civil.

Kevin Sadler: That would be a matter of judicial policy which is outside my responsibility. It also might get us into a bit of trouble in an employment tribunal.

Q122 **Chair:** Given those constraints, how do we attract them? At the end of the day, all the other changes are fine and dandy, but ultimately judges make the decisions. How do we get more?

Kevin Sadler: For me, it is about digitisation and making the process better, improving the environment in which district judges work, providing them with better support, and giving them more effective jobs, so that they are more interested in working with us.

Q123 **Chair:** Maybe being a district judge is not terribly attractive, given working conditions and other matters at the moment.

Kevin Sadler: District judges enjoy their job as a matter of course, but a number of them have told me they would enjoy their job more if our accommodation was better, we were better able to retain staff, and the systems were better, all of which we are working on.



Q124 **Chair:** What is the timeline? You said that you wanted to see civil justice reform completed, which is fair enough.

Kevin Sadler: It is a big job and it is running right through to the end of the reform programme in December 2023.

Chair: We may come back to some of that later.

Q125 **Maria Eagle:** It is good to see you all again. Looking at the annual report and the numbers, the original estimate was net expenditure of £10.2 billion. There was an increase in the supplementary estimate to £11.2 billion, but your actual net expenditure for the year was £10.3 billion, not that far away from the original estimate. Therefore, you got an additional £1 billion in the supplementary estimates. You went along to the Treasury and told them you absolutely had to have this money in order to do what you are doing, but you have not spent it, or that is how it looks on the face of it. What happened there, and why is that?

Antonia Romeo: I have a number of things to say about this, and James as CEO may want to comment as well. This was the year of the pandemic. First, there was a significant amount of uncertainty about services and a degree of needing to focus. We had some particular impacts on things like income, which had gone down significantly, offset partly by what was happening on legal aid, but we also believed we would need more money in order to recover our services.

Uncertainty about the operational elements meant that the judgment was taken—it was before my time, but I completely see why it happened—that we would need to put in a bid for additional money in supplementary estimates. That was in addition to the fact, as you noted, that we already expected via the original main estimate an increase in funding. We had an uplift on the previous year of £330 million, which was to do with probation reform—that was the largest part of it. There was an additional £55 million for demand from the additional police coming on stream, some money for prison security, and so on. We already had an uplift baked in, plus we had some money that we were given as part of the Budget measures that year, which was £138 million.

Taking those two things together, we then sought to secure an additional increase when making a judgment for the supplementary estimates, which was in autumn of the year. The thing that made the most significant impact was that in the following January, at exactly the point we were drawing down on our supplementary estimates, we went into a third national lockdown, which meant that our ability to move swiftly out of the pandemic at that point was significantly reduced. The national lockdown meant that spend on the prison regime was significantly decreased, and our ability to operate the courts was significantly decreased. There were a number of things. Our income took another hit.

In the world of managing public money, you have to take judgments and de-risk against an overspend and not exceeding your control totals. In an



autumn when you think that you will be coming out of a pandemic and powering through, you take the judgment that you have to have the money to be able to do that. As it happened, the third lockdown massively reduced our opportunity to do that. By that stage, we had already drawn down on supplementaries, so we ended up being underspent on the resource side, but not significantly on the capital side. That, essentially, is the story.

Q126 Maria Eagle: In the world of having to deal with the Treasury on supplementary estimates, however, going to them in one spending review and saying, “We desperately need £1 billion” and then not spending it does not do a lot for your credibility the next time you have to ask for a supplementary estimate—or have they become a lot more understanding in the years since I was dealing with them?

Antonia Romeo: First, this was happening across Government; the impact of the pandemic inevitably meant that forecasting became incredibly difficult. We are in a service delivery business, and what we were trying to do, as rightly directed by Ministers, was power out of the pandemic and recover our services. Then we took a hit with the third national lockdown. The Treasury may not have become less tough, but that was an argument they had to understand. Secondly, we were talking to them throughout, and it became clear in January that year that we would not be able to do the full recovery we were expecting. At that point, we were discussing with them what that meant for the supplementaries, which we had already drawn down by that stage.

We did not do the thing I think the Treasury likes the least, which is to make a surprise announcement at the 11th hour that this was what had happened. We were working very closely with them throughout.

Q127 Maria Eagle: Have they let you keep the money to spend on other things?

Antonia Romeo: One never keeps the money, as it were. We then had SR20, which was one year, and now we have got ourselves in a good position through SR21. We still have to do the things that we thought we would be doing, which are to recover the system. It will be challenging for us. One of the things is gearing up the system and ensuring that we can keep it going at full throttle. It is not without risk, but that is something we are managing very closely.

Q128 Maria Eagle: You had significantly increased gross expenditure, less than half of which was the result of Covid activities; I think it was almost £1 billion. Gross expenditure increased by 9%, which is about £1 billion, and the spend relating to Covid activity was less than half of that—£411 million. What accounts for the remainder of the increase?

Antonia Romeo: James will want to comment on this, but the £411 million is resource only. You are talking about our RDEL spend from Covid, which was the additional money we got out of the reserve. That went on a number of things—for example, on helping to clean the courts.



HOUSE OF COMMONS

A sum of £105 million was for the courts, but there were a number of other things as well, including in HMPPS. That was the £411 million.

You talked about growth, but we had a £380 million reduction in income. Although it is not a difference in the amount we are spending, unfortunately it increases the burden on the taxpayer when we do not get it via income, which was an inevitable consequence of what was happening in the system.

James McEwen: If you control for that income change, you see that between 2019 and 2021 there was about a £420 million change in expenditure, which neatly ties in with Covid. There are lots of overs and unders across the system, but that is what happened. A large proportion of our funding is through income, so we are managing that volatility, volume changes in the courts, and investment in our Covid response, and that is where we come out overall.

Q129 **Maria Eagle:** I note from the supplementary estimate 2021-22 request that there is no additional resource expenditure, which you have kind of explained already, but what you have requested is a surrendering of capital funding for future years, due to the timing of activity under the future prison places programme. Quite often, one gets delays in capital expenditure. The Department has had a lot before and not delivered prison places when it has promised to deliver them. Is this another example of that?

Antonia Romeo: I have a couple of things to say. Jo as accounting officer from HMPPS will want to comment on prison places. I know that you are talking about SR20, but to set the context, for SR21 we have got the money for an additional 2,000 prison places on top of that. The profile, because of what we are expecting in the forecast, has grown even further. What happened in SR20 and then in our supplementary estimate request for this year was a re-profiling of that within the build, so we are on track. We are over where we were expecting to be at this stage, having delivered 2,700 places, including Five Wells, which will open in due course, and we have Glen Parva coming up. That is a significant delivery of builds, but inevitably you expect some re-profiling across the years.

Our main job, which we take very seriously, is to have enough prison places for people who are sentenced. We have to make sure that we have the house blocks coming on stream. Our actual numbers in prison are below our public forecasts for this point, so the re-profiling is about ensuring that we have the places coming on track at the time we need them, and managing that series of programmes and that portfolio very tightly.

Ms Eagle, if you are happy, I will bring in Jo to say a bit more.

Maria Eagle: Sure.



HOUSE OF COMMONS

Jo Farrar: On the prison build programme, as the permanent secretary said, at the moment we are achieving beyond what we had expected. We have 2,700 places and are about to open our new prison, which the Committee is very welcome to visit. I would be happy to arrange that. This is a tightly managed programme. There are big challenges in these big programmes. Currently, we are negotiating planning permission for four new prisons.

Q130 **Maria Eagle:** For which the delivery confidence is amber/red.

Jo Farrar: Yes. They are two years in the distance. We are negotiating planning permission at the moment, and the delivery confidence will change once we have been through the planning process. We have to work through that. It is important that our forecasts are right and that we show where things are amber/red. If you remember, the prison at Five Wells was amber/red or red for most of its build and went green in the last few weeks before delivery.

Q131 **Maria Eagle:** Just in the nick of time.

Jo Farrar: Absolutely. It was delivered on time despite the pandemic, so that has been a big success for us. We have a good team on it, and it is tightly managed in the Department.

Q132 **Maria Eagle:** I want to ask a quick question about how ready you and the court system are. We have the situation going on in Ukraine. There has been a sudden imposition of sanctions, and a sudden bringing forward—about time, some of us might say—of the Economic Crime Bill and legislation to deal with dirty money, for want of a different way of putting it. That will only ever be as good as its enforcement.

Ms Romeo, you made the point earlier that the entire system is not just the MOJ; your scorecards demonstrate that you understand that, and obviously the National Crime Agency, the Home Office and the police have a lot to do with enforcement. What work has been done by the MOJ to make sure that when these new tough provisions and sanctions come into force, which will be very soon, they can be swiftly, fully and extremely well implemented and enforced? What work have you been doing and what resourcing do you have to make sure that this does not fall down, once the legislation is passed, through lack of proper enforcement?

Antonia Romeo: This is all very live work and there is a lot going on. We are working in detail with colleagues to understand the justice impacts. As you know, the norm is that when new laws come in there will be a justice impact. We have to understand that, but, like the rest of Government, we are hugely leaning in and working at pace to ensure that what Ministers want to do will be delivered. It will be our job to ensure that we know what is required and we have the right resourcing in place to do that, which is what we are focusing on. As I say, it is all live at the moment. Everybody is working across Government full pelt to ensure that we have all the right bits in place.



Q133 **Maria Eagle:** Unexplained wealth orders have been available for a period of time to deal with some of this issue, yet only about three or four have ever been achieved. In part, it is an issue of enforcement. There is no point us having these sanctions if they cannot be implemented. Are you absolutely clear that you have the resource, capacity and what is necessary in MOJ to do your bit of this, so that we make sure that the sanctions can be properly enforced?

Antonia Romeo: Our part of it is to ensure that the justice system is able to do what is needed. That is what we are working up at the moment. The commitment is that we will make sure that we have in place what we need, and that for everything that is enforced, we will have our bit ready. I do not know whether at the moment I have sufficient resource. One assumes I have it. This will be a top priority, and one assumes I will have it within the money I already have, but that is the work we are doing. The joint Government work and commitment is to ensure that we all understand what the implications will be for all bits of government, and then ensure that we have the right resourcing in the right place to deliver it.

Maria Eagle: Thank you.

Q134 **Rob Butler:** If I may take you back to spending for 2020 to 2021, there is £167 million for youth custody services. Given the crisis in the secure training centres, do you think you are getting value for money?

Antonia Romeo: Jo may want to comment first because YCS is her area, and then I might say something.

Jo Farrar: On youth custody, the Government have committed to delivering the first secure school. We have had issues with the secure training centres. As you know, the one in Medway will become the first secure school. We have had recent performance concerns at Rainsbrook and Oakhill. We have seen improvements recently in Oakhill and we are determining the future of Rainsbrook.

We are introducing some new capacity for youth. The Keppel unit at Wetherby is currently taking girls. That provision seems to be working well. We are interested in whether we can have more bespoke provision, particularly for children and young people. The question is whether we are getting value for money.

Q135 **Rob Butler:** To put it politely, the providers of the STCs seem to be failing.

Jo Farrar: We need to performance manage the providers of STCs tightly to make sure we are getting the right provision for children. These contracts were negotiated some time ago. In the work we are doing at Oakhill, we are seeing improvements. The latest Ofsted inspection showed improvements at Oakhill. We are now looking to place more children there. We have quite a low population of children at the moment in the youth custody sector, and we continue to work with our providers



to make sure that we get value for money, and that they are meeting their obligations.

Q136 Rob Butler: How do you think we should assess whether we are getting value for money in the youth estate, because reoffending rates out of youth custody are still shockingly high? Is that an appropriate measure or, given the very complex situation children find themselves in before they get to custody, is it not a reasonable measure? How should we judge that?

Jo Farrar: At the moment, we have a very different profile of children in custody from what we used to have, so it is very hard to compare reoffending rates now with reoffending rates in the past. We deal with some very challenging children in our system. There are much lower numbers requiring quite a high level of support.

Reducing reoffending is one of the things we are really interested in in the youth estate. Part of the £550 million that the permanent secretary mentioned will be spent not only specifically on young people in custody, but on working with our partners to see what can be done to prevent more children coming into custody. That is an exciting piece of work that we have under way. As I say, we continue to work with the providers of some of our youth custody services and the Youth Justice Board to make sure that we are looking across the system to get the best results for young people in our care, so that they are prepared for adulthood, whatever that brings.

Q137 Rob Butler: Ms Romeo?

Antonia Romeo: How we judge value for money is exactly the right question. This is an incredibly difficult cohort, as Jo said. We have had a significant reduction in the number of children in custody, but, equally, focusing on reducing reoffending must be crucial, because at the end of the day, reducing reoffending and therefore protecting the public is the business we are in.

With the commercials, one wants to ensure that the contracts are incentivising exactly the right thing. As Jo said, some of the contracts are quite old, and we have to look at them. I am sure we will come on to risk, but the financial and commercial risk we are carrying is not insignificant in some of these areas, and we are looking at that now. Value must include reductions in reoffending overall.

As you rightly note, a lot of these problems happen upstream, so again it is a story of being part of a wider system. A lot of these children were themselves victims of something earlier. We have to connect with DHSC in terms of the environment they grew up in with their parents, and with schools, DFE and so on. A lot of the work we are doing with the reducing reoffending money is joined-up funding, with lots of Departments having different pots of money. We have to ensure that we are working together to deliver a better outcome for everyone.



HOUSE OF COMMONS

Q138 Rob Butler: To push that a little bit, I was a monitor at Feltham young offenders institution back in 2006 or 2007. At the time there were about 11 YOIs in the country; now there are far fewer. That is a real mark of success, because there are far fewer children in custody, but those who are in custody tend to be there for much more serious offences and for much longer periods of time. In fact, many of them are not released into the community from youth custody but go on to adult YOIs or adult prisons, including Aylesbury in my constituency. What are you preparing them for with the regime in youth custody these days? Are you preparing them to be able to survive effectively in the adult prison estate? What are you trying to help them achieve?

Antonia Romeo: In a way, the answer has to be both, but Jo can speak to that.

Jo Farrar: Ministers are considering carefully the strategy for youth custody at the moment. The new secure school we have been talking about is aimed at providing a holistic model based around education, rather than custody with education. It is education in a secure setting to make sure that young people have every chance in life.

You are right; a number of people go into the adult estate. We need to make sure that they are prepared for that and that they have a smooth transition. A number of these young people, some of whom I spoke to recently, will be released into the community in their late 20s or early 30s, so it is important that we prepare them for release into the community for work. Some of the things we are talking to our young people about and introducing are the new apprenticeships for young people, the new work with employers, and proper training and education provision to prepare young people for a successful future, because they will leave prison still at a young age. A large number of our younger population are released and have short prison sentences. It is important that we get the right mix of healthcare, therapeutic support and the right education or work opportunities, and that we give them the right balance so that they can be released into the community without reoffending.

Rob Butler: Thank you.

Q139 Dr Mullan: You received £2.2 billion extra in the spending review last year, one of the biggest increases in a decade. What are the priorities for spending that money, and how do you expect to deliver an impact for our constituents with it?

Antonia Romeo: Are you talking about SR20?

Dr Mullan: The announcement last year.

Antonia Romeo: On SR21, we had a 12% uplift over the period in real terms. One of the main things, as we have discussed already, is the reducing reoffending money. We had a significant multi-year capital settlement. We already had a significant amount of money from the previous year's SR to do the prison build. We have an additional £324



million for civil, family and tribunals, and we got £477 million, which is the consequence of reducing the backlog. Essentially, it is the work in the courts and the subsequent additional prison places that will flow from that. We have had a good settlement. Inevitably, one never gets all of the money one wants. There are still hard choices, even when one has a significant uplift. We have a big focus on the work supporting victims overall, but particularly victims of rape and serious sexual offences. We have launched our consultation on the Victims Bill. Work like that will require additional money, so we have to look closely at allocations, which is the process we are going through at the moment.

Q140 Dr Mullan: You mention that you do not always get the money you want. What are the biggest budgetary pressures or pinch points for delivery?

Antonia Romeo: The way it works is that one puts in one's bids. Some things are given explicitly, so are essentially noted. The money we got for a reduction in the outstanding case load in the courts, including what that will mean in the prison estate, has been noted. The rest of the money we sort out through allocations, so essentially it is a choice. These are the choices that ultimately the Deputy Prime Minister, the Secretary of State, will make, and we are in the process of finalising that.

We have a number of big priorities. We want to deliver everything in the prisons White Paper; we want to support the work on the drug strategy; and I have already mentioned the work on victims. We have the Bill of Rights work and the Victims Bill coming up. We have a lot of major priorities and we have to deliver on all of those, as well as keeping the system going coming out of the pandemic, with all of the operational pressures that that delivers.

One final thing to mention is staffing. We have to ensure that we have enough staff. Like the rest of public service and the private sector, we are facing a potential squeeze in the staff we can recruit. This is one of the risks we are focusing on. Ensuring we have the money to be able to attract and retain those staff will be crucial.

Q141 Dr Mullan: Across all of the priorities, would you say staffing is the biggest thing that cuts across everything in terms of risk?

Antonia Romeo: I wish I had only one thing on my risk register. One of the things I am most concerned about is resourcing overall in terms of staffing and retaining our top staff. There are other risks: cyber-security, information security and legacy IT systems. Investment in that is crucial and getting more important. We have a number of property risks around maintenance of all parts of our estate. We have already referenced some of the risks around deliveries of the really big complex programmes that often operate in amber/red. There are a number of risks there as well. Those are perhaps my top five.

Q142 Dr Mullan: If you are thinking about the prison building programme,



addressing the backlog, court reform and probation reform, of those key priorities, which is the most challenging, or where will it be most difficult to deliver on your ambition?

Antonia Romeo: They are all challenging. On the prison build programme, and having sufficient capacity and staff to operate the prisons, this is essentially a multi-year programme which is very complicated and subject to a number of things that we control, but also to things we do not control, such as planning permission. It is inherently a very risky programme. That is just the nature of big risky programmes. We have good teams on things and we control it as much as we can, but that has to be a big one.

Kevin and I spend a lot of time discussing the courts reform programme, digitising those systems, rolling out the common platform and all of those things. That is also a big and difficult programme. It is due to end in December next calendar year, so there is a lot of work to do between now and then. If one was looking at other things to keep one awake at night, operational support stuff, such as cyber-security and information security, would probably be one of them.

Q143 **Dr Mullan:** I want to ask you a couple of questions more in your role as principal policy adviser. We are doing a lot around changes to sentencing—things like Tony’s law or Harper’s law. When the Secretary of State says to you, “I want your advice on increasing sentencing,” obviously you weigh up things like cost and other considerations. How do you factor in and weigh up what you might call the public good that is served by someone spending a longer time in prison from a justice point of view? How do you approach that and factor it into how you frame your advice to the Secretary of State?

Antonia Romeo: That is an interesting question. There are two different roles. As principal policy adviser, one isn’t always just following one’s accounting officer rule book. I could get out my copy of “Managing Public Money” and start talking about chapter 3.3, but when we are having a policy discussion we are really talking about the benefits. The Secretary of State will have a clear view about what the policy benefits will be. An expert team will look at sentencing policy and what that might deliver. We obviously look at the operational impacts, but normally they are not the decisive factors. They will be very relevant because we have to fund the operational consequences, but the conversation is more about the outcome you are trying to achieve and the best way to try to achieve that.

Q144 **Dr Mullan:** I understand that. The question I am asking is highly subjective. It is about the public good and how long, in terms of justice, someone should stay in prison for the offence they have committed. Putting aside the costs of that, which you quite rightly raise, how do you as a Department weigh that? What is the Department’s thinking about whether it is a good thing for someone to spend eight, 10 or 20 years in prison for a serious crime? It is highly subjective. How do you frame your



advice in a highly subjective area like that?

Antonia Romeo: The first thing to say is that individual sentencing decisions are a matter for the judiciary.

Q145 **Dr Mullan:** I understand that. I am talking about policy.

Antonia Romeo: Within the context of policy, we serve the Government. We are public servants who serve the elected Government, so we have views and thoughts, based on evidence, of what we think might work. Our job is to understand the outcome being sought and to advise on the best way to achieve that. We do that privately with the Secretary of State, and ultimately the Secretary of State makes a decision about the appropriate way forward. Then our job is to operationalise that. We have policy teams, legal teams and operational teams. The crucial thing is that our job is to give the best advice. One gives free and frank advice. That is how we operate within that space, but ultimately we are also serving the elected Government of the day.

Q146 **Dr Mullan:** I will try it once more. You are talking about giving advice about something that is highly subjective; there is no evidence about the public good served by someone being in prison for a shorter or longer length of time. There might be evidence about other things that flow from that, but as to whether a mother feels that the person who has murdered her child should spend a very long time in prison—a whole-life tariff or 20 years in prison—there is no evidence about that. That is what that person thinks and what the public think. In such a crucial area, when it comes to the advice that you give to the Minister, how do you guard against giving advice that might lean one way or the other when the issue is subjective?

Antonia Romeo: I do not think it is my job to bring my subjective views into account.

Q147 **Dr Mullan:** I understand that. You could perhaps say, “We don’t tend to give advice on that element of it. We couldn’t possibly comment on that; it is for politicians to decide.” That might be one way of approaching it, but advice on a subjective area is derived from the thoughts and feelings of the people giving that advice, unless you say you tend not to comment on that element of justice policy.

Antonia Romeo: We would look at what evidence was available. For example, normally one is attempting to stop something happening or deliver some other outcome. You ask what outcome you are seeking to deliver. We will look at the past, and at years of changes in sentencing policy. That is the sort of conversation. Sometimes Ministers might feel very strongly about doing one thing in particular. One can turn up and say, “Have you thought about this, that and the other?” Part of the job is to ensure that different aspects have been thought of, and that can be a conversation, but I do not see it as the job of civil servants to say, “These are my own personal views,” and for that to impact on policy. It is our job to try not to do that.



Q148 **Dr Mullan:** I understand that. Thank you.

Antonia Romeo: I am sorry if I missed the point.

Dr Mullan: If you did, it is not because you were deliberately doing so. Perhaps I am not articulating it sufficiently.

Chair: Thank you.

Q149 **Paul Maynard:** When I had the pleasure of being courts Minister, I visited courts and took my private office. We would have a competition over who could spot the most buckets, and the winner got a box of chocolates off me. We would look at threadbare seating and chipped paintwork, not because we were interested in interior design but because it had an impact on judicial morale. You have touched already on recruitment challenges in London and the south-east. In my in-tray, there would be a daily litany of collapsed roofs and broken air-conditioning that brought courtrooms to a halt and stopped cases progressing. Do you now have, thanks to all this Treasury largesse, a more structured long-term strategy to address what the Lord Chancellor himself said is an embarrassment in terms of the buildings in the estate?

Kevin Sadler: The Treasury has been quite generous over the last two years. We got an extra £105 million capital funding for building improvements, on top of our normal capital funding of £50 million in 2021. We have invested in 165 sites, or about half our estate, to improve its resilience. This financial year, we expect to spend about £105 million capital and £40 million resource on the estate. That is more than we have normally spent in recent years.

However, our estimate of our overall maintenance backlog is about £1 billion and Covid has created more challenges, because heating and ventilation systems have had to run harder than they normally would, and that means they need to be replaced more regularly, so we still have a big challenge ahead. We are in discussion with the Department at the moment about funding for next year and the year after, and we will want to do as much as we can within the available funding.

I think it would be unreasonable to expect the Treasury to cough up enormous amounts of money and, to be frank, we would not be able to spend it. Improving a courtroom means taking that courtroom out of action. At the moment, we need to use all of those courtrooms as much as possible, so there is a balance, and the allocation process will work that through. We still have a lot more to do, but we have made some improvements over the last couple of years.

Q150 **Paul Maynard:** Would you still say it is a reactive approach, rather than a strategic one to reduce the demand long term?

Kevin Sadler: The balance between reactive and proactive replacement has shifted over the last couple of years. We have got a little bit ahead in



HOUSE OF COMMONS

some places, but I am afraid we are still reliant on reactive maintenance in quite a lot of our estate at the moment.

Q151 Paul Maynard: When you are considering judicial appointments and pipelines, do you factor in investment in the courts infrastructure as part of that? You can spend loads of money trying to increase recruitment, but if the problem is that no one wants to sit in a freezing building, you can spend all the money you like trying to recruit more judges.

Kevin Sadler: Yes. One person's freezing building is another's over-heated building, and that is one of the constant challenges. Beyond that, we have a risk register which specifically identifies the quality of the estate as an issue in recruiting judges, and in recruiting staff as well. These days everybody expects a good environment in which to work.

Antonia Romeo: Could I add one point?

Paul Maynard: You may.

Antonia Romeo: One of the things that has helped us in becoming a bit more strategic is the multi-year spending review. What has been difficult for Kevin and the team is to plan ahead strategically when you are just taking the money from one year and essentially doing what you can with it within that year.

Q152 Paul Maynard: I listened very carefully earlier to the exchange on data. I have to say it was quite exhausting listening to you; it felt like a battering ram on my head. It was a scrupulous system of good intentions and a desire to talk to all and sundry. What I could not hear were any specifics about how you were going to improve the Ministry's data collection. I know that senior civil servants like you hate being pinned down to what might occur over the year in case you get held to account, but what do you expect to happen in the next year that will improve the Ministry's data collection to help improve policy development and delivery?

Antonia Romeo: You said something about a desire to talk to all and sundry. Perhaps you could expand on that.

Q153 Paul Maynard: It was about this Department, that Department and so and so, and perhaps the Home Office. You were talking about lots of conversations, ambitions and aspirations and a lot of activity, but I was not quite clear what the specifics were going to be. What was the output of all of this activity?

Chair: What is the whole-system approach going to deliver?

Antonia Romeo: First, there is no issue about being held to account. You said that senior civil servants do not like being held to account. I am here to be held to account, and I am delighted to be held to account. The reference I was making about talking to other Departments is that we operate as part of a system. I chair something called the criminal justice action group that is aimed specifically at ensuring that we work together.



HOUSE OF COMMONS

Working together is absolutely crucial. It is not an all and sundry group; it is a group of the key players, the key participants, in the CJS.

Q154 **Paul Maynard:** I am delighted to hear you are talking to them and meeting them, and I am sure that is very productive. If you were back here in 12 months' time, what would you actually have achieved for all the tea and biscuits?

Antonia Romeo: I am afraid to tell you there isn't any tea and biscuits.

Paul Maynard: Good.

Antonia Romeo: The first thing to say is that what has already been achieved is the roll-out of the national scorecards for the CJS. These are quite significant because they are capturing the data. They aim to deliver the speeding up in timeliness and the benefit in quality, so you will be able to hold to account anybody in the system based on the data in those scorecards.

As for what I have been trying to do, when I first came to this Committee after returning to the Department as permanent secretary, the key thing I was focused on was looking at how we would build our capability. One of those aspects is data. Therefore, I am in the process of recruiting a director general who will lead that work. We have a significant team of analysts, but I do not think that building that capability is unimportant or just activity. Making people accountable, putting them on the board of an organisation and saying, "You are focusing on performance," will be crucial. When we roll out the local scorecards, which we will be doing, that will be another example of specific data being gathered—specific data which is not currently in the public domain and will now be in the public domain. That is something for which you can and should hold me to account.

Q155 **Paul Maynard:** All of that is undoubtedly necessary and very good. No one loves a scorecard more than I do. I assure you that I adore scorecards, but you have delivered that already; that has already happened.

Antonia Romeo: The national scorecard was delivered. The local scorecards—

Paul Maynard: If you come back here in 12 months' time—

Chair: Let Ms Romeo finish her point.

Antonia Romeo: The local scorecards are due to be produced in the coming months. There will be local scorecards; the level of the area is to be determined exactly. You will be able to look at specifics on timeliness, quality and number of cases, from time of charge to referral to receipt into court and outcome. This will be data that you and everybody will be able to have a look at.

Q156 **Paul Maynard:** My apologies for interrupting you. If you come back in



HOUSE OF COMMONS

12 months' time, we can have a discussion over the fact that you have delivered local scorecards. Is that correct?

Antonia Romeo: That is correct.

Paul Maynard: Fine. Thank you.

Q157 **Ms Abbott:** I apologise for being late; I was in the Chamber for the statement on Ukraine.

You will have seen that the Public Accounts Committee concluded "that the Ministry faces significant risks across the full range of its services, without a clear sense of prioritisation." How would you comment on that?

Antonia Romeo: Ms Abbott, I think you are referring to the statement of about a year ago. Is that correct?

Ms Abbott: Yes.

Antonia Romeo: As you will have seen in our response to that, the Department did not recognise that we did not have a clear sense of priorities. What is clear, as we have discussed in the Public Accounts Committee, is that we have a number of very difficult programmes to deliver. I am afraid you missed the earlier part of the conversation about what the big priorities are, but we have big complex transformational projects; we have to recover our systems; we have to build our capability and resourcing, so there is a lot to do, and we are focused—

Q158 **Ms Abbott:** I hate to interrupt you—I am sure you are not used to it. To be fair, that all sounds very abstract to me. Do you have any concrete priorities?

Antonia Romeo: Apologies. You were not here when I set this out right at the beginning. With the Chair's agreement, I am happy to set out my priorities again.

Ms Abbott: Quickly.

Q159 **Chair:** Perhaps you could summarise for Ms Abbott what you have already told us.

Antonia Romeo: The Deputy Prime Minister has a number of crucial policy priorities that we are delivering. I can set those out if you so wish, but my top three priorities are recovering our services post pandemic, including a focus on victims in particular; delivery of our big transformation programmes; and building capacity and resource capability.

Q160 **Ms Abbott:** You did slip rather into the abstract.

Antonia Romeo: Sorry, I was asked to do it quickly.

Q161 **Ms Abbott:** Let me ask you something terribly concrete about a common IT platform. I was slightly surprised to find out that different arms of criminal justice do not share the same IT platform. Is there a reason for



HOUSE OF COMMONS

that, and what are you going to do about that?

Antonia Romeo: This is something we are rolling out as part of the reform programme.

Q162 **Ms Abbott:** But when and how? What is the timescale?

Antonia Romeo: In spring this year the common platform is being rolled out, but perhaps Kevin would like to comment.

Chair: Mr Sadler?

Kevin Sadler: The common platform is already live in 44% of our courts at the moment and we are hoping to restart the roll-out very shortly and complete it over the next few months. It is designed to improve engagement across the criminal justice system and enable defence practitioners to access CPS information as quickly as possible; it is designed to provide direct information to police and prisons and so on, to connect it all up so that we remove paper and remove scope for misunderstandings and error through the system. That is entirely what we are aiming to do.

We have paused roll-out for a little while. It was working more slowly than we wanted. We have taken action to address that and it has been performing well in recent months. We are poised to restart roll-out as a result.

Q163 **Ms Abbott:** You will have done 44% by the spring.

Kevin Sadler: That is right.

Q164 **Chair:** It is 44% currently.

Kevin Sadler: Currently.

Q165 **Ms Abbott:** When will you have done 100%?

Kevin Sadler: Later this year.

Q166 **Chair:** When is later this year? Is it the autumn?

Kevin Sadler: We are expecting to restart in three counties in weeks, and we will very closely evaluate that, because implementation has been challenging during the pandemic. We have very stretched and exhausted staff and we want to make sure that they have the maximum amount of support available as we move it forward. We are looking very closely at how we complete that roll-out, because while we have been working on implementation we have been writing additional functionality. It now does more things, and rolling that out as the next stage might overlap with completion of the roll-out just to get the better functionality in faster.

Q167 **Rob Butler:** Recently, I spent a day in Aylesbury Crown court with Judge Francis Sheridan who showed me all of the new technology, much of which was absolutely excellent. He completely embraced it. Things like being able to dictate straight to a machine are incredibly effective.



HOUSE OF COMMONS

I want to check that you are getting feedback, and using feedback, from the judiciary and court staff, because there are glitches. For example, you can only get four appointments an hour on the common platform. If you have a judge who is incredibly efficient and gets through the work, he or she may easily be able to do more than four cases in the hour, but your tech does not currently permit him or her to do so. I just want to make sure that as you get to 100% anything that might in any way decrease efficiency is ironed out of the system.

Kevin Sadler: We are very keen to get feedback. I am very keen on judges who can work faster. A judicial working group works with the common platform programme team and signs off everything we develop. We get live feedback as we are implementing, and we feed back to the individuals involved where we have issues and so on. We are very keen to make sure that this is designed to make judges as effective as possible. We listen to that feedback.

Rob Butler: Thank you.

Q168 **Maria Eagle:** For the common platform, there has been a write-off of just under £18.5 million in the annual report as a result of changing CPS requirements that, it is said, render part of the project unusable. How does it fit into the roll-out and trying to increase efficiency if you are changing what you want it to do as you go, or bits of the system are changing what they want to use it for? Is there not also an issue with staff saying that it is not fit for purpose? There are some threats of strike action from staff over the fact that the common platform does not work, aren't there? Or that is what they say.

Antonia Romeo: Shall I say something first about the write-off? Then Kevin may want to add something. This is one of the consequences of programmes that go on for a long time, unfortunately. A lot of work had been done to develop something that would have the CPS fully integrated with the common platform. They did a review and looked at their requirements, and essentially that led to the write-off of, I think, £18 million for work that had been done to get them integrated, but they then did not need it because they had another system.

We are now working fully to integrate them—essentially to run an interface between the two. We think that will work just as well, but unfortunately the pre-work had been done. I would say that in a way it was slightly the inevitable consequence of long programmes that operate over multiple years. What one plans at the beginning, including the CPS planning that they would be fully integrated, ends up not being the best value for money a few years later.

Kevin Sadler: It is one of the consequences—largely a positive consequence—of the agile approach to development. In the past, I have experienced writing long lists of requirements for external suppliers to produce an IT system. By the time it is delivered three or four years later the requirements have changed, but our suppliers say, "We delivered



what you asked for,” and you end up having to do a lot of work-arounds in the system.

With the common platform, we develop a minimum viable product and test it and apply it. In this case, the CPS world moved on between the initial pilot that we did in Liverpool on pre-charge work and the world we were in at the time the constructive loss came along, but it was better for everybody, and better for the criminal justice system, for us to take that constructive loss and design the most effective system to meet the business needs as they are now rather than those of three or four years ago. That is one of the challenges there.

On the unions—

Q169 **Maria Eagle:** Particularly the PCS.

Kevin Sadler: Yes. Three unions represent people affected by the common platform. One of those, the PCS, is in dispute with us at the moment about the common platform. The support they have had from their membership has been for continuing the campaign rather than for industrial action. There has been no firm vote about specific industrial action, and we are continuing dialogue with them. We have a shared aim, which is to make sure there is the maximum amount of support to people as we roll out the common platform because, as I said earlier, it is change at a difficult and strained time for the court system. We are working with them to make sure that we support people as effectively as possible. We are listening and are in constant dialogue. It has been a positive dialogue. I have met them several times. I have written to them and we continue to work with them on that.

Q170 **Maria Eagle:** They say it is not fit for purpose.

Kevin Sadler: Yes. They are concerned about the efficiencies that come out of the system. I disagree with their position on fit for purpose. It is working effectively in 44% of our courts already.

Q171 **Dr Mullan:** I want to ask some further questions about the losses and write-offs. The most significant loss of almost £100 million was in relation to discontinuing a new case management system, which I understand was thought to be necessary for electronic monitoring purposes. Can you take me through why the decision making changed?

Antonia Romeo: I will bring in Jo as the accounting officer in a moment because it is an HMPPS system. This was a programme with multiple parts; it was a complex system integration programme. A decision had been taken in 2019, subsequently endorsed by the GIAA, the internal audit, that it was right to continue at that point. When the programme was reviewed in 2021, there was some detailed analysis of benefits and costs, and it was no longer considered value for money to progress with this particular part of the legacy programme. Instead, it was better value for money to keep operating the current system rather than switching to the new Gemini system. A value-for-money decision was taken.



HOUSE OF COMMONS

Q172 **Dr Mullan:** The loss was in that set of accounts. Were there other years of expenditure prior to that when it was considered that there were losses as a result of that?

Antonia Romeo: This was the cumulative loss. It was essentially considered a fruitless payment in the year of those accounts.

Jo Farrar: As accounting officer for HMPPS, this is something I took very seriously. As the permanent secretary said, the Gemini system was a complex system which had multiple stakeholders. It was very difficult to integrate the systems in a way that was not identified at the start of the programme.

We got to a stage in August 2020 when we talked to the provider about replanning. They replanned and we expected delivery of Gemini in February 2021. By the turn of the year, we had worked out that it was not happening. We had a red review from the IPA. At that point, we felt it would be better not to continue accumulating losses for a system that would not deliver, so we took it through the Government's process, and in May the then Lord Chancellor agreed to suspend the contract. We brought the contract to an end in October.

We learned a number of lessons from Gemini. One thing we have learned, and have implemented, is we need to make sure that we have real technical experts assessing our technical programmes. We are bringing in proper expertise to make sure that we challenge suppliers and ourselves to get the right outcome. We have strengthened the control environment. The permanent secretary has introduced a delivery board for our major programmes, which I chair, along with the lead non-executive director—our audit chair is on it as well—so that we can test and challenge these programmes, particularly some of those that are not delivering to time and budget. A number of lessons have been learned, but I am convinced it was the right decision to stop a loss to the taxpayer.

Q173 **Dr Mullan:** An external contractor was developing Gemini for you. You saw that it was on red, and that they were not delivering. Was that because of the Government's and the Department's co-operation in work with them, or did they just fail to produce a product you were satisfied with?

Jo Farrar: Having looked at this in some detail, the crux of the problem for me was the number of suppliers who needed to be involved, and the complexity of integrating those suppliers' systems, some of them being more ready than others. The contractor worked hard with us to try to overcome the problems. In particular, as the systems became older they became harder and harder to implement.

It was only one part of the EM programme. Other parts were a success. For example, increasing GPS tagging was a successful part of the programme—building a scalable operation so that we can roll out tags



HOUSE OF COMMONS

quickly and successfully. Those were all really good parts of the programme.

Q174 **Dr Mullan:** What is the functionality that we will no longer have and that you were aiming to secure, and how are you adjusting to that?

Jo Farrar: That is a really good question. We will not have a bespoke case management system, but we now have a way of managing our systems together. Bringing our systems together will help us to overcome that, so the need for it now is less than it was a few years ago.

Q175 **Dr Mullan:** I want to ask about the IR35 losses, which are over £70 million. What lessons have you learned from that, compared to other Departments? Other Departments have had losses, but you are one of the bigger ones. How did that happen, and how might you change how you approach these things?

Antonia Romeo: I will say something and then James will want to come in. As you know, essentially HMRC reviewed our own assessment of IR35 and determined that they did not agree with our interpretation. I note that the NAO came out with a report this month which said it was to be expected that a number of public bodies, given the time available to make the decisions, would, in their terms, make mistakes in how they did it. We accept what HMRC told us. As you say, we were not the only Government Department in this position. Is there anything to add on that, James?

James McEwen: We were not the only Government Department. We have been reviewing internally. The Government Internal Audit Agency has been reviewing our approach to IR35. We now have a series of recommendations and are implementing those; we have a working group looking at making sure that going forward we make correct determinations.

The NAO report suggests that we are still learning about implementation of this new approach; indeed, HMRC will be learning as they roll it out to the private sector. We are open to making sure that we do all we can to interpret properly the law with HMRC and how they plan to apply it in the Department. We are lucky to have a tax centre of excellence hosted in the MOJ to provide support to a number of Government Departments. They are working closely with us to make sure that we and, importantly, HMRC fully understand the intent behind what HMRC is doing with the implementation of IR35. We are at the frontier of that and not, as we were, slightly lagging behind and trying to catch up with guidance and tools that possibly did not quite fit the real world we lived in at the time. We have learned a lot of lessons from that.

Q176 **Dr Mullan:** Could you not say to HMRC when making these decisions and producing these tools, "Does this seem OK? Will this achieve our outcomes?" What is the nature of the dialogue that you were having with them?



James McEwen: HMRC also holds us to account for compliance. At one level, the emphasis is on us to interpret it correctly. Everyone was acting in good faith. Obviously, HMRC put out tools and questionnaires that we could use to try to assess whether someone was in or out of scope of IR35. We interpreted that and applied those tools in good faith. On a few key questions HMRC said to us after the fact, "We wouldn't have interpreted it that way. We think you have misapplied the tools we have given you and as a result you have not been compliant," hence the adjustment in the accounts and the loss.

We have all learned through that process to make sure that we are engaging—to your point—and saying, "Hold on. Is this the right way to apply the tool?" We are trying to make sure that we are not being too hair-shirt in not asking the question. Our colleagues in HMRC are open to being able to say, "We know there is a compliance issue down the line, but let's make sure you interpret the guidance correctly." We have learned a lot through that.

Q177 **Dr Mullan:** As I said, it was not just you, but you can see that it does not look good for Government Departments not to comply with that.

James McEwen: I completely agree. The loss is a big number and it built up over a number of years. If you look at actual distribution, the guidance HMRC issued was improved around November '19. The vast majority of the cases where HMRC thought we did not reach the right determination were before that guidance improvement point. After that, it falls off a cliff and we applied it much more in line with expectations.

Q178 **Chair:** In a sense, they are treating you as an employer rather than as a Government Department.

James McEwen: Exactly right, yes.

Q179 **Rob Butler:** I want to move on to prisons and probation for a moment. We have talked a little about the prison building programme. Forgive me if I am wrong, but I am not sure whether I heard you say unequivocally that you are on track to meet the commitment to 20,000 extra places by 2026. Are you confident that you will achieve that number?

Jo Farrar: At present, we are profiling that we will deliver by the mid-2020s, as we have said. There are some big risks in the programme, not least planning permission, which we talked about earlier. Until we know where we are on things like that, we cannot say.

Q180 **Rob Butler:** Theoretically, you are on track for those 20,000 places.

Jo Farrar: Theoretically. At the moment, we have delivered 2,700, which is really good progress.

Q181 **Rob Butler:** How many of those additional places will be in single-occupancy cells and how many in double occupancy?



Jo Farrar: That is a really good question. We have been trying to reduce the number of double-occupancy cells. As a caveat, I should say that some prisoners prefer double cells, so we will not be losing double occupancy altogether. We are building our new prisons so that we have at least 10% double occupancy. It really helps some people's mental health and wellbeing. At the moment, we have about 64% single occupancy. With the 20,000 new places we should be up to 72% single occupancy, so that is a much better distribution.

Q182 **Rob Butler:** In the amount of money that is going on the physical construction of buildings, which I think you have been pretty clear about, how much will go on enhanced regimes? You mentioned that a lot of that work was lost, perfectly understandably, during the pandemic, but what investment is going into the prison regime to help achieve the Deputy Prime Minister's very clearly stated aim of tackling reoffending numbers and ensuring that when people leave prison they go on to live law-abiding lives?

Jo Farrar: A chunk of the £550 million was for reducing reoffending, as mentioned earlier, and that will help with employment and education both in prison and outside. The estimated cost of running the 20,000 new places is £580 million. The new places are designed much more with education, employment, wellbeing and health in mind. The types of spaces are completely different. We are reprofiling some of the money we spend at the moment. For example, in the female estate we are making sure that the money we would normally spend on prison officers' training is now being spent specifically on training prison officers on working with women. We have the same thing for children. It is hard to put an exact figure on it because we are looking at the whole of our budget and making sure that we focus all of our efforts on keeping people safe, protecting the public and reducing reoffending.

Q183 **Rob Butler:** How confident can you be that across the estate—the existing estate and what is coming down the line—you will have sufficient programmes for prisoners who are required to complete certain programmes, either because they are on IPP sentences or because there are other parole requirements? That is an area of real focus for this Committee at the moment. What we have heard at first hand from serving prisoners is that they are not able to complete the programmes in the prisons where they are currently housed.

Jo Farrar: That is really important. Through the pandemic we have not had as much movement as we would normally have, but prior to the pandemic we reprofiled the prison estate, so that we will have reception prisons and training prisons. There will be a real effort to make sure that people get to the right prison as soon as possible so that they can do the training they require.

Most of our new prisons are resettlement prisons. That is where people will get a really good and new opportunity to leave prison with a job, so there is a much bigger focus on workforce and the new employment



HOUSE OF COMMONS

boards that bring together local employers and people who will be released to that area. We have seen some great examples recently. I was talking to one of what we call the accelerator prisons, one of the prisons where we are trialling this new way of working. In Norwich, some great work is going on with Lotus to look at how we can really help people in prison into work in Lotus and secure the same jobs on release. They have a good contract with Bernard Matthews, which is promising. They have just seen their first serving prisoner promoted to a managerial position. They will leave prison with a managerial job. That is a good job for the future.

The focus is to make sure that we look at the accelerator prisons, give the right provision in our training prisons—the prisons from where we release—and ensure that our officers are trained specifically to work with the cohorts they need to work with.

Q184 Rob Butler: You mentioned having the right people in the right prisons. You also mentioned public protection. Recently, there was a very high-profile situation involving somebody who absconded from an open prison. How are you ensuring that for a dangerous prisoner of that type that does not happen again?

Jo Farrar: Every prisoner who goes into an open prison is assessed to make sure that they are suitable for those conditions. Open prisons are important. As I was saying, I was talking to the governor of Norwich where we are helping to provide some more open spaces, because ROTL is a really important part of helping people to resettle in the community. Obviously if you have an open prison, there is a risk that people will abscond. There are very low levels of abscond. We have an abscond taskforce looking specifically at that case and others to make sure that we are doing all we can so that people are incentivised to use ROTL appropriately and make the most of their time so that they can be released.

Q185 Rob Butler: ROTL is release on temporary licence, but of course somebody can be released on temporary licence in a closed prison to go and do a day's work. What we are talking about here is an open prison. There has to be a very thorough consideration before somebody is placed in an open prison for their full-time accommodation. There may well be a low level of absconds, but if somebody who absconds commits a very serious crime, particularly against the person, it is still one too many as far as the public, and particularly the victim, are concerned. How can you reassure us that that will not happen again?

Jo Farrar: That is a really important point. Our assessment is very thorough.

Q186 Rob Butler: What went wrong there? It may be very thorough, but clearly something went wrong there.

Jo Farrar: There is a risk if someone is in open conditions. This was a tragic case. As I say, it is very rare. We have set up the taskforce to



make sure we learn the specific lessons from that case and others to stop it happening again. There are a number of things we will put in place in our assessments of suitability and how they are agreed, and in the support we put around people in open conditions to encourage them to use that huge privilege responsibly.

Antonia Romeo: It is low and also declining, but it will not surprise you to know that the Deputy Prime Minister also agrees, as do we all, that one abscond is one too many and has asked for some very particular work looking at exactly the decision-making process, who makes it and at what point he and Ministers are involved.

Q187 **Rob Butler:** From a slightly different aspect, remand in custody is a concern for many people. It takes up a huge number of prison places. How much effort and resource are you putting into the effective use of alternatives to formal custody at the remand stage—for example, tagging, house arrest and ideas like that? What work are you doing at the operational level, or is that all policy?

Antonia Romeo: You are right. The number on remand went up significantly during the pandemic. Issues like custody time limits are one of the ways we are focusing on bringing that number down via the normal decision-making process, as you would expect. You will know that tagging has been a big focus. I have already mentioned alcohol abstinence tags, but there are also acquisitive crime tags in which we have recently made significant investment. The expectation is that over the next few years the number of those tags will be doubled.

Not all of those are alternatives to remand because some of them will be for people who come out of custody. None the less, the technology behind tags and the piloting that we are doing means that we hope to be able significantly to increase the use of tagging wherever Ministers decide it is appropriate. Tagging is not necessarily an alternative to custody; it could be an addition at the end, but the key thing is that new technology and things like alcohol abstinence tags will make a significant difference to the extent to which we can bear down on reducing reoffending.

Jo Farrar: The work we are doing on reducing reoffending to stop people coming back into the prison system by focusing on their accommodation—in some of the newer accommodation schemes we have, working closely with the Department for Levelling Up, Housing and Communities—is really important to us. The aim of focusing on accommodation, employment and treatment is to stop people coming back into custody, and that in itself will have a big impact on the remand population.

Q188 **Rob Butler:** If we talk about alternatives to custody post sentence, one of the big questions that has been around for a few years is whether sentencers really had confidence in the probation service. It could be argued that that was one of the factors that led to the move to a new probation model. How do you think that move is going?



HOUSE OF COMMONS

Antonia Romeo: Again, Jo may want to comment from the HMPPS perspective. You are exactly right; the decisions about whether somebody is on tag or in custody are for sentencers. The question is how we can increase their confidence and credibility in tools like tags.

On probation reforms, one of the outcomes of the probation unification programme is a significant increase in the number of probation officers. We recruited 1,000 last year, which was a significant uplift on the previous year, and we are going to do even more next year. That will also help to reduce case loads. One of the things we have done in the unification is to be able to give officers combined cases, so it is a mix. You are not doing just high risk or low risk; you are doing a mix, which we think will be better and overall should improve the credibility of the probation service in the eyes of sentencers, who will then be more inclined to use probation. It is already quite high.

Q189 **Rob Butler:** I realise it is quite early in the process to ask about that. Maybe we can follow it up in a year's time when you come back and see how it has been delivered.

Jo Farrar: On judges' confidence, one of the criticisms we have had was about pre-sentence reports. Making sure that we have enough people to do proper pre-sentence reports that can help judges to make appropriate decisions is important to us. For example, having bespoke pre-sentence reports for women is a new innovation that we have been able to introduce.

Q190 **Rob Butler:** Under the contracts that you had with the CRCs, the community rehabilitation companies, there were explicit performance targets and those were consistently missed. Are there equally explicit performance targets that we can all look at for the new unified probation service and, if there are not, how do we know whether it is performing effectively?

Jo Farrar: There are specific targets built into our new target operating model. As the permanent secretary said earlier, the Deputy Prime Minister is committed to making sure we have open and transparent targets. I am happy to share those with the Committee if that would help.

Q191 **Chair:** It would be very helpful. If you could supply us with that, we would be grateful.

Antonia Romeo: To add to that, they are aimed at three things. One is ensuring quality, focusing on the quality of the provision; one is looking at the actual outcome in reducing reoffending; and one is what we call getting the basics or fundamentals right, ensuring that the things you would expect to happen are happening. That was out of lessons learned from what had happened in the CRCs. That has been factored into the new measurement approach for the performance indicators for the new service.



Q192 **Rob Butler:** My final question in this area is on exactly that: lessons learned from CRCs. There were not just bad lessons to be learned. Some CRCs were very good and did great stuff. One of the big problems was the intense variability between the good and the bad. Unfortunately, all of them ended up lumped together and had to be abolished.

How are you making sure you keep what was really good, feeding in innovation, some of the technological ideas and some of the really good people? How are you making sure that you retain them and they do not feel as though they are—forgive the language—part of a new, big and amorphous HMPPS blob, which was one of the concerns expressed to me?

Antonia Romeo: First, it is about spreading that best practice, but it is also about understanding what worked. In the dynamic framework we have rolled out, we are working very closely with voluntary service organisations, where we have over 100 contracts, to continue the delivery, because that was one of the original aims of the previous rehabilitation and probation programme that we now want to capture. We want to make sure that we are still working at local level with those organisations, and taking that into account in the new contracts that we will have with those organisations.

Jo Farrar: When we brought the services together we were really conscious of the need to show that it was not a takeover but a merger. We had good practice in both parts of the probation service. Some of the senior leadership team now in probation are from CRCs. They have been a great addition to our team. In the dynamic framework, we are introducing some of the things we have learned about technology and how nimble you can be in providing services and some of the programmes that were delivered by the CRCs. We are adopting those in our new ways of working.

Rob Butler: Thank you very much.

Q193 **Maria Eagle:** I have a couple of quick questions about staff safety in the prison system. Recently, three prisoners convicted of terrorism offences were found guilty of assaulting a prison officer. That happened in May 2020. As an aside, it has taken almost two years for that case to be dealt with by the courts. What steps have you taken to ensure the safety of prison officers dealing with offenders such as those since that happened?

Jo Farrar: The first thing I should say is that we do not tolerate any attacks on our hard-working and dedicated staff. Our prison officers have one of the most difficult jobs. We always push for the strongest punishment, and are pleased to see convictions in cases such as this. We work hard with the police to make sure that there is zero tolerance for attacks on people in our custody.

The assault you mentioned was motivated by people losing privileges. This can happen in any of our prisons and not just with our most serious offenders. We have been doing a huge amount of work on safety and security for staff to make sure that they are protected. Some of the



things we try to do, such as offender management in custody, are designed to help people feel less frustrated and able to talk about their issues, so that they do not get to the point where they do something completely inappropriate. I am pleased that the latest assault data that we publish show that assaults on prison staff have been reducing. We have put a number of measures in place. That was particularly encouraging.

Q194 **Maria Eagle:** It was when everybody was locked up because of Covid.

Jo Farrar: No. It was particularly encouraging because it followed a period of unlock, and we did not see the rises we might have expected. We have yet to publish later statistics. I am sure that as prisons open up we will see more incidents, but we aim to keep them below pre-pandemic levels. That is really important. Things like introducing PAVA in our prison system, and new security technology such as body-worn cameras, are all important, as are the types of training we give our staff and the new apprenticeship scheme for prison officers, which I am very enthusiastic about. Experience in prison, some training and then more experience in prison will elongate the training period and help people to deal with those quite difficult situations.

Q195 **Maria Eagle:** As is normally the practice, the annual report disclosed a number of compensation payments made to operational members of prison staff injured in the course of their duties. Six of them were over £300,000 and the highest settlement was £1.6 million, which suggests to me significant injuries and/or impaired capacity to continue in the job effectively. Given that, are you satisfied that there are sufficient procedures in place to support those working in the prison estate and in your system?

Jo Farrar: We work really hard to protect our great staff who are doing very difficult jobs in our prisons by giving them the right equipment, so that they are not injured in the course of their duty, and all the other things we have talked about in the new prison build to give them a safe working environment. The last thing we want to see is people having to leave their job because they were injured at work. The nature of the environment means there will be some injuries at work, but the things we do to try to minimise that are leading to a decrease in assaults on staff. The latest statistics show a decrease in the number of assaults on staff by prisoners. That is very encouraging and we need to make sure that it continues.

Maria Eagle: Thank you.

Q196 **Chair:** We have talked a little bit about courts and the common platform. Mr Sadler, I want to go back to backlogs. The Minister told us that in light of the allocation in the spending review there was enough money to reduce the Crown court backlog from 60,000 to an estimated 53,000 by March 2025. Is that the limit of the ambition?



HOUSE OF COMMONS

Kevin Sadler: My job is to make the best possible use of the resource allocation given to us. Court staff who see people going through the courts every day will be keen to get the outstanding numbers down to as low as possible, but it depends on the funding we get from the Department and the ambition set by the Department.

Q197 **Chair:** Depending on the priorities set by Ministers, is there adequate funding to get that backlog lower?

Kevin Sadler: I do not have a funding allocation for next year yet.

Q198 **Chair:** It will be a ministerial decision.

Antonia Romeo: It is through the allocation process I described earlier. We have been funded by the Treasury, as the Deputy Prime Minister said, to reduce the backlog to 53,000 by March 2025. We will be doing an allocation that is settled through the concordat between the Deputy Prime Minister and the Lord Chief Justice. That will determine the funding. That is the funding we have accepted from the Treasury.

In response to your question about the limit of the ambition, there are a number of reasons why the money was set where it is, partly judicial capacity and sitting days. If it turns out we could do more to get the backlog down more quickly, and we could find the money to do so, obviously we would want to do that because that is the way we will increase timeliness and quality in the system.

Q199 **Chair:** Basically, if we want to get the backlog below 53,000, we need more judges and more courtrooms and somebody will have to pay for it.

Antonia Romeo: Kevin will say something about that. It is partly true, but physical capacity is not the constraint at the moment.

Q200 **Chair:** It is judicial capacity.

Antonia Romeo: We are working very closely with the judiciary on this, but it is also funding.

Kevin Sadler: I confidently expect next year to be running the Crown courts at maximum judicial capacity. We are already listing into next year and that is what people are doing at the moment, but without more judges there is a constraint. The constraint operating at the moment is not rooms; we have enough rooms for all the judges we have.

Antonia Romeo: We have a significant recruitment of judges planned for this year. Another new circuit judge recruitment plan will be launched in October, I think, to get a large number.

Q201 **Chair:** When is the next new district judge round? We know there is a shortage of DJs in civil.

Antonia Romeo: I am not sure.



HOUSE OF COMMONS

Kevin Sadler: I am afraid I do not have that. There is an annual competition.

Q202 **Chair:** If you could come back to us on that, it would be helpful.

Kevin Sadler: Yes.

Q203 **Chair:** Mr Sadler, you made the point that you were confident that you would be sitting to maximum judicial capacity in the Crown court. What about county and family?

Kevin Sadler: We have not finished the concordat conversations, but in county and family courts I expect us to be up there as well.

Q204 **Chair:** Up to capacity?

Kevin Sadler: Up to judicial capacity around that time.

Antonia Romeo: This is all part of the allocation process in the concordat. As Kevin said, it is difficult to say anything at the moment.

Q205 **Chair:** Do you have a view as officials, as practitioners, rather than as a policy decision, about how much money you put into the system? Is there an irreducible level of backlog? Will it always be there? Do the data suggest what that might be?

Kevin Sadler: If I knew the answer to that I would be a very happy person. We went down to a level of backlog of about 33,000 in 2018-19. I heard what you said about the position before the pandemic, Chair, but our performance in 2018-19 was particularly good and it was one I was really proud of. Our timeliness was excellent.

Whether that is the right level is very difficult to say. It depends on the composition of the case load. If there are more serious cases, you need more days to do the same amount. It depends on the receipts coming in and a variety of factors. There will never be a single number. The more capacity you are running in the courts, the more cases you need to have outstanding to make sure that no judge is waiting around for work to arrive. We will continue to work at that.

I can say very confidently that the number we have at the moment, which is about 58,000, is not the irreducible minimum. I would say that the kind of capacity we are expecting to run next year and beyond is over 33,000. There were times when we had 33,000 when some parts of the country were a bit short of work.

Antonia Romeo: As Kevin has rightly described, it is partly because of the way the system works. Some trials crack, which means that you need other things. It is about the listing process, just to explain the reason why zero is not the optimum number for efficiency. I reiterate that we are very aware that any wait for any victim is to be avoided. We have to manage the efficiency of the system while understanding that we have to



HOUSE OF COMMONS

improve timeliness for individual victims who are having to wait, and we are totally committed to doing that.

if you will allow me to say this, what court staff have done, working with the judiciary and partners in the professions, to get the system back on track has been extraordinary. I want to thank them while we are in this forum.

Q206 **Chair:** That point is well made. When we have made visits, we have been struck by their hard work and the effort made by court staff. We have had a chance to see that at first hand.

You do not think that physical court capacity is a problem, but to what extent is maintenance of the courts getting in the way? We have talked in the past about a significant backlog of maintenance in some areas. We have talked about it in prisons in the past; it is undoubtedly an issue with courts. Do you have data that gives you any evidence as to the number of usable days in court that are lost because of maintenance problems? We have heard about holes in the roof or breakdowns in heating in courts, where judges cannot expect the parties to sit and so forth. What is the position on that?

Antonia Romeo: Shall I say something? Kevin is obviously the expert on this. During the pandemic, we could not use some courtrooms; they were not suitable because, for example, they were too small. We therefore have an increased number of Nightingale courts set up for that period. We now have 32 Nightingale courts for this financial year. As Kevin said earlier, the problem about maintenance is that, if you had more courtrooms and money to do more maintenance, you could take more out to do that maintenance, so to some extent it is a limiting factor. None the less, in principle, at the moment we are managing that within the money we have for maintenance and we are optimising the system, which has led us to the number of Nightingale courts that we have at the moment.

Kevin Sadler: We collect data regularly on the number of days we lose in the system. A lot of our maintenance has been geared to where we have particular pressure on court accommodation, Crown courts and so on. Sometimes we fix something and something further down the central heating line breaks because everything is working more efficiently. There continue to be challenges.

A particular focus over next year and the year after is to make sure that we can maintain Crown court capacity. We have had heating systems go in places like inner London and so on that have lost us days and we have had to rearrange. To add to Antonia's point, the resourcefulness of court staff means that we spend a lot of time effectively managing those problems and trying to keep everything going as best as possible, even if it does involve coats at times. We continue to focus on that as we move forward.



HOUSE OF COMMONS

Antonia Romeo: One of the things we referred to earlier was positive lessons learned. The rolling out of the cloud video platform and the ability to do more work remotely has helped significantly. The more we can reduce our dependence on physical capacity, where appropriate, especially in the courtrooms that we need to maintain, the better, so using remote opportunities, where appropriate, is crucial as well.

Q207 **Chair:** Where does the physical condition of the court estate figure on the Department's risk register?

Antonia Romeo: Property was one of my five things. That is across the prison estate as well as the court estate.

Q208 **Chair:** The whole lot.

Antonia Romeo: It is about ensuring that we have enough money to do the maintenance that is required, but diverting where possible to other forms; for example, dispute resolution.

Q209 **Chair:** There is no doubt that it is a risk and one of the challenges.

Antonia Romeo: Yes.

Q210 **Chair:** We have quite a number of examples. There was a boom in Crown court building 20 or 30 years ago and some of those buildings are now getting to a stage where they are getting a bit tired.

Kevin Sadler: Indeed. Cardiff magistrates court is quite a modern building, yet its heating and ventilation systems have to be replaced after about 30 years.

Q211 **Chair:** There is a rolling programme for that, is there?

Kevin Sadler: Yes. We would like to make as much progress as possible with that rolling programme.

Q212 **Chair:** You mentioned the Nightingale courts, Ms Romeo. You have 32.

Antonia Romeo: We have 32 in Crown.

Q213 **Chair:** There are 32 in Crown, plus some doing civil and other things. The original planned lifespan and funding goes to the end of the month—the end of March '22. Is that realistic, or will we need them beyond that?

Antonia Romeo: Obviously, we will be funding some beyond that, but that is being determined with allocations and we are discussing it with Ministers at the moment.

Q214 **Chair:** And certainly as leases fall in.

Antonia Romeo: In some cases. A lot of the Nightingales were businesses that could not operate during the pandemic, so were very happy to allow us to use them as court bases. Not all of that will continue; it is a balance. If, for example, a particular one does not want to be a Nightingale court any more and we think we need it in that area,



HOUSE OF COMMONS

we will find somewhere else. That is the work Kevin and his team are doing at the moment.

Q215 **Chair:** Has the old Borough Crown court building been disposed of yet?

Kevin Sadler: I believe so.

Q216 **Chair:** The irony is that we closed Borough and promptly had to open up a Nightingale just down the road.

Kevin Sadler: We went through every single building that we still had on our books when doing the Nightingale programme and brought some back into use: Chichester, Telford and Cirencester, which was not on our books but was on the police commissioner's books. We went right through the ledger of unsold buildings and anything we could use with reasonable investment we brought back in.

Q217 **Chair:** Has it caused you to revisit the register of buildings that have been taken out of use and consider whether or not some of those should be brought back into use?

Kevin Sadler: Most of the buildings we closed were almost impossible to use when we closed them, to be frank. I think we have reached the limit of that. Subject to allocation decisions, we expect to continue with places like Chichester and Telford for a little while longer yet.

Q218 **Chair:** One matter that concerns us is whether that has affected people's access to courts of justice, particularly at magistrates level or the county court. Parties now have to travel quite a distance compared with the way it was. Have you revisited that in the light of the experience of parties, victims and practitioners?

Kevin Sadler: A lot of the places we closed were very close to another court, so we consolidated activity. I am comfortable that we are maintaining access to justice, and that the current court geography is really needed at the moment, given the capacity challenges we have. One of the things the pandemic has done is open the eyes of many users to the advantages of remote hearings. A number of barristers are quite pleased that they do not have to get up so early in the morning to travel to a court to do a very short hearing, for example, as a result of remote working. The opportunities for remote working do not replace courts, but they are providing greater flexibility and a better service for people.

Q219 **Dr Mullan:** While highlighting the benefits of remote hearings, a visit we made last week suggested that in some instances they can make things less efficient and not more efficient. Will the MOJ need to reissue guidance and make it clear that the expectation is for people to get back to normal? What is your take on that balance?

Kevin Sadler: The decision on whether an individual hearing is conducted remotely or physically is a judicial decision done in the interests of justice. Within the overall framework, the Lord Chief Justice has recently issued guidance in relation to the Crown court, to help



HOUSE OF COMMONS

people make those individual decisions, which they make as effectively as possible.

We have had thousands of years of perfecting the art of coming together physically and engaging efficiently. We are still in the foothills of learning on virtual hearings and virtual working. There has been some useful research commissioned by us and others, done by Nuffield, to identify where it works well and where it does not. There is a growing understanding of how to make it as effective as possible. For difficult fact-finding hearings, trials and so on, we need people to come together to be as efficient as possible. For short hearings, directions and so on, we find them very effective. I was in Leicester talking to staff running the war pensions tribunal. They were finding virtual hearings really effective in providing the service they deliver.

Dr Mullan: Thank you.

Q220 **Angela Crawley:** Turning specifically to legal aid and the obvious constraints that you all faced under quite exceptional circumstances in the recent pandemic, we have seen a reduction in spending on legal aid of approximately £230 million in 2020-21. Has the demand for legal aid now picked up following that underspend? James, perhaps you would answer that first.

James McEwen: We are seeing legal aid come back to where it was pre-pandemic. The new volumes coming through that we have talked about will push more work into the system. I think that will be broadly welcomed by practitioners. We are consulting on the review of criminal legal aid, and the Government's response to that will look at some of the issues raised there. I think that will paint a picture over the course of the rest of the Parliament of increasing spend on legal aid.

Q221 **Angela Crawley:** You will know that there is already a lack of providers of legal aid. Recent stats suggest that there is an 8.5% decrease in criminal work and a 13.6% decrease in civil. How will you address that provision, because it will obviously impact on the backlog? I know that 194 criminal trials were abandoned in the last period. How do we address that issue?

Antonia Romeo: You are talking about a reduction in the quantum of legal aid spend.

Q222 **Angela Crawley:** Providers and the spend available.

Antonia Romeo: As James has just said, the forecast is that next year we will be back to normal levels. Having gone down significantly during the pandemic, it will come back. The Government have said they will respond this month to the criminal legal aid review by Sir Christopher Bellamy. That will determine both the quantum and the percentage increase, the potential fee changes. The important thing is that we are expecting sitting days to go up significantly. Sitting days represent work



HOUSE OF COMMONS

in this sense, so from a lower base last year and this year we expect sitting days to go up in the pattern I described earlier.

Q223 Chair: The other side of the coin is that we have pretty strong evidence, and nobody has ever contradicted it, about the reduction in the number of legal aid practitioners and solicitors firms as providers of legal aid. Does that concern you, given that one of your strategic objectives is access to the justice system? Does that reduction in the number of solicitors as the first point of call, who then instruct barristers, cause you concern that the level of funding is getting in the way of meeting your own strategic objectives?

Antonia Romeo: The crucial thing is that we have to have enough members of the professions to deliver the services that are required by people who want to use them. That will be part of the response to the Bellamy inquiry.

Q224 Chair: Can you help us as to when we are likely to have that response?

Antonia Romeo: I think it is mid-March.

Q225 Chair: Sir Christopher recommended minimum funding of £135 million per annum.

Antonia Romeo: Correct. That is what he recommended.

Q226 Chair: It depends on the decisions that are taken. I accept that they will be ministerial decisions and not yours, but as a matter of fact there is headroom in your allocation in the current spending round that would enable you to spend £135 million on legal aid, if that was the priority chosen by Ministers.

Antonia Romeo: That is correct. The prioritisation will determine but, as you rightly note, Ministers will make that decision.

Chair: They will make the decision, and if needed the money is there.

Q227 Angela Crawley: Turning to the drive to increase the workforce, how successful is the ongoing recruitment drive for the Ministry's workforce, and what steps are you taking to respond to the 2020 staff survey? The results show that there were high levels of dissatisfaction with pay and conditions among the workforce.

Antonia Romeo: As you will be aware, Ms Crawley, there are lots of different parts of our workforce. We recently had our pay business case approved. That has led to increased pay, particularly at low levels for some of our more junior staff across the core Ministry and Her Majesty's Courts and Tribunals Service. The latest staff survey results are not yet public, but we hope that would feed through. More importantly, we are interested in people being paid fairly and reasonably, and we think that the acceptance of our business case has helped with that.

I mentioned earlier the recruitment that we have done on the probation side, where we have a big campaign. We have about 90 campaigns at the



HOUSE OF COMMONS

moment for prison staff. We need a lot of new staff to operate all the new prison places. We want to make sure that we have enough probation staff as well. Those are the campaigns we are running at the moment.

Jo Farrar: We have a large number of campaigns. We are recruiting for operational support grade prison officers more than at any time in the last five years. Last year, we had 60,000 applications for prison officers, so we are hopeful that these will be very fruitful and we can bring people into our service. We are doing a lot of local targeting, using data, to work out where people will travel to and where we should target our marketing to gain the maximum from that.

We are doing a lot on retention. The flip side of recruitment is making sure that we keep our hard-working staff. As the market opens up, there are lots of opportunities for prison officers—for example, more fast-track progression for prison officers to go into more senior positions. We have the apprenticeship scheme and training for work with specific cohorts of prisoners. All of that is aimed at helping people to feel that it is a job they really want to stay in.

Q228 **Angela Crawley:** I understand that you are using a considerable number of temporary staff while you work on the recruitment drive, but that your focus is of course to retain and promote as many full-time staff as possible within the MOJ. What work is being done to improve accuracy in forecasting demand for the criminal justice system to determine the level of resource needed?

Antonia Romeo: We have talked about this quite a lot already. Building capability on this has been a big priority for me. The Committee is welcome to come and have a look at our forecasting models. We have been significantly developing new models. It is partly about understanding the connection between the throughput from the courts to the prisons to set our prison capacity requirements, but it is also about getting further upstream to understand what the police are focusing on, and there we rely on data from the Home Office. We have a Home Office-led project going on at the moment looking at what the outcome of increased recruitment of police officers will be, and what that might mean for receipts into courts and flow into our system.

Q229 **Angela Crawley:** You have touched on this. What lessons do you feel you have learned from having to increase capacity quickly in the justice system in order to respond to the pandemic? Does the current system need to operate with excess capacity in order to meet the anticipated increases in future demand that you have outlined?

Antonia Romeo: When you refer to extra capacity, do you mean the need for more capacity in prisons?

Q230 **Angela Crawley:** Presumably, you will need more funding; you will always need more financial support to achieve that.



Antonia Romeo: A number of factors determine the flow. Because we operate on a lag, inevitably it means that we are making predictions now. The predictions are never exact because there are so many factors, including what the police are focusing on, charge rates, progression, speed of progress through the CPS part of the system, our court system, the listing process and what the courts are focusing on.

All of that will determine what ends up flowing into our prison capacity demand, as we call it. That is why we got significant additional money in the spending round to meet that demand, and that is about doing the prison build. In the prisons we are building right now, some places will be coming on stream in 2025, which will enable us to do that. We have an operating margin that allows us to adjust for that. As Jo set out earlier, things like single and double occupancy are another control on the numbers, because you can never be certain. Our job is to make sure that we have enough places for everybody who is sentenced to custody to go to custody. We are using the money to build those places.

Q231 **Angela Crawley:** Do you accept the Public Accounts Committee conclusion that the Ministry of Justice faces a significant risk across the whole range of its services without a clear sense of prioritisation?

Antonia Romeo: I think I was asked exactly that question a few minutes ago. As we said in our response, we obviously think prioritisation is very important. We did not accept that we do not have a clear sense of prioritisation. We know what the priorities are. The Deputy Prime Minister set out clearly his priorities. We have our priorities in terms of capability and resourcing to deliver those.

Chair: Thank you very much. We are very grateful to all of you for your time in coming to give evidence this afternoon. This session is concluded.