



House of Commons
Justice Committee

The role of adult custodial remand in the criminal justice system

Seventh Report of Session 2022–23

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to the report*

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Justice Committee

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Summary

When an individual is accused of a crime, there is a presumption in the Bail Act 1976 that they will be bailed, either with or without conditions, as they await trial. However, a magistrate or judge can instead make a decision to remand a defendant into custody until their trial and, where relevant, subsequent sentencing hearing. Reasons for ordering custodial remand include believing a defendant might not turn up to a court hearing, that they might interfere with witnesses, that they may commit additional crimes or, under a specific provision, for their own protection.

Our Report raises concern over the increasing size of the remand population, which currently stands at its highest level for over 50 years, as well as the potential for it to increase further. This population has grown in part due to more people being remanded into custody, but also because court capacity constraints mean that people are being held on remand for longer awaiting the conclusion of their trial and sentencing, often beyond the six-month custody time limit. We call for an independent review into whether the application of the Bail Act 1976 is still operating as intended, as well as a review of the legal framework for custody time limits to determine whether they are effective in ensuring that defendants are not deprived of their liberty for longer than is reasonable. We also call on the Government to provide sufficient resources to reduce delays to sentencing post-conviction.

Our Report finds that the increasing remand population is also placing pressure on an already stretched prison system, and the need to hold those remanded in Category B prisons means that they are being held in some of the worst conditions in the prison estate, with some prisons now at risk of becoming dedicated remand prisons by default. There is a clear lack of support and opportunities available to those held in these prisons and during the reunification of the probation service those remanded were excluded from resettlement support contracts, so many are released with nowhere to go, which increases the likelihood of their reoffending. In addition, we heard that no support at all is offered for those found not guilty at trial, and recommend that they should be entitled, as a minimum, to the support offered to sentenced prisoners upon release.

Our Report also examines the variety of alternatives to custodial remand that can be ordered by the court, such as conditional bail and electronic tagging. These alternatives are not 'easy options', but do allow individuals to maintain their jobs, accommodation and custody of their children whilst awaiting trial, reducing the amount of support needed further down the line. It is vital that magistrates and the judiciary have a good awareness of the alternatives available and confidence in their effectiveness to increase their usage, particularly as the Government has committed significant amounts of funding, for example, to the electronic monitoring programme.

We also consider the potential benefits of video technology as a means of more efficiently handling routine hearings, and for maintaining contact between remand prisoners and their families. However, we recommend that the Ministry of Justice conducts research into the potential effects of video technology to ensure its use is not affecting remand rates. Finally, we recommend that the Ministry of Justice improves the collation and publication of data on the use of custodial remand. It is only on the basis of good quality data on this issue that there can be effective policy-making.

1 The growing remand population

Introduction to remand

1. When a defendant is remanded into custody, this means that they are to be held in prison until the time of their trial or subsequent sentencing hearing. Schedule 1 of the Bail Act 1976 gives judges and magistrates the power to take this decision for a number of reasons, including that there are grounds for believing that the defendant might not turn up to a court hearing, that they would interfere with a witness or might commit additional crimes if released on bail. Custodial remand is intended to be used as a last resort—courts are required to justify their decision for refusing bail in line with grounds prescribed in the Act.

2. The Bail Act 1976 stipulates a presumption in favour of bail over custodial remand for all defendants awaiting trial except those on charges of murder, attempted murder, manslaughter, rape, or attempted rape. The starting point is release upon unconditional bail, where defendants await their trial in the community on the promise that they will later appear at court. Conditional bail is increasingly being used as an alternative to this, with restrictions such as curfews, limits on contact with other individuals related to a case, or geographical areas of exclusion being imposed pending trial. Failure to comply with these conditions can lead to bail being revoked and remand into custody instead.

3. Decisions on remand and bail are solely matters for the courts, with the defence and prosecution able to make submissions as to whether release on bail should be granted or denied. The defence has an automatic right to appeal against bail decisions in the magistrates' court, as well as a right to make subsequent bail applications should circumstances change.¹

4. The use of custodial remand is primarily governed by the Bail Act 1976 and the Criminal Procedure Rules 2020. In addition, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 introduced the 'no real prospect' test, which states that defendants should not be remanded into custody if the offence is such that they are unlikely to receive a custodial sentence if convicted.

The growing remand population

5. Figure 1 below shows trends over time in the remand population in England and Wales. In the first half of the last decade, there was a decline in the remand population. However, recent years have seen a significant increase—as of 30 September 2022, the daily remand population stood at 14,507.² This represented a 44% increase from 31 March 2020 when the population was 10,043.³ The remand prison population is currently the highest it has been for at least 50 years.⁴

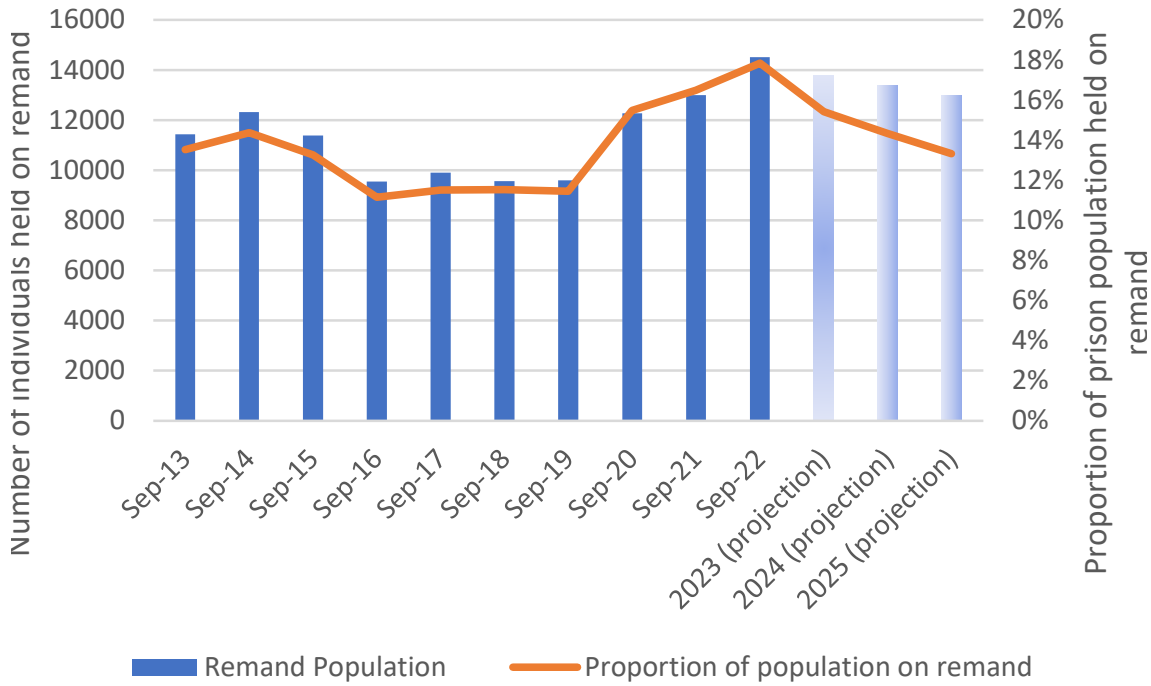
1 Crown Prosecution Service ([REM0025](#))

2 Ministry of Justice, '[Prisons data – Offender management](#)'

3 Professor Anthea Hucklesby (Professor of Criminal Justice at University of Birmingham) ([REM0003](#))

4 Russell Webster, '[Prison and Probation Trends Autumn 2022](#)', 27 October 2022

Figure 1: Remand population and the proportion of the overall prison population which is prisoners on remand (2013 to 2025)



Source: Offender Management Statistics, Ministry of Justice, [April–June 2022](#); and [Prison Population Projections 2021 to 2026](#), Ministry of Justice

6. Figure 1 also shows that the number of defendants held on remand varies as a proportion of the overall prison population. Those on remand now account for 18% of the overall prison population, up from 11% in 2018.⁵ The size of the remand population is placing increasing pressure on the prison estate. It was cited by the Minister for Prisons as a contributory factor when, in November 2022, the Government invoked Operation Safeguard to make available 400 police custody suites to hold prisoners in a response to demand for prison places outstripping capacity.⁶

7. The pandemic clearly had a significant impact on the remand population as a result of the increased backlog of cases awaiting trial. In evidence, the then Prisons Minister, Rob Butler MP, outlined to us the short-term impact of Covid-19 on the remand population:

It is probably worth noting that on 30 June 2019 the remand population was 9,145. That was 11% of the custodial population pre-Covid. A year later, 30 June 2020, it was 11,388; 14%. That suggests that covid caused a very big initial jump.⁷

8. However, the increase in the remand population has not only been due to the impact of the pandemic. Ministry of Justice statistics show that the population was already increasing in 2019 and continues to grow now as the courts and prisons service return to pre-pandemic ways of working.⁸

5 Ministry of Justice, [‘Prisons data – Offender management’](#)
 6 HC Deb, 30 November 2022, [cols 914–915](#) [Commons Chamber]
 7 [Q201](#)
 8 [INQUEST \(REM0007\)](#)

9. The current size of the remand population appears to reflect both an increase in the number of defendants being remanded to custody and the length of time they subsequently spend awaiting trial and sentence. The latter is, to a large extent, the result of the increasing backlog of cases in the Crown Courts, which stood at 62,500 as at 30 September 2022.⁹ Evidence to our inquiry has additionally suggested that the increase in the number of people being remanded to custody may be reflective of an increase in arrests following allegations of serious criminal offences.¹⁰ The then Minister for Courts, Gareth Johnson MP, further suggested that recent increases in the number of police officers may have increased the number of people being arrested and charged, although there is as yet no clear evidence available for this being the case.¹¹

10. The MoJ's quarterly Offender Management Statistics do not include data on the length of time defendants are held on remand. However, it is possible to infer from available information on new arrivals and the overall remand population that an increase in the time spent on remand, both awaiting trial and sentencing, is a primary driver behind the increased remand population.¹² Figure 2, below, shows the number of first receptions in each quarter against the overall remand population between March 2019 and June 2022. Across the period, the remand population increased by almost 50% but the number of quarterly first receptions into prison on custodial remand was broadly stable, rising by only 5%.¹³ The National Audit Office estimated that as of 30 June 2021 individual defendants in the Crown Court spent an average of 209 days held on remand—an increase of 86 days compared with 31 March 2020.¹⁴ Furthermore, a recent answer from the Ministry of Justice to a Written Parliamentary Question stated that the number of people who had been held on remand for six months or more increased from 4,218 to 4,582 between December 2021 and September 2022. 770 of those had been held for two years or more; up from 480 in December 2021.¹⁵

9 [Q38](#)

10 [JUSTICE \(REM0019\)](#)

11 [Q199](#)

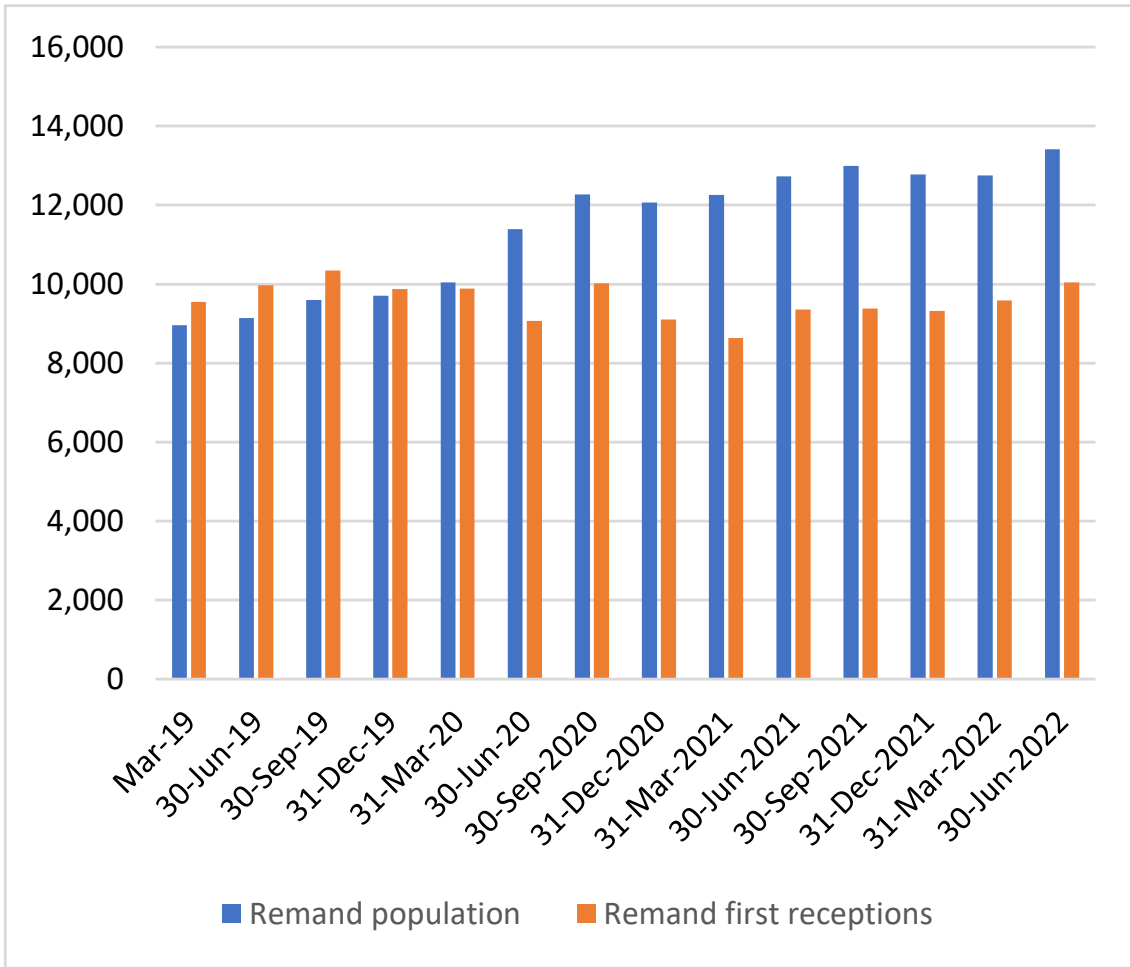
12 Professor Anthea Hucklesby (Professor of Criminal Justice at University of Birmingham) ([REM0003](#))

13 Offender Management Statistics, Ministry of Justice, June 2022

14 NAO, [Reducing the backlog in criminal courts](#), 22 October 2021

15 [HL3408](#) (Prisoners on Remand)

Figure 2: Remand first receptions and the overall remand population (2019 to 2022)



Source: Offender Management Statistics, Ministry of Justice, June 2022

11. The recent growth in the remand population, and concerns about the length of time people are being held on remand, are the primary reasons why we launched our inquiry into the use of adult custodial remand. We sought evidence on why the number of defendants held on remand has increased since the pandemic; whether remand to custody is fit for purpose and being appropriately applied; and what effect the use of custodial remand has on the prison population. We received 26 written submissions. We also heard oral evidence from campaigners and academics working in the area of remand, magisterial representation, HM Chief Inspector of Prisons and Ministers and representatives from the Ministry of Justice. Additionally, we visited Wandsworth Prison to hear first-hand the experiences of remand prisoners and the challenges that large remand populations pose for prisons. We also visited Dublin to see Ireland’s dedicated remand prison, Cloverhill, and discussed their experience to consider possible parallels with our observations of the position in England and Wales. We are grateful to all those who contributed to our evidence-gathering.

12. We are concerned by the increasing size of the remand population, and in particular by evidence of the increasing length of time people are spending in custody on remand. Efforts need to be focused on reducing this population and bringing forward the hearing dates of trials. A significant proportion of defendants held on remand will be found not guilty, and so it is vital that they are not deprived of their

liberty for long periods of time. For those found guilty and given a custodial sentence, they should be progressing on to sentence planning to prepare them for release, rather than waiting long periods of time for their sentence to be passed. The need for efforts to reduce the population are particularly pressing now, given the current capacity crisis in the prison system, and the recent activation of Operation Safeguard to allow the temporary use of up to 400 police cells to hold prisoners, with the growing remand population given as a reason for increased demand on prison spaces.

Nature of offending

13. According to the Ministry of Justice’s Offender Management Statistics, 42% of pre-trial receptions into prison between April and June 2022 were for those accused of non-violent crimes.¹⁶ Similarly, 52% of the overall adult custodial remand population as of 31 December 2021 were those being held having been charged for non-violent offences.¹⁷ The use of custodial remand for non-violent offences is a particularly acute practice for women. 85% of women on remand in prison have been charged for a non-violent crime.¹⁸

14. Because of the increasing amount of time served on remand, those defendants held for relatively minor non-violent offences are likely to be released either immediately or very soon after sentencing. This gives them limited opportunity to engage with sentence progression, where prisoners take part in programmes to address their offending behaviour, prepare them for release and reduce the risk of reoffending.¹⁹

15. We recognise that there is a need in some cases to remand to custody for non-violent offences. For example, the then Minister for Courts, Gareth Johnson MP, highlighted that many people will be held on remand because of the risk of their otherwise committing further offences while on bail.²⁰ John Bache, the former chair of the Magistrates’ Association, outlined the need to have custody “as a safeguard” if a defendant fails to cooperate with their terms of bail.²¹

16. One of the reasons for the high level of use of custodial remand for non-violent offences is that a large number of defendants are being so remanded because they are repeat offenders, and remand into custody is the only option available. JUSTICE, a law reform and human rights charity told us that many people are remanded to custody as their drug abuse, homelessness or mental health led to a belief that they were less likely to attend future court dates or less able to comply with bail conditions. They also noted that incarceration often exacerbated these problems, increasing the risk of reoffending on release.²²

17. We additionally heard concerns that individuals were being remanded into custody to help them access support that is not available in the community, such as drug treatments and mental health support. HM Chief Inspector of Prisons, Charlie Taylor, told us that

16 Ministry of Justice, ‘[Offender Management Statistics quarterly: April to June 2022](#)’, 27 October 2022; non-violent crime defined as theft, drug, public order, miscellaneous crimes against society, fraud, summary non-motoring, and summary motoring offences.

17 PQ [1226 6](#) [on remand in custody], 10 February 2022; non-violent crime defined as theft, drug, public order, miscellaneous crimes against society, fraud, summary non-motoring, and summary motoring offences.

18 NACRO ([REM0014](#))

19 Prison Reform Trust ([REM0021](#))

20 [Q234](#)

21 [Q97](#)

22 JUSTICE ([REM0019](#))

where mental health provision was not available magistrates may consider they have no option but to remand to custody.²³ JUSTICE have called for the Government to work with academics to assess the extent to which remand is being used as a solution for unmet social needs such as homelessness, mental health conditions, or drug abuse, rather than directly being related to the risk an individual may pose if bailed.²⁴

18. The large number of people being remanded for non-violent offences suggests that many are being remanded due to repeat offending. This repeat non-violent offending is often symptomatic of underlying vulnerabilities, such as drug abuse, homelessness and mental ill-health, for which there is currently a lack of community provision. We believe that there should be more co-ordinated investment across departments including the Department of Health and Social Care and the Department for Education in community services to divert people from this repeated criminal activity before they reach the stage where the criminal justice system sees no option but to remand them into custody.

Potential for future growth

19. We heard from the Ministry of Justice that future prison population modelling currently forecasts a slow decrease in the proportion of prisoners held on remand over the next four years, although it is still anticipated to remain higher than 2019 levels.²⁵ This is set against predictions by the Ministry of Justice of an overall increase in the prison population to 98,500 by March 2026.²⁶ Figure 1, above, shows the long-term trend and current forecast for the proportion of the prison population held on remand.

20. The projected decrease in the remand population relative to the overall prison population is dependent on a decrease in the Crown Court case backlog, both for trials and sentencing hearings. The then Minister for Prisons, Rob Butler MP, outlined to us the assumptions underlying the Ministry of Justice's projections:

At the moment, we have a bulge, if you like, of people waiting to have their trials heard. Over time, that will be reduced. Some of those will be released because they will be found not guilty. That will take down some of the population. Some of them will be found guilty but they will be time-served. In the meanwhile, there will be some who will be convicted but unsentenced, but that will be a smaller bulge that will work its way through the system. The assumption we are working on is that by July 2025 there will have been a significant amount of progress in the court backlog.²⁷

21. The impact of backlogs in the Crown Court was described by Tom Franklin, Chief Executive of the Magistrates' Association, as being like a dam, with the same flow of cases coming in but fewer people coming out the other side.²⁸ In the Magistrates' Court, the average time from offence to completion of a court case has risen since the start of the pandemic from around 170 days to 230 days. Delays are even worse in the Crown Court,

23 [Q182](#)

24 [JUSTICE \(REM0019\)](#)

25 [Prison Reform Trust \(REM0021\)](#)

26 [Prison Reform Trust \(REM0021\)](#)

27 [Q205](#)

28 [Q113](#)

where it could take up to two and a half years for cases to be heard.²⁹ The Magistrates' Association expressed hopes that the increased sentencing powers of magistrates, who as of May 2022 can now pass sentences of up to a year in custody as opposed to six months previously, will have a positive effect by allowing cases to be heard faster in the Magistrates' Court rather than waiting for available time in the Crown Court.³⁰

22. The Government has set a target for reducing the outstanding Crown Court case level to 53,000 by March 2025. The current size of the backlog is 62,500, and whilst we heard from the Lord Chancellor that he would “strive with every sinew”³¹ to hit the 53,000 target, we also heard from the Lord Chief Justice that achieving that target will be “very difficult”.³² The Director of Public Prosecutions told us that a number of things, including increasing judicial capacity and higher numbers of prosecutors, would need to be in place to bring the backlog down to that level.³³

23. In addition to the current court backlog potentially taking longer to reduce than forecast, the Lord Chief Justice highlighted that the volume of cases coming into the Crown Court remains 10%-15% lower than in 2019–20, prior to the pandemic.³⁴ He noted that there is no clear explanation for this phenomenon, and told us: “Something that causes me concern verging on worry is that if those volumes picked up again it would present the system with really powerful problems”.³⁵ We are not aware of any work conducted by the Government or HMCTS to understand why case levels entering the Crown Courts are currently lower than before the pandemic. However, if the volume of cases were to return to pre-pandemic levels, exacerbating the existing backlog, this could also have implications for the size of the remand population and the length of time defendants are held on remand.

24. The Ministry of Justice's 2021 predictions on the remand population anticipated that it would reach a peak of 13,800 in 2023 as a result of the Crown Court backlog and the impact of recruiting 23,400 additional police officers, before starting to gradually decrease.³⁶ As of 30 September 2022 the remand population had already exceeded this predicted peak, reaching 14,507, and there is no immediate indication of a reverse in the current trend.

25. We recognise that the pandemic led to delays in court hearings which have contributed to a growing remand population. However, it is important to stress that the remand population has been growing despite a decrease in the number of cases entering the Crown Court, and we are concerned that the impact of higher police numbers and a return to pre-pandemic case levels may lead to further increases in the remand population. In view of the risk of case levels increasing, we recommend that the Government conducts a rapid review to understand why the number of cases entering the Crown Court remains depressed, what the risks are of the number of cases increasing again, and to model the effect of changes in the number of cases entering the system on the remand population.

29 Tom Franklin, [Q118](#)

30 Tom Franklin, [Q118](#)

31 [Q38](#)

32 [Q8](#)

33 [Q5](#)

34 [Q6](#)

35 [Q6](#)

36 Ministry of Justice, '[Prison population projections: 2021 to 2026](#)', 25 November 2021

26. The growing remand population is clearly a serious concern, both in relation to the numbers being held on remand and the length of time they are remanded to custody for. Custodial remand is a severe deprivation of liberty for those not yet found guilty of a crime and should only be used for those who pose a serious risk to the public or of absconding if they awaited trial on bail, and the remand period should be kept as short as possible to ensure justice is served in a timely manner.

27. In the rest of our Report we consider the legislative framework for custodial remand, and whether it is operating as intended (Chapter 2). We look at the pressures a growing remand population places on Category B prisons, and the support available for those on remand during their time in custody (Chapter 3) and on release into the community (Chapter 4). We also discuss the alternatives to custodial remand (Chapter 5), and the impact new technologies might have on the remand population, as well the gaps in the data available on those held on custodial remand (Chapter 6).

2 Legislative framework and the courts

The Bail Act 1976 and the presumption of bail

28. The Bail Act 1976 stipulates a presumption in favour of bail for defendants awaiting trial except those charged for murder, attempted murder, manslaughter, rape, or attempted rape. Exceptions to the granting of bail are laid out in Schedule 1 of the Act, which states that bail can be refused if the court is satisfied that the defendant would, if released on bail, fail to surrender to custody, commit an offence while on bail, interfere with witnesses, or otherwise obstruct the course of justice. The court can also refuse bail if it is satisfied that the defendant must be kept in custody for their own protection.³⁷

29. The decision-making process for magistrates when determining whether to refuse bail was outlined to us by Tom Franklin, Chief Executive of the Magistrates' Association:

The starting point is very clear that, apart from the very small number of cases [...] there is a presumption of unconditional bail. Then the exceptions are looked at. Even then, if some of the exceptions are considered to apply, the next element is this: are there conditions that could be put on the bail that would satisfy the magistrates that the risk can be mitigated? It is only, if as a result of all that, the answer is that they cannot be mitigated that remand in prison is an option.³⁸

30. The charity, Transform Justice, outlined in their submission to our inquiry that, with the exception of remand for one's own protection which we discuss later in this chapter, the current legislative framework appeared to be adequate, but there were problems in the way it was applied, particularly surrounding the information available to inform remand decisions and the reasons given by magistrates and judges for refusing bail.³⁹

31. Over the years, the Bail Act has been amended to reflect changes in technology such as including provisions to enable electronic monitoring.⁴⁰ In addition, The Legal Aid, Sentencing and Punishment of Offenders Act 2012 established a presumption against remand for those charged with offences which are unlikely to warrant a custodial sentence.

32. The then Minister for Courts, Gareth Johnson MP, told us that the current framework "enables courts to decide, as best as they can, the level of risk and whether someone, albeit under condition on occasions, can be released into society again".⁴¹ However, he noted the importance of keeping such legislation under review to see if it could be improved or modernised.⁴²

33. The current Bail Act framework allows for variation across decision-makers in how they make their risk judgements and decisions.⁴³ Although we heard that magistrates were aware of the criteria for custodial remand and took these requirements very seriously,⁴⁴

37 Bail Act 1976, Schedule 1

38 [Q96](#)

39 Transform Justice ([REM0005](#))

40 Gareth Johnson MP, [Q211](#)

41 [Q212](#)

42 [Q231](#)

43 Professor Mandeep K Dhami (Professor of Decision Psychology at Middlesex University) ([REM0011](#))

44 Tom Franklin, [Q94](#)

submissions to our inquiry also highlighted that the current framework creates scope for the overuse of custodial remand.⁴⁵ For example, it was suggested that one of the reasons behind the growing remand population may be an increasing risk averseness by prosecutors and magistrates, particularly surrounding concerns about people being supervised or monitored if released on bail.⁴⁶ Tom Franklin reflected on his belief that as a society we were becoming more risk averse, particularly when it came to releasing individuals where they could go on to pose a risk to the public. He called for research into the impact this may be having on the balancing of risk in magisterial decision-making.⁴⁷

34. The possibility of greater risk aversion amongst magistrates and prosecutors was echoed by Professor Loraine Gelsthorpe and Professor Nicola Padfield, who felt that they may be increasingly opting for remand to custody due to concerns about defendants being poorly supervised or monitored in the community to ensure adherence to bail conditions and protect the public.⁴⁸ Elsewhere, Transform Justice noted that judges “lean heavily towards risk aversion”, particularly in relation to the test of whether there is no real prospect of the defendant being imprisoned if convicted.⁴⁹

35. Much of the evidence to our inquiry did not highlight specific flaws in the legislation governing the use of custodial remand. Fair Trials, an international non-governmental organisation which campaigns for fair and equal criminal justice systems, told us the Bail Act sets out “clear and rights-respecting principles”.⁵⁰ We heard from the Magistrates’ Association that the processes followed to apply the legislation to remand decisions is very structured.⁵¹ However, it was not the universal view that the current legislation was fit for purpose. In her submission, Professor Mandeep Dhani put forward her belief that:

The bail/remand law in England and Wales is ill-defined, open to subjective interpretation and affords courts considerable discretion. The law does not specify clearly which information should inform the different risk judgements (i.e., absconding, offending on bail, and obstructing justice), and how that information ought to be weighted and integrated.⁵²

36. In addition, the charity One Small Thing, which advocates on behalf of women and children in the justice system, argued that the fact that almost two-thirds of women remanded to prison by magistrates are either found not guilty or are given a community outcome showed that the legislative framework was not being appropriately applied as individuals should not be remanded to custody if they were not anticipated to receive a custodial sentence.⁵³ Many of these remands relate to the ‘for own protection’ provisions in the Bail Act 1976, which are discussed later in this chapter.

45 Dr Tom Smith (Associate Professor in Law at University of the West of England (UWE), Bristol) ([REM0010](#))

46 Professor Loraine Gelsthorpe (Director, Institute of Criminology, & Professor of Criminology and Criminal Justice at Institute of Criminology, University of Cambridge); Professor Nicola Padfield (Director, Cambridge Centre for Criminal Justice & Professor of Criminal and Penal Justice at Faculty of Law, University of Cambridge) ([REM0006](#))

47 [Q114](#)

48 Professor Loraine Gelsthorpe (Director, Institute of Criminology, & Professor of Criminology and Criminal Justice at Institute of Criminology, University of Cambridge); Professor Nicola Padfield (Director, Cambridge Centre for Criminal Justice & Professor of Criminal and Penal Justice at Faculty of Law, University of Cambridge) ([REM0006](#))

49 Transform Justice ([REM0005](#))

50 Fair Trials ([REM0015](#))

51 Tom Franklin, [Q91](#)

52 Professor Mandeep K Dhani (Professor of Decision Psychology at Middlesex University) ([REM0011](#))

53 One Small Thing ([REM0013](#))

37. We have not identified significant issues with the legal framework set out in the Bail Act 1976 but have heard repeatedly that the application of the framework is becoming increasingly risk-averse when it comes to rebutting the presumption of bail. We believe this merits further investigation, and so recommend that the Government commissions an independent review into whether the application of the Bail Act 1976 is still operating as intended.

The role of magistrates and the judiciary

38. The vast majority of remand decisions are dealt with in the Magistrates' Court at the first hearing after arrest. We heard that whilst magistrates received detailed training on the use of remand and felt that it was of good quality,⁵⁴ it was set amongst increasing training demands in other areas, particularly on ways of working following the pandemic. Tom Franklin of the Magistrates' Association told us: "One of the issues for magistrates, particularly around continuation training, is that at the moment a lot of changes are taking place, so there is a lot of ad hoc training going on".⁵⁵

39. The Magistrates' Court Act (1980) s. 128(1a)(I) places a legal duty on magistrates and judges to explain their remand custody decisions to adult defendants in ordinary language. In its submission to our inquiry, the Criminal Justice Alliance, a network of 180 organisations working across the criminal justice system, outlined its belief that remand custody decisions of magistrates were not being adequately explained:

Research shows that sentencers do not regularly provide reasons for their decisions to impose custodial remand; where any reasoning is given, it is often brief, generic, and lacking in detail. During nearly 60% of court hearings observed by researchers, sentencers provided no reasons for the decision to withhold bail and remand a defendant in custody.⁵⁶

40. John Bache, former chair of the Magistrates' Association, told us about the use of pronouncement cards, which use set phrases to outline decision-making.⁵⁷ However he also reflected that such communication was often difficult, and that while magistrates did their best, it was not always understandable to the defendant.⁵⁸ Tom Franklin told us: "it is so important that there is clarity, and communication is really difficult, particularly for a defendant for whom it could be the biggest day of their life so far in terms of the implications".⁵⁹

41. In 2017, the Criminal Procedure Rule Committee introduced rules to require the court to explain its decisions on remand adequately and which required prosecutors to ensure "the availability of information relevant to remand", for example evidence to support why they might be unsuitable for bail such as a history of prior offences.⁶⁰ A 2020 study by Dr Tom Smith, Associate Professor in Law at University of the West of England, found that the introduction of these rules did not appear to have had a significant impact

54 Tom Franklin, [Q107](#)

55 [Q107](#)

56 Criminal Justice Alliance ([REM0020](#))

57 [Q157](#)

58 [Q158](#)

59 Tom Franklin, [Q160](#)

60 Gov.uk, '[Criminal Procedure Rules and Practice Directions 2020](#)'

on defence practitioners, prosecutors, and magistrates in relation to remand. He found that reasoning for remand decisions provided was often generic or lacking in detail, if provided at all.⁶¹

42. No data is collected in relation to magisterial decision-making and communication. Dr Max Lowenstein, Principal Academic in Law at Bournemouth University, highlighted the importance of ensuring that defendants feel respected and included in courtroom processes and communications, but there is no information on the extent to which defendants understood the explanation for their remand into custody.⁶²

43. Magistrates are responsible for hearing the majority of cases that lead to remanding to custody, and we heard that, particularly during the pandemic, the focus of training was on new ways of working and the use of technology. *The application of the remand principles and the latest available alternatives to remand should be a focus in magisterial training.*

44. Magistrates are required to communicate their remand decisions to the parties in open court; however, we have heard that this is not always done in a way which is understandable to the parties involved. *Pronouncement templates for magistrates should be reviewed to ensure they are as clear as possible for those being sentenced and their use should be monitored to ensure they are being used consistently.*

Custody time limits

45. Article 5(3) of the European Convention of Human Rights makes clear that a person being detained must be brought to trial within a reasonable time or released pending trial. When defendants are remanded into custody awaiting trial, Custody Time Limits apply. These are set by the Lord Chancellor by Statutory Instrument under the Prosecution of Offences Act 1985.⁶³ Custody Time Limits were introduced to ensure that cases were dealt with expeditiously, with cases involving custody time limits being prioritised by judges for listing.⁶⁴ The current limit is six months, although a temporary framework was in operation between April 2020 and June 2021, which increased the limit from six to eight months to help deal with Covid disruption.

46. Custody time limits do not mean that a case is always heard within six months as applications can be made to court to renew the custody time limit. As of September 2022, 4,582 people—almost a third of the remand population—had been held beyond the initial six-month limit.⁶⁵ There is no limit to the number of custody time limit renewals that can be granted. As of September 2022, 1,309 defendants had been held on remand for between a year and two years, and 770 for two years or more.⁶⁶

61 Dr Tom Smith (Associate Professor in Law at University of the West of England (UWE), Bristol) ([REM0010](#))

62 Dr Max Lowenstein (Principal Academic in Law at Bournemouth University) ([REM0002](#))

63 Crown Prosecution Service ([REM0025](#))

64 Ministry of Justice ([REM0012](#))

65 [HL3408](#) (Prisoners on Remand)

66 *ibid*

47. There have been recent court cases where custody time limit extensions were refused on the basis that delays in criminal trials and the backlog of court cases were not an adequate reason for the continued deprivation of liberty of a defendant.⁶⁷ Where a custody extension is not granted, a defendant is released into the community to await their trial.

48. Fair Trials argued that the decision to extend custody time limits during the pandemic facilitated lengthy pre-trial detention and ignored the underlying causes of the length of time taken to bring a case to trial. They also argued that the extension worsened delays in criminal proceedings by reducing incentives for courts to prioritise and expedite cases of defendants in custody.⁶⁸ In addition, we heard that being held on remand past custody time limits “breeds despair and a loss of hope” among those held in prison.⁶⁹ Sir Tom Winsor, then HM Chief Inspector of Constabulary, told us in January 2021 that the current custody time limit in England and Wales should be reduced to match the 110-day rule in place in Scotland, saying that this shorter time limit would concentrate the mind [of the Crown Prosecution Service] enormously.⁷⁰

49. **Despite there being a legal framework in place that is intended to ensure that people who are detained are brought to trial as soon as possible, in practice a large proportion of the remand population is held beyond the custody time limit of six months. We are very concerned by the recent figures showing that 770 prisoners have been held in custodial remand for over two years. *The Government should review the legal framework for custody time limits to determine whether it is effective in ensuring that defendants are not deprived of their liberty for longer than is reasonable. It should be standard practice that custody time limits are strictly adhered to except in exceptional circumstances. In particular, an unconvicted defendant should not spend more time on remand than they would be likely to receive from any eventual custodial sentence, having regard to the relevant sentencing guidelines.***

Convicted but unsentenced remands

50. A key driver behind the rising remand population is the increased length of time people are waiting to be sentenced following conviction. Between March 2021 and March 2022, the convicted unsentenced population in prison rose by 17% to 4,607, representing 36% of the overall remand population.⁷¹ As people are held awaiting sentencing, they are unable to progress with sentence plans to aid their rehabilitation, and may be held in prison awaiting sentencing for longer than the custodial sentence they eventually receive. In his evidence, HM Chief Inspector of Prisons, Charlie Taylor, told us: “In my inspections we come across a lot of people who are waiting often quite long periods of time for sentencing to happen”.⁷²

51. The increasing convicted unsentenced population is another consequence of the overall case backlog, but we have heard this is not the only reason driving the length of time individuals are waiting for their sentence. Another contributing factor is the length

67 The Law Society Gazette, ‘[Judge blames chronic underfunding as he refuses custody extension](#)’, 7 September 2022

68 Fair Trials ([REM0015](#))

69 Peter Dawson, [Q70](#)

70 [Q265](#)

71 Ministry of Justice, ‘[Offender management statistics quarterly: October to December 2021 and annual 2021](#)’, 28 April 2022

72 [Q164](#)

of time it is taking for the courts to receive pre-sentence reports, which is a result of a lack of resources both in the probation service and other involved bodies such as the NHS which helps produce medical reports.⁷³ Professor Anthea Hucklesby of the University of Birmingham told us the time required to produce these reports should improve following the unification of the probation service.⁷⁴ We also heard from the responsible Minister that another potential reason for the increase in the unsentenced population was an increasing number of multi-hander trials where some individuals had pleaded guilty but the judge was reluctant to sentence until all defendants had been tried.⁷⁵

52. Those convicted but awaiting sentencing are not subject to custody time limits. It is, therefore, all the more important that the Government devotes sufficient resources to reduce delays to sentencing post-conviction. For example, the Government should ensure resources are available for the timely delivery of pre-sentence reports and sufficient judicial capacity to enable judges to sentence defendants as soon as they are able. The Government should also examine the reasons for the increase in the number of convicted defendants awaiting sentence and consider whether there are any procedural or technological reforms that could reduce delays.

Use of remand for own protection

53. Schedule 1 of the Bail Act 1976 allows bail to be withheld if the court is satisfied that the defendant must be kept in custody for their own protection. We have previously recommended reform of the Bail Act so that it is unlawful to remand anyone to custody simply for their own protection or welfare on the basis that prisons are unsuitable environments to hold vulnerable people where they should be dealt with in community provision instead.⁷⁶ Evidence from the Independent Advisory Panel on Deaths in Custody emphasised its belief that:

Prison should never be used as a so-called ‘place of safety’ or for a person’s own protection, and alternatives must be found in community sentencing or in the provision of secure health beds.⁷⁷

54. The problem of remanding someone for their own protection was further articulated by Peter Dawson, Director of the Prison Reform Trust:

It is an administrative failure, as well as moral and philosophical, that we should think that the prison environment could conceivably be the best place to put someone who, if that is true, plainly is in need of help. Prisons are not a good place to help people, and the conditions for people held who have not been convicted are the worst in the system.⁷⁸

55. The scale of the use of remand for one’s own protection is unclear because there is no systematic process for gathering national data on the practice. We recommended in our Women in Prison Report that data was gathered on the number of women held in prison for their own protection or as a place of safety, but this was rejected by the Government

73 Professor Anthea Hucklesby (Professor of Criminal Justice at University of Birmingham) ([REM0003](#))

74 [Q25](#)

75 Gareth Johnson MP, [Q218](#)

76 Justice Committee, Fifth Report of Session 2021–22, [Mental Health in Prison](#), HC 72

77 Independent Advisory Panel on Deaths in Custody ([REM0016](#))

78 [Q31](#)

on the basis that it was moving to implement reforms to prevent the use of custody as a place of safety or for a person's own protection where the court's sole concern was the defendant's mental health.⁷⁹

56. Although there is no published data on the use of prison as a place of safety, it appears to be a particularly acute problem in the female prison estate. A May 2022 HMIP report into HMP Bronzefield found that many inmates "should not have been in prison and were only there because there was insufficient provision [of support] in the community".⁸⁰ These findings were echoed in an inspection of HMP Low Newton, which concluded that "acutely mentally unwell women who were at risk of taking their own lives were still being sent to Low Newton because of the lack of appropriate provision in the community".⁸¹ Voluntary sector organisations have also reported that most women remanded have no fixed abode on reception alongside other vulnerabilities.⁸²

57. The Government has introduced provisions in the Draft Mental Health Bill 2022 to stop using prisons as a place of safety for reasons concerning the mental health of the individual remanded into custody. This was welcomed by contributors to our inquiry, who emphasised that for many people awaiting trial whilst living with a mental illness, prison was simply the wrong place for them to be.⁸³ However, further detail is needed on the provision of healthcare or community services where those who may previously have been remanded to prison due to mental health difficulties will now be redirected to.⁸⁴ We have previously called for greater investment in emergency mental health services, stating that "prisons should not be regarded as a solution to the failings of care and protection in the community".⁸⁵

58. The provisions in the draft Mental Health Bill relate only to those remanded to custody for their own safety in relation to their mental health. This means that there may still be other circumstances in which an individual is remanded to custody under the 'for own protection' provisions in the Bail Act 1976. In his evidence to us, Charlie Taylor, HM Chief Inspector of Prisons, queried this:

It is hard to think who could or should be remanded to custody for their own protection. If the change by the Ministry of Justice means that mentally ill people should not be remanded for their own protection, who are the people who should be remanded for their own protection?⁸⁶

59. We received submissions calling for the removal of all custodial remands for one's own protection, not just in relation to mental health, emphasising that alternatives must be found in community sentencing or in the provision of secure health beds.⁸⁷ While the power is currently most commonly used for those who present a risk of harm to themselves

79 Justice Committee, Fourth Special Report of Session 2022–23, [Women in Prison: Government Response to the Committee's First Report of Session 2022–23](#), HC 802

80 HM Inspectorate of Prisons, [Report on an unannounced inspection of HMP & YOI Bronzefield 24 January and 31 January – 4 February 2022](#), March 2022

81 HM Inspectorate of Prisons, [Report on an unannounced inspection of HMP & YOI Low Newton 2 – 18 June 2021](#), July 2021

82 Clinks ([REM0024](#))

83 Rethink Mental Illness ([REM0022](#))

84 Charlie Taylor, [Q181](#)

85 [Letter to the Chair of the Draft Mental Health Bill on the call for evidence](#), 21 September 2022

86 [Q181](#)

87 Independent Advisory Panel on Deaths in Custody ([REM0016](#))

through mental illness, the provision also allows for remand to be used to protect an individual from harm by others, with the Howard League finding that it has been used for those who have been trafficked and exploited.⁸⁸ The Committee has previously recommended in our Mental Health in Prison Report for the Bail Act to be reformed so that “it is unlawful to remand anyone to custody simply for their own protection or welfare”.⁸⁹

60. We welcome the draft Mental Health Bill 2022 which legislates for the removal of using prisons as a place of safety for those with mental health difficulties. However, we call on the Government to go further, removing the provision in the Bail Act 1976 for remanding people into custody for their own protection in all situations, and providing adequate provision in the community for those people who would have been remanded to custody solely for their own protection.

61. We note with regret that the Government did not accept the recommendation in our Women in Prison Report to collect data on the number of women being remanded for their own safety. As the draft Mental Health Bill means that the ability to remand for one’s own protection for reasons other than mental health will continue to exist, we reiterate our previous recommendation that the Government should collect data on the use of remand under this provision, not only for women but for all individuals detained for their own protection.

88 APPG on Women in the Penal System, [Prison for their own protection: The case for repeal](#)

89 Justice Committee, Fifth Report of Session 2021–22, [Mental Health in Prison](#), HC 72

3 Prisons

Pressure in Category B prisons

62. Remanded prisoners are required to be held in Category B prisons. These house prisoners generally taken directly from court in the local area, both sentenced and remanded. We have heard that these are often old, overcrowded and have some of the worst conditions in the prison estate.⁹⁰ The problems caused by holding remanded individuals in Category B prisons were outlined by Peter Dawson of the Prison Reform Trust:

Remand prisoners go to the prisons that are least able to cope. The present system, and indeed the future plans for the prison system, direct resources to training prisons. The new prisons that the Government has promised will be for people who have been convicted and are serving quite long sentences, which means that remand prisoners end up with short-sentence prisoners in places like Wandsworth and Pentonville that, as you know, are physically in a poor condition and tend to struggle with staff [...].⁹¹

63. As remand prisoners must be held in Category B reception prisons, the growing remand population has created capacity challenges in an already overcrowded prison estate. On 30 November 2022, Operation Safeguard was invoked by the Government, making available 400 police custody suites to hold prisoners, with increases in the number of those on remand being one of the reasons given for a sudden surge in the demand for prison places.⁹²

64. As the remand population grows, an increasing proportion of the Category B prison population consists of those being held on remand.⁹³ At the time of our visit in July 2022, HMP Wandsworth’s remand population was 84% of the total population, against an intended configuration of 65%. Likewise, over 75% of the population at HMP Pentonville is on remand.⁹⁴ At HMP Chelmsford, the proportion of remand prisoners has doubled to almost 60% since 2018.⁹⁵ Charlie Taylor told us the inspectorate was seeing “a flip in what prisons were set up for”,⁹⁶ reflecting that:

If there is a big increase in remand, the day-to-day functioning of the prison has to change. What we see sometimes is that prisons fail to keep up.⁹⁷

65. The Government has not indicated any intention to reconfigure the categories of people held in each type of prison. The Prison Strategy White Paper published in 2021 instead focused on tackling capacity issues across the estate with the delivery of 20,000 additional prison places by the mid-2020s.⁹⁸ Although the strategy committed to taking

90 Prison Reform Trust ([REM0021](#))

91 [Q59](#)

92 HC Deb, 30 November 2022, [cols 914–915](#) [Commons Chamber]

93 Ministry of Justice ([REM0012](#))

94 [Letter from the Chair of the HMP Pentonville Independent Monitoring Board to the Lord Chancellor](#), 12 December 2022

95 HM Inspectorate of Prisons, [Report on an independent review of progress at HMP/YOI Chelmsford 15–17 August 2022](#)

96 [Q165](#)

97 [Q166](#)

98 Ministry of Justice, [Prisons Strategy White Paper](#), December 2021

a personalised approach to challenges faced by certain groups, including the remand population, no detail has been provided on the impact this may have on the make-up of the prison estate.

66. Our inquiry heard that an increasing remand population can have a destabilising effect on the prison population, as people are moved through Category B prisons and the unsettled nature of their position makes it difficult for staff and other prisoners to get to know remanded individuals.⁹⁹ Rethink Mental Illness’s submission to our inquiry argued that these problems are exacerbated by people now being held on remand for longer.¹⁰⁰

67. As part of our inquiry, we undertook a visit to the Republic of Ireland to see their dedicated remand prison as a comparison to our model of holding remanded individuals alongside the sentenced population. It was clear from our visit that such dedicated prisons help ensure that services are in place to specifically support remanded prisoners and to ensure staff are experienced in dealing with a more transient population. However, such dedicated prisons would be difficult to establish in England and Wales as it would lead to people being held far from home and potentially from the court in which their case is to be heard. The model of a dedicated remand prison worked for a country with a smaller geographical area, with the majority being held in Cloverhill prison being tried nearby and if sentenced moved to the prison facility next-door. However, significant numbers of such prisons would need to be built across England and Wales for there to be a similar experience for those held on remand here.

68. We additionally heard from Peter Dawson of the Prison Reform Trust about the challenges of operating dedicated remand prisons:

Our experience of dedicated remand prisons is that they are very difficult to run, for the reason that a good prison commands the consent of the people in it for it to work, and people who are not expecting to be in prison for very long, or even if they think their future lies in prison think it lies in a different prison, do not take part in the regime. There are catastrophic stories from quite a long way back of remand prisons being ungovernable.¹⁰¹

69. We have not heard compelling evidence to support the creation of dedicated remand prisons in England and Wales—such prisons can be difficult to govern and run effective regimes within. However, some prisons are now at risk of becoming dedicated remand prisons by default as non-remanded prisoners are moved to other types of prison in order to cope with the capacity pressures caused by the growing remand population. *The Ministry of Justice should set out whether this is its policy intention; and if it is not, then HMPPS needs to take steps to reduce the remand population in some of its prisons.* We note also that Category B prisons often represent the worst of the prison estate, with poor, overcrowded conditions and staffing difficulties. We also recommend that as the Government invests in its prison-building programme, funding must also be allocated to deliver an improvement in conditions in the Category B estate.

99 The Howard League for Penal Reform ([REM0008](#))

100 Rethink Mental Illness ([REM0022](#))

101 [Q60](#)

Support available for those on remand

70. We heard that people held on remand for long periods of time will almost certainly lose their employment, their accommodation, and, in some cases, custody of their children. The increasing average length of time an individual is spending remanded in custody is having a significant impact on the amount of support they require on release. For example, a defendant on remand who was in receipt of Universal Credit support for housing costs before going into prison can only continue to receive that support for up to six months whilst in prison. As noted earlier, almost a third of those on remand are currently held for longer than six months and are therefore at risk of losing existing accommodation, which may not have been the case if the time they spent on remand was lower.

71. Throughout our inquiry we heard that many support services, such as those addressing mental health issues or substance misuse, prioritise prisoners by release date to ensure as many people as possible can access them. This disadvantages those on remand, whether untried or unsentenced, because they have no release date. We additionally heard from HM Chief Inspector of Prisons that there has been a noticeable decrease in the support available for those held on remand in recent years:

If someone comes into prison, they are not routinely getting the support on things like finance, benefit, debt, housing, direct debits and bills that they would have expected to have in the past. I went to places like Belmarsh, for example, where almost overnight the rug had been pulled on many of those services. There was a real concern that prisoners were remanded and spending longer periods of time on remand and the population was growing, but some of the services they might have expected simply were not there.¹⁰²

72. Penelope Gibbs of Transform Justice outlined the key factors that should be in place to help remanded prisoners:

One of the reasons why it is not ideal to have people on remand for a very long time is that it is almost impossible [...] to make a productive prison environment for somebody on remand, but they should have access to very good health services, particularly mental health services, and education, libraries and occupation as much as is possible. It is difficult for prisons, but they have to be oriented in such a way that somebody can still access those things; otherwise, remand prisoners have a much inferior experience to sentenced prisoners.¹⁰³

73. Evidence to our inquiry highlighted that support on first reception to prison was often particularly weak.¹⁰⁴ Early days staff, working with individuals on their arrival at prison, have less access to information on people on remand compared to sentenced prisoners, making risk identification and the establishment of good, professional relationships more difficult.¹⁰⁵ The importance of having support services for remanded individuals on reception into prison was emphasised by Michelle Jarman-Howe, Chief Operating Officer of Prisons at HMPPS:

102 [Q165](#)

103 [Q67](#)

104 Peter Dawson, [Q59](#)

105 Independent Advisory Panel on Deaths in Custody ([REM0016](#))

It tends to be quite a shocking experience for them, so individual support to make sure that we have secured their safety is helpful; if they need signposting to drugs services, for example, or a number of those areas.¹⁰⁶

74. It is often the case that services are in place for sentenced populations, but not for those remanded in custody because the terms of contracts only refer to the sentenced prison population. Despite this, we heard that in many cases, even if not specifically funded to work with unsentenced populations, voluntary sector organisations do their best to provide services to people on remand. Of the 132 organisations that responded to Clinks' 2021 State of the Sector survey, an annual survey of voluntary organisations working with people in the criminal justice system, 44% said they work with people on remand.¹⁰⁷

75. The sudden loss of freedom and disruption to family life when someone is remanded to custody, alongside the anxiety of not knowing what is going to happen when they get to trial or when that trial might take place, can be a highly traumatic experience.¹⁰⁸ Whilst those on remand make up around 16% of the prison population, they account for 28% of self-inflicted deaths in custody.¹⁰⁹ A review of official statistics by INQUEST, a charity dedicated to investigating state related deaths, found that between 2017 and 2022, 55% of adult remand deaths were self-inflicted, compared to 20% of adult non-remand deaths.¹¹⁰

76. The charity, Rethink Mental Illness, highlighted that it is harder to do support work with those on remand as they have less certainty about the future, which has a negative impact on a remanded individual's mental health.¹¹¹ It was also reported that mental health support was focused on symptom management, so as not to interfere with anything that might impede the reliability of their testimony in the ongoing trial, but if people were on remand for months on end, then that was a long time for someone to be trying to manage their symptoms.¹¹²

77. As part of our visit to Cloverhill Remand Prison in Dublin, we met representatives of the Inreach Court Liaison Service who highlighted the potential benefits of early, targeted mental health support for prisoners, particularly those held in relation to minor offences, to prevent reoffending and support rehabilitation. The Ministry of Justice told us it had taken steps to improve the wellbeing of prisoners on remand and to minimise risks in relation to mental health by, for example, revising the Assessment, Care in Custody and Teamwork system, which is set up to support prisoners who are identified as being at risk of suicide and self-harm.¹¹³

78. There is clearly a need for greater support to help those on remand while in prison. Due to the average length of time defendants now spend on remand, they are more likely to lose their accommodation, employment, and custody of children, and if found guilty they are increasingly likely to be released on time served without having received the release date required to access some vital services. Support services for those remanded into custody need to be in place to help manage this. HMPPS should

106 [Q228](#)

107 [Clinks \(REM0024\)](#)

108 [One Small Thing \(REM0013\)](#)

109 Ministry of Justice, '[Safety in custody: quarterly update to December 2021](#)', 28 April 2022

110 [INQUEST \(REM0007\)](#)

111 [Rethink Mental Illness \(REM0022\)](#)

112 [Rethink Mental Illness \(REM0022\)](#)

113 [Ministry of Justice \(REM0012\)](#)

ensure that remanded individuals are not deprioritised for services such as mental health assessments, drug treatment, education, training, and employment due to their lack of release date.

Meaningful activities, time out of cell and family contact

79. Support for those remanded to custody is vitally important, but equally as important is ensuring that there is an effective regime for those remanded to participate in if they so wish. Peter Dawson, Director of the Prison Reform Trust, told us that prisons holding remand prisoners were often the ones struggling the most to maintain effective regimes and as a result there was a lack of meaningful activities for those held on remand to engage in.¹¹⁴

80. Prisons have been slow to emerge from their Covid regimes. For example, a September 2022 inspectorate report on HMP Nottingham found that remanded prisoners could only have a maximum of three visits a month, compared to the three a week they were entitled to before the pandemic.¹¹⁵ Charlie Taylor reflected on this in his evidence to us:

We find too many prisoners spending too much time locked up behind their door. What we often see is that the remand population is last in the pecking order when it comes to things like the allocation of jobs, education, or training, which means that it is the remand population that is likely to be spending longer behind their door every day.¹¹⁶

81. Those held on remand are meant to have additional entitlements over the sentenced population under the Prison Rules 1999, as outlined by the then Minister of State, Victoria Atkins MP, in response to a written parliamentary question:

Prisoners on remand also have additional rights and privileges beyond those afforded to sentenced prisoners, including being able to send and receive additional letters, to access additional visits, and, within reasonable expectations, to have limited contact with convicted prisoners, including not sharing a cell with a sentenced prisoner, unless they choose.¹¹⁷

82. Although people on remand should receive more visits and entitlements than the sentenced population, this has been curtailed by recent and ongoing Covid-19 measures. The pandemic exacerbated challenges faced by those on remand, with the majority experiencing restricted regimes with most of the day being spent inside cells, limited ability to participate in work or meaningful activity and little contact with family.¹¹⁸

83. During our visit to Cloverhill Prison in Dublin we noted the significant investment that they had made in video conferencing technology, which they were using to facilitate remote visits for prisoners' families alongside their use as a remote court-link. We heard that using such technology to connect with family was very popular, particularly where families lived far away or found it distressing to visit the prison in person.

114 [Q59](#)

115 HM Inspectorate of Prisons, [Report on an unannounced inspection of HMP Nottingham 24–25 May and 6–10 June 2022](#), September 2022

116 [Q167](#)

117 [PQ 767 0](#) [on remand in custody], 17 November 2021

118 Independent Advisory Panel on Deaths in Custody ([REM0016](#))

84. It is important to note that, unlike sentenced prisoners, those remanded into custody are under no obligation to participate in the activities that may be on offer in a prison. As the then Minister, Rob Butler MP, explained:

Prisoners on remand do not have any requirement to participate in either education or employment, or the various opportunities that are afforded to them. Sometimes they choose not to and that is entirely up to them.¹¹⁹

85. Despite the lack of requirement to engage, when speaking to prisoners during our visit to HMP Wandsworth many felt there was not a lot to do in the prison despite a willingness by them to partake in activities, and a desire to have training and education opportunities. Whilst asserting that sentenced prisoners were not favoured over remanded individuals when it came to accessing support services and in-prison opportunities, Michelle Jarman-Howe, Chief Operating Officer at HMPPS, did acknowledge that the prisons which remanded prisoners are sent to generally had the least availability of education provision and workshops.¹²⁰ This echoed evidence submitted by the Prison Reform Trust which highlighted that Category B prisons are set up to hold people for relatively short periods of time rather than long periods on remand.¹²¹

86. It is also difficult for remand prisoners to access conventional jobs in prison and formal educational courses due to the system not anticipating that they will be in prison for long periods of time.¹²² To help address this we heard from the Ministry of Justice that prisons were increasingly offering shorter courses which were more accessible to those held for comparatively short periods of time.¹²³ Such courses allowed those held on remand to engage in meaningful activities similar to those available for their sentenced counterparts if they wished to.

87. Although we recognise that those held on remand are under no obligation to engage with prison regimes, they should be encouraged to take part in meaningful activities and HMPPS needs to ensure that prisons with high remand populations have opportunities available for those held in them to utilise if they so desire. We welcome the increasing availability of shorter courses for those not anticipated to be in prison for long periods of time to take part in, and recommend that the Ministry of Justice ensures that such courses are in place in all Category B prisons by the end of 2023.

88. We heard evidence that targets for the number of visits a remand prisoner is entitled to are still not being achieved as prisons are yet to fully emerge from their pandemic regimes. HMPPS should ensure this entitlement is met, including giving consideration as to whether greater use of video facilities set up to communicate with courts could be used to facilitate remote visits where in-person visits are not possible.

The female estate

89. The number of women received into prison on remand increased by 9% between April to June 2020 and July to September 2021. Women entering prison on remand account for

119 [Q228](#)

120 [Q240](#)

121 Prison Reform Trust ([REM0021](#))

122 Rob Butler MP, [Q228](#)

123 Rob Butler MP, [Q228](#)

over half of the women received into prison in a given year.¹²⁴ The size and geography of the women's estate means women tend to be held further from home, creating difficulties in maintaining contact with their families and within the remit of local services.¹²⁵

90. 40% of women remanded into custody do not go on to receive a custodial sentence. In addition, the Ministry of Justice identified in its Female Offender Strategy that almost nine in 10 women held on remand are low or medium risk of serious harm to the public.¹²⁶ Over 2019 and 2020, the most common offence for which women were remanded to prison from a Magistrates' Court was for theft offences, which accounted for 1,650 remands to prison.¹²⁷ The Female Offender Strategy highlighted the fact that women can be held in prison on remand due to a lack of available appropriate accommodation in the community rather than because they are a threat to the public.¹²⁸

91. Although there is limited data to explain why proportionately more women than men are remanded to prison, Peter Dawson, Director of the Prison Reform Trust told us there is:

Clearly an anomaly, in that the proportion of the female prison population held on remand is larger than the male population, yet we know that the offences committed by women for which they go to prison are less serious, so that is obviously the wrong way round.¹²⁹

92. Women's prisons appear to have more provisions in place for supporting women on remand, with each person being allocated a Prison Offender Manager and the assistance of a bail information officer.¹³⁰ The Ministry of Justice has committed to providing specialist accommodation, finance, and debt support for all women on remand or sentenced in custody, with the aim of having commenced this provision in the summer of 2022.¹³¹

93. We are concerned by the high number of women placed on remand despite the often low risk that they pose to the public and the fact that many will not go on to receive a custodial sentence. The Ministry of Justice has acknowledged this is a problem, but more action needs to be taken to ensure that low-risk women receive the support they need to await trial in the community rather than remanding them to custody, particularly if it is unlikely that they will receive a custodial sentence following trial. We would welcome an update on the progress on the Female Offender Strategy with regard to ensuring that custodial remand is not used as a default alternative where community provision is not available. We would also welcome an update on the commitment to provide specialist accommodation, finance and debt support for all women on remand or sentenced to custody, due to have commenced in summer 2022.

124 Women in Prison ([REM0018](#))

125 Birth Companions ([REM0009](#))

126 Female Offenders Strategy

127 Women in Prison ([REM0018](#))

128 Ministry of Justice, [Female Offender Strategy](#), 27 June 2018

129 [Q76](#)

130 HM Inspectorate of Prisons, [Report on an unannounced inspection of HMP & YOI Bronzefield 24 January and 31 January – 4 February 2022](#), March 2022

131 Ministry of Justice ([REM0012](#))

Prison workforce

94. In his evidence to us, Charlie Taylor, HM Chief Inspector of Prisons, spoke of there being “some real issues about just having enough staff in prisons”.¹³² There is high staff turnover at all levels within the prison system. During our visit to HMP Wandsworth, we heard that there had been five governors in 10 years and there is an annual leaving rate of 14.5% amongst band 3–5 prison officers.¹³³ This disruption makes it harder for prisons to embed an established regime for those held in custody. In addition, we heard that many of the staff in prisons are inexperienced, which was making some governors reluctant to open up prison regimes to bring them back in line with how they had operated before the pandemic.¹³⁴

95. We also heard about the pressures placed on the prison workforce in remand prisons. The charity, Rethink Mental Illness, outlined how strict deadlines relating to the processing of arrivals, alongside the increasing remand population, placed staff and services under a greater burden, and meant it was harder for services to meaningfully address people’s needs at a high-quality level.¹³⁵ Their written evidence to us raised concern about high levels of staff burnout and the difficulties of retaining staff in prisons with a high remand population.¹³⁶

96. The large number of defendants on remand facing severe mental health problems creates additional problems for prison staff. An acting prison governor at Bronzefield Prison, which has the highest number of remanded women in the country, noted that the large number of women on remand had restricted the capacity for prison staff to work constructively with the sentenced women in their care.¹³⁷

97. We heard from the then Minister for Prisons, Rob Butler MP, on the progress made in relation to the recruitment of new prison officers, with the number of officers between October 2016 and June 2022 increasing from 17,995 to 21,725.¹³⁸ He additionally outlined how difficulties in recruitment related more to specific areas of the country rather than the nature of the prison:

The challenges tend to be on a more geographical basis. There are certain parts of the country where it is much harder to find people to work in prisons. I do not think it is specific to the type of prison, whether it is a remand prison, a trainer or resettlement, or an open prison.¹³⁹

98. We recognise the difficulties HMPPS faces surrounding the recruitment and retention of prison staff. This is an issue we intend to explore in more depth in our prison workforce inquiry. Evidence to this inquiry has highlighted how working with remanded prisoners can pose particular challenges for prison officers. *Prison officers must be given specialised training on the particular needs of remand prisoners and how to engage them in a prison regime.*

132 [Q171](#)

133 Prison Reform Trust, ‘[New figures reveal exodus of prison staff](#)’, 19 May 2022

134 Charlie Taylor, [Q171](#)

135 Rethink Mental Illness ([REM0022](#))

136 Rethink Mental Illness ([REM0022](#))

137 The Howard League for Penal Reform ([REM0008](#))

138 [Q243](#)

139 [Q243](#)

4 Resettlement following time spent in custodial remand

Resettlement support

99. The resettlement support that is required for those being released from prison following a period of remand is similar to that of someone who is released after completing a prison sentence. As Peter Dawson of the Prison Reform Trust outlined:

Most of the work that is done to try to prevent reoffending is the same as you need to do to help someone who has been in prison for six weeks or six months. It is somewhere to live; it is what has happened to your job, your bank account, and your family.¹⁴⁰

100. Previously, Community Rehabilitation Companies provided Enhanced Through the Gate face-to-face resettlement services to all people in custody, whether remanded, convicted or sentenced and regardless of home area.¹⁴¹ However, following the unification of the Probation Service in 2022, and subsequent changes in the delivery of resettlement services, remand prisoners were not included in new contracts with accommodation support agencies in prison.¹⁴² This was referred to as a “very significant omission” by HM Chief Inspector of Prisons.¹⁴³ Charlie Taylor told us:

What we found with the community rehabilitation companies which preceded unification was that part of their contract was to support remanded prisoners. What we are finding now is that with the unification contracts remanded prisoners are not getting the support they used to get.¹⁴⁴

101. Michelle Jarman-Howe, Chief Operating Officer Prisons at HMPPS, told us about the work being done by pre-release teams in prison to help aid the resettlement of those being released in the absence of probationary support. She also said that it remained the Ministry of Justice’s intention to update the contracts to allow for resettlement teams to work with those remanded, but it was the “timing of the delivery that is the challenge”, although it was hoped that the majority of contracts would be updated by April 2023.¹⁴⁵

102. HMPPS runs a temporary accommodation scheme, which provides up to three months of accommodation to sentenced people leaving custody in order to avoid homelessness on release; however we were told that demand for this service outstrips supply.¹⁴⁶ At some prisons, around half of all prisoners were released homeless—at HMP Wandsworth 45% of prisoners released in the previous year had accommodation arranged for their first night, while at HMP Thameside the figure was 53%.¹⁴⁷ During our visit to HMP Wandsworth

140 [Q66](#)

141 Anonymous ([REM0017](#))

142 HM Inspectorate of Prisons, [Annual Report 2021–22](#), 13 July 2022

143 HM Inspectorate of Prisons, [Report on an unannounced inspection of HMP & YOI Styal 20 September and 4–8 October 2021](#), October 2021

144 [Q176](#)

145 [Q225](#)

146 Anonymous ([REM0017](#))

147 HM Inspectorate of Prisons, [Annual Report 2021–22](#), 13 July 2022

we heard of a store of tents kept by the prison which were handed out to prisoners being released with no fixed accommodation to go to. When the then Minister for Prisons was asked if this was an acceptable state of affairs, he acknowledged that it was not.¹⁴⁸

103. An Inspectorate report on HMP Wandsworth in July 2022 found that support for prisoners who needed help to find accommodation on release was very poor, with little assessment of need and no service for remand prisoners who made up the overwhelming majority of the population. The Inspectorate recommended that prison governors and their teams, supported by the Ministry of Justice, should make sure that there is effective housing support for all prisoners, including those on remand.¹⁴⁹

104. **We were disappointed to hear that resettlement support is not routinely available to those held on remand due to this category of prisoners being excluded from contracts agreed with providers as part of the reunification of the probation service. Those held on remand have a similar need for resettlement support as the sentenced population and it is concerning that this support is not being provided simply due to contractual issues. We agree with the Minister that it is not acceptable that, in some cases, remand prisoners are being handed tents on release in the absence of suitable accommodation. *The Ministry of Justice needs to do more to ensure that all people leaving prison have the option of temporary housing if it has not been possible to find more permanent accommodation prior to release. We welcome the commitment by the Government to update contracts with resettlement teams. The work to include those on remand in the contracts for resettlement accommodation should be completed by April 2023.***

Support for people who are acquitted

105. On average, one in 10 defendants remanded into custody by magistrates' courts and 11% of people remanded by the Crown Court are subsequently acquitted.¹⁵⁰ No support or financial compensation is available for this group. People acquitted and released following a period on remand do not come under the supervision of probation, whereas those who are convicted and released based on time served will receive probation supervision and therefore access to community-based support.¹⁵¹

106. We heard that this lack of provision represents a gap in the system and leads to those who have been acquitted being at a disadvantage on release compared to those released following a prison sentence, as Peter Dawson of the Prison Reform Trust outlined:

The big gap, the one thing that I would say is missing, is any through-the-gate support for people who are released from prison without being convicted, which is curious because it is a significant group of people. It is an obvious service that needs to be provided. It may not be about reducing reoffending, but it is certainly about resettlement.¹⁵²

148 Rob Butler MP, [Q220](#)

149 HM Inspectorate of Prisons, [Report on an independent review of progress at HMP Wandsworth 19 – 22 June 2022](#), July 2022

150 Clinks ([REM0024](#))

151 NACRO ([REM0014](#))

152 [Q66](#)

107. The Ministry of Justice told us it was looking to provide support on the day of release to those released immediately as time served or acquitted.¹⁵³ This is being considered as part of changes to Commissioned Rehabilitative Services for remand prisoners. These Services are part of the probation system and aim to provide ‘flexible, responsible services to help break the cycle of reoffending’.¹⁵⁴ However, support for those acquitted following a period on remand was not committed to in the oral evidence provided by the then Ministers, who instead argued that HMPPS “literally has no responsibility nor could it” over those who are acquitted.¹⁵⁵

108. Our inquiry heard calls for those released following acquittal to be entitled not just to resettlement support, but also compensation for what they may have lost during their time in custodial remand. The charity, Women in Prison, outlined that they would like to see:

Appropriate remedy, including mental health support and financial compensation, should be provided for those who may have experienced a loss of earnings, suspension of benefits, housing issues, debt or faced stigma and trauma as a result of being inappropriately remanded to custody, to help them return to their life in the community.¹⁵⁶

109. Others have suggested that, as a minimum, those acquitted should be entitled to the discharge grant presently given to those released following a prison sentence.¹⁵⁷ Currently, a sentenced individual is entitled to £76 on release to cover immediate essentials; however, no similar financial support is given to those who are acquitted.

110. The Ministry of Justice told us there is a difficulty in providing support to those acquitted, as the probation service had no remit over those found not guilty. The then Minister for Prisons, Rob Butler MP, told us that “HMPPS, however much it might want to, cannot do anything because they are completely free citizens”.¹⁵⁸ He outlined that those acquitted become the responsibility of their local authority.¹⁵⁹ This referral is made on the day of acquittal,¹⁶⁰ and therefore it did not allow time for advanced preparation of suitable accommodation by the local authority. However, we also heard that those acquitted are often not prioritised by agencies such as local authority housing officers, and information is not routinely passed on to community services, including drug and alcohol providers, to establish community care where required.¹⁶¹

111. It is simply wrong that those who are remanded to custody, potentially for long periods of time, and are then acquitted, have no entitlement to resettlement support. Although they may not fall technically within the responsibility of probation services, the Government must nevertheless find a way to ensure acquitted individuals are supported to return to the community in a way that is at least equivalent to those who are released having served a custodial sentence. As a minimum, they should be assisted in finding temporary accommodation following their release and be entitled to the same discharge grant as those who are sentenced and then released. The renegotiation of

153 Ministry of Justice ([REM0012](#))

154 Ingeus, ‘[Commissioned Rehabilitative Services](#)’

155 Rob Butler MP, Minister for Prisons [Q223](#)

156 Women in Prison ([REM0018](#))

157 Peter Dawson, [Q71](#)

158 [Q221](#)

159 Rob Butler [Q223](#)

160 Ministry of Justice ([REM0012](#))

161 Women in Prison ([REM0018](#))

accommodation support contracts would appear to be a good opportunity to consider how similar support can be given to those who are acquitted. We would therefore like to see progress in relation to this matter by April 2023, the target date the Ministry gave us for the renegotiation of support contracts. This issue is now all the more acute because of the increase in time that defendants are spending on remand and the increased adverse consequences for them that accompany this.

5 Alternatives to custodial remand

112. There is a variety of alternatives to custodial remand that can be ordered by the court, including conditional bail and electronic tagging. Submissions to our inquiry called for an increase in the use of such alternatives which would, where appropriate, allow individuals to maintain their job, accommodation and custody of their children whilst awaiting trial and reduce pressure on the prison system by reducing the numbers in custody¹⁶²

113. However, the use of alternatives to custodial remand requires prosecutors and the courts to have confidence in the effectiveness of these alternatives. We heard calls for greater guidance and training for magistrates, judges and lawyers to support better remand decision-making.¹⁶³ For example, the Criminal Justice Alliance told us that a lack of knowledge of and confidence in alternative measures was leading to an overuse of custodial remand.¹⁶⁴ Gareth Johnson MP, the then Minister for Courts, told us it is “important that [the courts] are aware of the packages available to them and their effectiveness so that they can make a proper decision”.¹⁶⁵

114. Fair Trials outlined their belief that the key to building effectiveness and trust in alternatives to pre-trial detention was to ensure that those alternatives were both widely available and properly implemented in practice. This in turn was dependent on sufficient resources being devoted to monitoring and the implementation of non-custodial measures.¹⁶⁶

115. The then Minister for Prisons and Probation, Rob Butler MP, told us he wanted to see greater use of alternatives to custodial remand where appropriate:

If there are alternatives within legislation at the moment that mean it is safe for somebody not to have to go into custody while they are still unconvicted of an offence, and to have electronic monitoring, be it in the RF traditional style, or GPS, and/or accommodating them in supported accommodation [...] my feeling is that that is exactly what we should be doing.¹⁶⁷

116. Custodial remand should only be used for those who are not suitable for alternatives, such as conditional bail or electronic monitoring. Greater engagement is needed between the Ministry of Justice and the Judiciary on the alternatives currently available to custodial remand. The Government should ensure that judges and magistrates are aware of the proven effectiveness of these alternatives in order to instil confidence and to increase their usage.

Conditional bail

117. The presumption outlined in the Bail Act 1976 is for unconditional bail; however, one option available to magistrates is to apply conditions to bail, with custodial remand being

162 NACRO ([REM0014](#))

163 The Howard League for Penal Reform ([REM0008](#))

164 Criminal Justice Alliance ([REM0020](#))

165 [Q251](#)

166 Fair Trials ([REM0015](#))

167 [Q254](#)

imposed if these conditions are not adhered to. These conditions are primarily intended to ensure that the defendant does not commit further offences or abscond while awaiting trial.¹⁶⁸

118. The Bail Act 1976 provides no guidance on the types of conditions that could be applied (although it does include provisions relating to electronic monitoring), which circumstances they can be used in, or when specific conditions should and should not be imposed. Evidence to our inquiry suggested that in practice, most courts stick to a small range of conditions such as residence requirements, curfews, and banning defendants from seeing specific people. However, the lack of a framework setting out appropriate conditions leaves these conditions at the courts' discretion and therefore the conditions an individual could be subjected to is often dependent on where their case is heard.¹⁶⁹

119. We heard that simplicity was often key to the successful compliance of individuals with bail conditions. The former chair of the Magistrates' Association told us the court should not impose more than two or three conditions on a defendant, otherwise adherence to the conditions can become "ridiculously complicated".¹⁷⁰ The then Minister, Gareth Johnson MP, told us he wanted to see "clearer, more sensible conditions imposed on people that they can comply with".¹⁷¹ Tom Franklin of the Magistrates' Association also emphasised the need for conditions to be achievable and measurable to ensure they were being adhered to.¹⁷²

120. We heard from Professor Anthea Hucklesby that "the use of conditions is completely unregulated", with courts being able to "attach whatever conditions they want and for however long".¹⁷³ We additionally heard that conditions needed to be practical and policeable in order to instil confidence in them as an alternative to custody.¹⁷⁴

121. The Criminal Justice Alliance has called for a review of the mechanisms for monitoring bail conditions, on the basis that there is currently a lack of routine police monitoring of compliance with conditions, the enforcement of conditions and the timely reporting of breaches which weakens confidence in conditional bail as an alternative to custodial remand.¹⁷⁵

122. Conditional bail is a good alternative to remanding defendants to custody while also placing restrictions on the activity of an individual to help ensure they do not commit further crimes while on bail or abscond before their trial. However, there is no point applying bail conditions that are so onerous that it unrealistic that a defendant will be able to comply with them. We were struck by the lack of guidance on the use of bail conditions. When sentencing, judges and magistrates must apply sentencing guidelines to determine the appropriate sentence. A framework for bail conditions, with accompanying guidance, could improve the effectiveness and consistency of the use of conditional bail. *The Government should engage with the judiciary on how to improve the consistency of bail conditions, for example, by introducing a framework of*

168 John Bache, [Q123](#)

169 Professor Anthea Hucklesby (Professor of Criminal Justice at University of Birmingham) ([REM0003](#))

170 [Q106](#)

171 [Q161](#)

172 [Q105](#)

173 [Q77](#)

174 John Bache, [Q106](#)

175 Criminal Justice Alliance ([REM0020](#))

guidelines on bail conditions. Such a framework could also set out how these conditions can be monitored for compliance to ensure they provide an effective alternative to custodial remand.

Electronic monitoring

123. Electronic monitoring is increasingly being used to monitor those in the community, either as an alternative to custodial remand or as a form of custody once sentenced. In September 2022, 6,000 people released on conditional bail had a mixture of curfew tags and GPS-tags.¹⁷⁶ In June 2022 the Government published an updated strategy on electronic monitoring in the criminal justice system, which emphasised the role such technologies can play in community-based offender management.¹⁷⁷ The October 2022 Spending Review reiterated the Government’s focus on electronic tagging, with the aim that this technology would allow individuals who would otherwise be held in custody to keep their job, their home, and their ties into the community, all of which are critical for reducing the likelihood of reoffending.¹⁷⁸

124. Electronic monitoring also offers an opportunity to improve the monitoring of bail conditions.¹⁷⁹ Professor Anthea Hucklesby told us that such monitoring did not, and could not, stop unwanted behaviour, but it did provide concrete evidence of non-compliance which, as noted earlier, is currently often lacking in the monitoring of bail compliance.¹⁸⁰

125. The use of electronic monitoring as an alternative to remand was welcomed by the former chair of the Magistrates’ Association, John Bache, who outlined his belief that the technology was currently underused and should not be considered an “easy option” for those subjected to tagging as an alternative to custody.¹⁸¹ He told us:

If magistrates became more aware, first, of the fine details of how tagging can be done and, secondly, of how restrictive defendants find it, I would like to think it would be used much more often, and that will be beneficial and get fewer people put in prison.¹⁸²

126. We welcome the Government’s commitment to the use of electronic monitoring. Such technology offers opportunities to prevent the use of custodial remand through monitoring in the community and can also monitor compliance with bail conditions. We recommend that the Ministry of Justice ensure magistrates are provided with the information on the forms of electronic monitoring that are available and what they can be used for to improve awareness and confidence in the use of tagging as an alternative to custodial remand.

Bail Information Services

127. Our inquiry also heard about the importance of ensuring a good bail package, providing information on what bail conditions could be imposed and what support is

176 Gareth Johnson MP, [Q249](#)

177 HM Government, [Electronic Monitoring in the Criminal Justice System](#), June 2022

178 Ministry of Justice ([REM0012](#))

179 Gareth Johnson MP, [Q249](#)

180 Professor Anthea Hucklesby (Professor of Criminal Justice at University of Birmingham) ([REM0003](#))

181 [Q142](#)

182 [Q142](#)

in place to ensure adherence to these, is available for consideration by the court.¹⁸³ We heard that courts do not always have sufficient information available to them to make an informed decision about custodial remand.¹⁸⁴ For example, Transform Justice told us that defence lawyers often have difficulties getting the information they needed to suggest a suitable bail package in the time available to them.

128. At present, Bail Information Services (BIS), a service run by the Ministry of Justice, triage and prioritise remand prisoners awaiting trial who are potentially suitable for bail and suggest a suitable plan and conditions for the court to safely release defendants. This may include appropriate referrals to bail accommodation and/or other support services, and the use of electronic monitoring, thereby mitigating their risk in terms of release into the community.¹⁸⁵

129. Bail Information Services are now provided in every public sector prison in England and Wales, apart from high-security prisons which would not hold individuals suitable for bail.¹⁸⁶ However, we heard evidence that there needed to be greater availability of such services in courts in order to help prepare bail packages and address any concerns prosecutors may have which were causing them to oppose bail.¹⁸⁷ We heard that the Bail Information Service in courts was currently “patchy, and in need of greater support”.¹⁸⁸ In a survey run by Transform Justice, 54% of lawyers said bail information officers were never available in court to help prepare a package and 36% said that they seldom were.¹⁸⁹ The Criminal Justice Alliance recommended the urgent scaling up of the service so that officers were routinely available to provide bail packages in all magistrates’ courts.¹⁹⁰

130. In its review of custodial remand for children, the Ministry of Justice found that protocols to ensure timely communication were in place between liaison and diversion teams, police, the CPS, and other services to help identify children at risk of remand earlier, enabling the creation of suitable bail packages. We heard calls for similar interventions to be explored for adults.¹⁹¹ Tom Franklin of the Magistrates’ Association told us that magistrates would be greatly helped if more work was done on a bail package before a case came to a hearing.¹⁹²

131. Rob Butler MP, the then Prisons Minister, told us the Ministry of Justice had begun a pilot of Bail Information Services in courts, with the objective of ensuring the court received factual, objective and verified information on which to decide whether or not to remand a defendant to custody.¹⁹³ This pilot was due to be completed by Spring 2021,¹⁹⁴ however it is ongoing and the Ministry of Justice confirmed it would be funded in to 2023 before consideration of any wider rollout would take place.¹⁹⁵

183 Penelope Gibbs, [Q52](#)

184 Peter Dawson, [Q49](#)

185 Ministry of Justice ([REM0012](#))

186 Ministry of Justice ([REM0012](#))

187 Criminal Justice Alliance ([REM0020](#))

188 Fair Trials ([REM0015](#))

189 Transform Justice ([REM0005](#))

190 Criminal Justice Alliance ([REM0020](#))

191 Clinks ([REM0024](#))

192 [Q143](#)

193 [Q253](#)

194 [PQ 775 6](#) [on Bail: Advisory Services], 21 July 2020

195 Rob Butler MP, [Q253](#)

132. **There should be more consistent provision of Bail Information Services in courts to give decision-makers greater confidence in the bail package being presented to them. We recommend that the outcomes of the current pilot relating to these services are published, and that the service should then be scaled up so that it is available in all magistrates' courts if it is proven to help in putting together effective bail packages.**

Bail accommodation

133. The Bail Accommodation and Support Service (BASS) provides short-term housing support to people who are eligible for bail but do not have suitable accommodation to be released to. It also provides accommodation for individuals subject to a home detention curfew and people referred because of risk of recall to prison due to loss of accommodation. The service is currently in the process of being replaced by the Community Accommodation Service Tier-2, which, as with the BASS, is run by the charity Nacro.¹⁹⁶ The then Minister told us about the accommodation that is available:

We have 550 beds across England and Wales for people who do not have a suitable release address. That might sound a relatively small number, and of course one would always like these things to be bigger, but we are talking about people where it is not judged appropriate for them to go home or to somebody else's address, and yet it is not quite severe enough for them to go into custody. There is probably going to be a relatively small pool of those.¹⁹⁷

134. Trends in the use of bail accommodation show that its availability has fallen significantly since 2018.¹⁹⁸ We heard of shortages in bail accommodation, particularly in certain locations, with Tom Franklin of the Magistrates' Association stating that the "bail accommodation and support service seems to be patchy, to put it politely."¹⁹⁹ Witnesses also told us that currently many of the beds that are provided by the Service are used to meet other demands for secure accommodation, such as home detention curfew.²⁰⁰

135. We heard calls for there to be more focus on identifying suitable accommodation in order to create credible and effective bail packages.²⁰¹ In 2017, BASS provided accommodation for 1,683 defendants on bail, but in 2021 this had reduced to 728 due to a reduction in beds within the service and increasing demands for beds to be used for non-bail purposes.²⁰²

136. The problem of bail accommodation is particularly acute for women, as they often cannot access suitable accommodation owing to the distance of approved premises from their homes, as well as there often being more limited spaces available for women.²⁰³ The Prisons Strategy White Paper committed to helping more women on remand to access bail support, particularly appropriate accommodation.²⁰⁴

196 NACRO ([REM0014](#))

197 [Q255](#)

198 Transform Justice ([REM0005](#))

199 [Q145](#)

200 Professor Anthea Hucklesby, [Q57](#)

201 Transition to Adulthood Alliance ([REM0023](#)); Transform Justice ([REM0005](#)); Criminal Justice Alliance ([REM0020](#))

202 Transform Justice ([REM0005](#))

203 Criminal Justice Alliance ([REM0020](#))

204 Ministry of Justice, [Prisons Strategy White Paper](#), December 2021

137. Transform Justice told us that while a lack of suitable accommodation was never a legal reason for remanding someone to custody, it underlaid other reasons such as the risk of absconding or of interfering with witnesses. They reported that courts wanted reassurance that defendants had a stable address that was not in the vicinity of potential witnesses, and if suitable accommodation could not be put forward they were likely to remand to custody.²⁰⁵

138. The Community Accommodation Service Tier-2 plays an important role in supporting the courts and prisons in making the best use of custody by providing an address for people on bail or licence who have no suitable accommodation. *The Ministry of Justice should conduct an assessment of whether the 550 beds currently contracted through the Service is sufficient to meet the requirements of its core user groups, including the extent to which the absence of available accommodation may be an underlying contributory factor in defendants being remanded to custody.*

139. Bail accommodation is a particularly acute issue for women, with shortages of appropriate accommodation and that which is available often being far from home. *The Government should look at ways of expanding the accommodation offer and emphasise the use of alternatives such as electronic tagging if suitable accommodation is not available.*

6 Data and technology

Use of video links

140. Although the pandemic sped up the roll-out of video technology facilities to courts, these technologies were available prior to 2020, with widespread use of them in remand review hearings where individuals were linked from prison to the court.²⁰⁶ We heard from the then Minister that the Government was “very keen, where it is appropriate, where the legal representatives and the judiciary think it is appropriate, for us to facilitate the opportunity for as much use of video conferencing to courts as possible”.²⁰⁷

141. The then Minister for Courts, Gareth Johnson MP, noted that there was less demand on court space if the individuals did not need to be physically present,²⁰⁸ and Rob Butler MP, then Minister for Prisons, told us that it not only benefitted those held on custodial remand as they did not need to spend a long period of time at court for a hearing that may only last five minutes,²⁰⁹ but was also beneficial for legal representatives who did not have “to give up half a day of their time to do the travelling, have the conference and then go back”.²¹⁰

142. Every prison holding remand prisoners now has capacity to facilitate video hearings, with 240,000 video calls to court being made between January and September 2022.²¹¹ Despite the potential advantages of the increasing use of video technologies for remote hearings, we also heard fears that their use was increasing custodial remand rates as decision-making became more routinised and de-personalised.²¹² Fair Trials raised concern that the increased use of these technologies in criminal proceedings:

Overlooks evidence suggesting that audio or video-link hearings disadvantage defendants with cognitive impairments, and/or serious mental health or neurodivergent conditions, that they result in disproportionately unfavourable outcomes for defendants, and that in some cases, they can interfere with the right of access to effective legal assistance.²¹³

143. Charlie Taylor, HM Chief Inspector of Prisons, had particular concerns about the use of video technology in cases involving vulnerable witnesses:

In some circumstances with some prisoners, it has proven to be effective, but quite often what worries us is where more vulnerable prisoners require more support, and we would be nervous about them failing to get proper access to justice if court proceedings were videoed. For some parts of trials

206 Transform Justice ([REM0005](#))

207 Rob Butler MP, [Q268](#)

208 [Q265](#)

209 [Q268](#)

210 [Q272](#)

211 Rob Butler MP, [Q266](#)

212 Professor Loraine Gelsthorpe (Director, Institute of Criminology, & Professor of Criminology and Criminal Justice at Institute of Criminology, University of Cambridge); Professor Nicola Padfield (Director, Cambridge Centre for Criminal Justice & Professor of Criminal and Penal Justice at Faculty of Law, University of Cambridge) ([REM0006](#))

213 Fair Trials ([REM0015](#))

and cases it makes sense for video to be used, but there must be caveats and checks and balances to make sure that vulnerable prisoners in particular do not find themselves very exposed by the technology.²¹⁴

144. This concern for vulnerable defendants was echoed by the Magistrates' Association, which reported that 76% of magistrates surveyed found that remote links had made communication with defendants more difficult.²¹⁵ It was also highlighted that whilst there had been research to consider the experience of magistrates using remote technologies, there was no published research on the impact of such technologies on defendants which was key to understanding the impact of remote hearings.²¹⁶

145. Video technology can also be used for remote visits, sometimes called 'purple visits'. Submissions to our inquiry welcomed this development—the Prison Reform Trust told us that video technology provided “a vital lifeline for maintaining links in the community”.²¹⁷ However, the Ministry of Justice acknowledged that, for some, these video calls would not provide an adequate substitute for in-person visits.²¹⁸ It was found that in some prisons during the pandemic use of these was restricted to one 30-minute video call a month, despite remanded prisoners being entitled to three visits a week.²¹⁹

146. We recognise that for routine hearings there is a benefit of using video links from prison so a remanded defendant does not have to experience frequent disruption going to and from court. However, the convenience of video technology must not affect a defendant's access to justice, and should not become a default position because of resource or capacity pressures. It is important that trials and other key hearings continue to be heard physically in court.

147. The Ministry of Justice should conduct research into the potential effects on remand rates of using video links in prison and police stations to ensure that use of these technologies is not having a significant impact on the number of individuals being remanded to custody.

Data

148. There is no single publication by the Ministry of Justice that provides data on the remand population. Rather, the data that is available on this population is spread across different Ministry of Justice datasets. Charlie Taylor told us:

The published weekly figures currently do not include statistics on remand prisoners. That data is just not there. You can get it internally, but it is not in the public domain. The remand population by ethnicity comes out only every two years. I am not quite sure why that should be.²²⁰

149. Limited data collection undermines the ability to understand fluctuations in the rate at which defendants are remanded and the reasons for remanding them to custody.²²¹

214 [Q174](#)

215 Tom Franklin, [Q130](#)

216 Tom Franklin, [Q130](#)

217 Prison Reform Trust ([REM0021](#))

218 Ministry of Justice ([REM0012](#))

219 HM Inspectorate of Prisons, [What happens to prisoners in a pandemic?](#), February 2021

220 [Q185](#)

221 Dr Tom Smith (Associate Professor in Law at University of the West of England (UWE), Bristol) ([REM0010](#))

Tom Franklin of the Magistrates' Association referred to the lack of data as "grappling in the dark to understand what is going on".²²² Charlie Taylor noted that individual prisons collect data on their populations but emphasised the need for this to be shared and utilised to help drive improvements in the system.²²³

150. The Government acknowledged that a lack of data on remand posed a real challenge for the justice system.²²⁴ The Common Platform, the headline technology project in the HMCTS Transformation Programme, has been put forward as a solution to some of the data problems experienced in relation to remand. The Common Platform is a digital case management system being developed to help users (including HMCTS staff, the judiciary, defence lawyers and the Crown Prosecution Service) to manage and share criminal case information more effectively. It is hoped that the system will "give much more data about what is going on in the courts at the different stages".²²⁵

151. The Common Platform is currently being used in 75% of criminal courts, with the aim for it to be rolled out to all criminal courts by the end of March 2023.²²⁶ Reflecting on this from the position of magistrates' courts Tom Franklin told us he hoped the Common Platform would help, but that there had been no impact so far as the rollout had not been completed.²²⁷

152. We heard from many contributors to our inquiry that vital pieces of data were not available. The length of time that people are being remanded for and the extent to which that is changing are key pieces of information raised as missing from current available data.²²⁸ It is worth noting that the figures we have quoted in this Report on the number of prisoners held on remand for more than six months is the result of a Parliamentary Question.²²⁹ Other frequently referenced pieces of information on which data is not published include: the number of defendants subject to conditional bail and the types of bail conditions imposed; reasons for remand decisions; remand rates for types of crime committed; and demographic data. Without this data it is difficult to scrutinise remand decisions for different groups of defendants and answer important questions about whether custodial remand is being used consistently.²³⁰ 56% of defendants attending magistrates' court remand hearings do not have their ethnicity recorded, which makes it difficult to assess if certain groups are being disproportionately remanded to custody.²³¹

153. There are clear benefits of collecting and publishing more data. JUSTICE told us that data on the length of time people spend on remand would not only improve understanding of growth in the remand population but would also provide "remand decision-makers with accurate estimations of the length of time a defendant is likely to stay in custody" which

222 [Q113](#)

223 [Q185](#)

224 Rob Butler MP, [Q203](#)

225 Rob Butler MP, [Q274](#)

226 Ministry of Justice ([REM0026](#))

227 [Q156](#)

228 Charlie Taylor, [Q184](#)

229 [HL3408](#) (Prisoners on Remand)

230 Professor Anthea Hucklesby (Professor of Criminal Justice at University of Birmingham) ([REM0003](#)); Professor Mandeep K Dhani (Professor of Decision Psychology at Middlesex University) ([REM0011](#))

231 Transform Justice ([REM0005](#))

may help them make more proportionate decisions.²³² Data on the basis on which remand decisions are made would also enable courts to scrutinise previous decision-making and highlight potential areas for improvement.²³³

154. The Centre for Public Data, a non-partisan non-profit organisation which works to improve the quality of data collected and published by the Government, is currently conducting a piece of research to consider existing data gaps in the justice system. This work, which is due to be completed in spring 2023, will consider the issue of remand. The Centre's interim findings have highlighted the length of time a defendant spends on remand, and the legal grounds for courts refusing bail, as two key areas where there are gaps in the available published data. In both cases, the Centre's research suggests that information is already held on prison and court databases and would be straightforward to publish.²³⁴

155. It is only on the basis of good quality data in respect of the use of custodial remand that there can be effective policy-making. More data needs to be collected and published on remanded defendants, particularly in relation to the reasons for refusing bail, the length of time people are spending on remand as well as demographic information, including vulnerabilities and protected characteristics amongst the remand population, to increase transparency and improve the information available to decision-makers. *We recommend that the Ministry of Justice begins to collate, where it does not do so already, and publish data on the remanded population in a dedicated quarterly publication, as it does for the current Offender Management Statistics. We also welcome the current work being conducted by the Centre for Public Data on data gaps in the justice system. The issue of data is one that we routinely raise in our reports, and so we call on the Government to give urgent consideration to the Centre's recommendations and conclusions when they are published later this year.*

232 JUSTICE ([REM0019](#))

233 The Howard League for Penal Reform ([REM0008](#))

234 Centre for Public Data ([REM0027](#))

Conclusions and recommendations

The growing remand population

1. We are concerned by the increasing size of the remand population, and in particular by evidence of the increasing length of time people are spending in custody on remand. Efforts need to be focused on reducing this population and bringing forward the hearing dates of trials. A significant proportion of defendants held on remand will be found not guilty, and so it is vital that they are not deprived of their liberty for long periods of time. For those found guilty and given a custodial sentence, they should be progressing on to sentence planning to prepare them for release, rather than waiting long periods of time for their sentence to be passed. The need for efforts to reduce the population are particularly pressing now, given the current capacity crisis in the prison system, and the recent activation of Operation Safeguard to allow the temporary use of up to 400 police cells to hold prisoners, with the growing remand population given as a reason for increased demand on prison spaces. (Paragraph 12)
2. The large number of people being remanded for non-violent offences suggests that many are being remanded due to repeat offending. This repeat non-violent offending is often symptomatic of underlying vulnerabilities, such as drug abuse, homelessness and mental ill-health, for which there is currently a lack of community provision. We believe that there should be more co-ordinated investment across departments including the Department of Health and Social Care and the Department for Education in community services to divert people from this repeated criminal activity before they reach the stage where the criminal justice system sees no option but to remand them into custody. (Paragraph 18)
3. We recognise that the pandemic led to delays in court hearings which have contributed to a growing remand population. However, it is important to stress that the remand population has been growing despite a decrease in the number of cases entering the Crown Court, and we are concerned that the impact of higher police numbers and a return to pre-pandemic case levels may lead to further increases in the remand population. *In view of the risk of case levels increasing, we recommend that the Government conducts a rapid review to understand why the number of cases entering the Crown Court remains depressed, what the risks are of the number of cases increasing again, and to model the effect of changes in the number of cases entering the system on the remand population.* (Paragraph 25)
4. The growing remand population is clearly a serious concern, both in relation to the numbers being held on remand and the length of time they are remanded to custody for. Custodial remand is a severe deprivation of liberty for those not yet found guilty of a crime and should only be used for those who pose a serious risk to the public or of absconding if they awaited trial on bail, and the remand period should be kept as short as possible to ensure justice is served in a timely manner. (Paragraph 26)

Legislative framework and the courts

5. We have not identified significant issues with the legal framework set out in the Bail Act 1976 but have heard repeatedly that the application of the framework is becoming increasingly risk-averse when it comes to rebutting the presumption of bail. *We believe this merits further investigation, and so recommend that the Government commissions an independent review into whether the application of the Bail Act 1976 is still operating as intended.* (Paragraph 37)
6. Magistrates are responsible for hearing the majority of cases that lead to remanding to custody, and we heard that, particularly during the pandemic, the focus of training was on new ways of working and the use of technology. *The application of the remand principles and the latest available alternatives to remand should be a focus in magisterial training.* (Paragraph 43)
7. Magistrates are required to communicate their remand decisions to the parties in open court; however, we have heard that this is not always done in a way which is understandable to the parties involved. *Pronouncement templates for magistrates should be reviewed to ensure they are as clear as possible for those being sentenced and their use should be monitored to ensure they are being used consistently* (Paragraph 44)
8. Despite there being a legal framework in place that is intended to ensure that people who are detained are brought to trial as soon as possible, in practice a large proportion of the remand population is held beyond the custody time limit of six months. We are very concerned by the recent figures showing that 770 prisoners have been held in custodial remand for over two years. *The Government should review the legal framework for custody time limits to determine whether it is effective in ensuring that defendants are not deprived of their liberty for longer than is reasonable. It should be standard practice that custody time limits are strictly adhered to except in exceptional circumstances. In particular, an unconvicted defendant should not spend more time on remand than they would be likely to receive from any eventual custodial sentence, having regard to the relevant sentencing guidelines.* (Paragraph 49)
9. Those convicted but awaiting sentencing are not subject to custody time limits. It is, therefore, all the more important that the Government devotes sufficient resources to reduce delays to sentencing post-conviction. *For example, the Government should ensure resources are available for the timely delivery of pre-sentence reports and sufficient judicial capacity to enable judges to sentence defendants as soon as they are able. The Government should also examine the reasons for the increase in the number of convicted defendants awaiting sentence and consider whether there are any procedural or technological reforms that could reduce delays.* (Paragraph 52)
10. We welcome the draft Mental Health Bill 2022 which legislates for the removal of using prisons as a place of safety for those with mental health difficulties. *However, we call on the Government to go further, removing the provision in the Bail Act 1976 for remanding people into custody for their own protection in all situations, and providing adequate provision in the community for those people who would have been remanded to custody solely for their own protection.* (Paragraph 60)
11. We note with regret that the Government did not accept the recommendation in our Women in Prison Report to collect data on the number of women being remanded

for their own safety. *As the draft Mental Health Bill means that the ability to remand for one's own protection for reasons other than mental health will continue to exist, we reiterate our previous recommendation that the Government should collect data on the use of remand under this provision, not only for women but for all individuals detained for their own protection.* (Paragraph 61)

Prisons

12. We have not heard compelling evidence to support the creation of dedicated remand prisons in England and Wales—such prisons can be difficult to govern and run effective regimes within. However, some prisons are now at risk of becoming dedicated remand prisons by default as non-remanded prisoners are moved to other types of prison in order to cope with the capacity pressures caused by the growing remand population. *The Ministry of Justice should set out whether this is its policy intention; and if it is not, then HMPPS needs to take steps to reduce the remand population in some of its prisons.* We note also that Category B prisons often represent the worst of the prison estate, with poor, overcrowded conditions and staffing difficulties. *We also recommend that as the Government invests in its prison-building programme, funding must also be allocated to deliver an improvement in conditions in the Category B estate.* (Paragraph 69)
13. There is clearly a need for greater support to help those on remand while in prison. Due to the average length of time defendants now spend on remand, they are more likely to lose their accommodation, employment, and custody of children, and if found guilty they are increasingly likely to be released on time served without having received the release date required to access some vital services. Support services for those remanded into custody need to be in place to help manage this. *HMPPS should ensure that remanded individuals are not deprioritised for services such as mental health assessments, drug treatment, education, training, and employment due to their lack of release date.* (Paragraph 78)
14. Although we recognise that those held on remand are under no obligation to engage with prison regimes, they should be encouraged to take part in meaningful activities and HMPPS needs to ensure that prisons with high remand populations have opportunities available for those held in them to utilise if they so desire. *We welcome the increasing availability of shorter courses for those not anticipated to be in prison for long periods of time to take part in, and recommend that the Ministry of Justice ensures that such courses are in place in all Category B prisons by the end of 2023.* (Paragraph 87)
15. We heard evidence that targets for the number of visits a remand prisoner is entitled to are still not being achieved as prisons are yet to fully emerge from their pandemic regimes. *HMPPS should ensure this entitlement is met, including giving consideration as to whether greater use of video facilities set up to communicate with courts could be used to facilitate remote visits where in-person visits are not possible.* (Paragraph 88)
16. We are concerned by the high number of women placed on remand despite the often low risk that they pose to the public and the fact that many will not go on to receive a custodial sentence. *The Ministry of Justice has acknowledged this is a problem, but more action needs to be taken to ensure that low-risk women receive the support*

they need to await trial in the community rather than remanding them to custody, particularly if it is unlikely that they will receive a custodial sentence following trial. We would welcome an update on the progress on the Female Offender Strategy with regard to ensuring that custodial remand is not used as a default alternative where community provision is not available. We would also welcome an update on the commitment to provide specialist accommodation, finance and debt support for all women on remand or sentenced to custody, due to have commenced in summer 2022. (Paragraph 93)

17. We recognise the difficulties HMPPS faces surrounding the recruitment and retention of prison staff. This is an issue we intend to explore in more depth in our prison workforce inquiry. Evidence to this inquiry has highlighted how working with remanded prisoners can pose particular challenges for prison officers. *Prison officers must be given specialised training on the particular needs of remand prisoners and how to engage them in a prison regime. (Paragraph 98)*

Resettlement following time spent in custodial remand

18. We were disappointed to hear that resettlement support is not routinely available to those held on remand due to this category of prisoners being excluded from contracts agreed with providers as part of the reunification of the probation service. Those held on remand have a similar need for resettlement support as the sentenced population and it is concerning that this support is not being provided simply due to contractual issues. We agree with the Minister that it is not acceptable that, in some cases, remand prisoners are being handed tents on release in the absence of suitable accommodation. *The Ministry of Justice needs to do more to ensure that all people leaving prison have the option of temporary housing if it has not been possible to find more permanent accommodation prior to release. We welcome the commitment by the Government to update contracts with resettlement teams. The work to include those on remand in the contracts for resettlement accommodation should be completed by April 2023. (Paragraph 104)*
19. It is simply wrong that those who are remanded to custody, potentially for long periods of time, and are then acquitted, have no entitlement to resettlement support. *Although they may not fall technically within the responsibility of probation services, the Government must nevertheless find a way to ensure acquitted individuals are supported to return to the community in a way that is at least equivalent to those who are released having served a custodial sentence. As a minimum, they should be assisted in finding temporary accommodation following their release and be entitled to the same discharge grant as those who are sentenced and then released. The renegotiation of accommodation support contracts would appear to be a good opportunity to consider how similar support can be given to those who are acquitted. We would therefore like to see progress in relation to this matter by April 2023, the target date the Ministry gave us for the renegotiation of support contracts. This issue is now all the more acute because of the increase in time that defendants are spending on remand and the increased adverse consequences for them that accompany this. (Paragraph 111)*

Alternatives to custodial remand

20. Custodial remand should only be used for those who are not suitable for alternatives, such as conditional bail or electronic monitoring. *Greater engagement is needed between the Ministry of Justice and the Judiciary on the alternatives currently available to custodial remand. The Government should ensure that judges and magistrates are aware of the proven effectiveness of these alternatives in order to instil confidence and to increase their usage.* (Paragraph 116)
21. Conditional bail is a good alternative to remanding defendants to custody while also placing restrictions on the activity of an individual to help ensure they do not commit further crimes while on bail or abscond before their trial. However, there is no point applying bail conditions that are so onerous that it unrealistic that a defendant will be able to comply with them. We were struck by the lack of guidance on the use of bail conditions. When sentencing, judges and magistrates must apply sentencing guidelines to determine the appropriate sentence. A framework for bail conditions, with accompanying guidance, could improve the effectiveness and consistency of the use of conditional bail. *The Government should engage with the judiciary on how to improve the consistency of bail conditions, for example, by introducing a framework of guidelines on bail conditions. Such a framework could also set out how these conditions can be monitored for compliance to ensure they provide an effective alternative to custodial remand.* (Paragraph 122)
22. We welcome the Government's commitment to the use of electronic monitoring. Such technology offers opportunities to prevent the use of custodial remand through monitoring in the community and can also monitor compliance with bail conditions. *We recommend that the Ministry of Justice ensure magistrates are provided with the information on the forms of electronic monitoring that are available and what they can be used for to improve awareness and confidence in the use of tagging as an alternative to custodial remand.* (Paragraph 126)
23. There should be more consistent provision of Bail Information Services in courts to give decision-makers greater confidence in the bail package being presented to them. *We recommend that the outcomes of the current pilot relating to these services are published, and that the service should then be scaled up so that it is available in all magistrates' courts if it is proven to help in putting together effective bail packages.* (Paragraph 132)
24. The Community Accommodation Service Tier-2 plays an important role in supporting the courts and prisons in making the best use of custody by providing an address for people on bail or licence who have no suitable accommodation. *The Ministry of Justice should conduct an assessment of whether the 550 beds currently contracted through the Service is sufficient to meet the requirements of its core user groups, including the extent to which the absence of available accommodation may be an underlying contributory factor in defendants being remanded to custody.* (Paragraph 138)
25. Bail accommodation is a particularly acute issue for women, with shortages of appropriate accommodation and that which is available often being far from home.

The Government should look at ways of expanding the accommodation offer and emphasise the use of alternatives such as electronic tagging if suitable accommodation is not available. (Paragraph 139)

Data and technology

26. We recognise that for routine hearings there is a benefit of using video links from prison so a remanded defendant does not have to experience frequent disruption going to and from court. However, the convenience of video technology must not affect a defendant's access to justice, and should not become a default position because of resource or capacity pressures. It is important that trials and other key hearings continue to be heard physically in court. (Paragraph 146)
27. *The Ministry of Justice should conduct research into the potential effects on remand rates of using video links in prison and police stations to ensure that use of these technologies is not having a significant impact on the number of individuals being remanded to custody. (Paragraph 147)*
28. It is only on the basis of good quality data in respect of the use of custodial remand that there can be effective policy-making. More data needs to be collected and published on remanded defendants, particularly in relation to the reasons for refusing bail, the length of time people are spending on remand as well as demographic information, including vulnerabilities and protected characteristics amongst the remand population, to increase transparency and improve the information available to decision-makers. *We recommend that the Ministry of Justice begins to collate, where it does not do so already, and publish data on the remanded population in a dedicated quarterly publication, as it does for the current Offender Management Statistics. We also welcome the current work being conducted by the Centre for Public Data on data gaps in the justice system. The issue of data is one that we routinely raise in our reports, and so we call on the Government to give urgent consideration to the Centre's recommendations and conclusions when they are published later this year. (Paragraph 155)*

Formal minutes

Tuesday 10 January 2023

Members present:

Sir Robert Neill, in the Chair

Janet Daby

Maria Eagle

Edward Timpson

The following declarations of interest to the inquiry were made.²³⁵

The role of adult custodial remand in the criminal justice system

Draft Report (*The role of adult custodial remand in the criminal justice system*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 155 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Seventh Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available (Standing Order No. 134).

Adjournment

Adjourned till Tuesday 17 January 2023 at 2.00 pm.

²³⁵ For a full record of interests in relation to this inquiry see the formal minutes for the inquiry pertaining to meetings on 5 July 2022, 12 July 2022 and 25 October 2022.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 5 July 2022

Professor Anthea Hucklesby, Professor of Criminal Justice and Head of the School of Social Policy, University of Birmingham; **Peter Dawson**, Director, Prison Reform Trust; and **Penelope Gibbs**, Director, Transform Justice

[Q1–84](#)

Tuesday 12 July 2022

John Bache, Former Chair of the Magistrates Association; and **Tom Franklin**, Chief Executive Officer of the Magistrates Association

[Q85–160](#)

Tuesday 25 October 2022

Charlie Taylor, HM Chief Inspector of Prisons

[Q161–195](#)

Gareth Johnson MP, Parliamentary Under-Secretary of State for Justice, Ministry of Justice; **Rob Butler MP**, Parliamentary Under-Secretary of State for Prisons and Probation, Ministry of Justice; **Claire Fielder**, Director of Youth Justice and Offender Policy, Ministry of Justice; and **Michelle Jarman-Howe**, Chief Operating Officer Prisons, HM Prison and Probation Service

[Q196–290](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

REM numbers are generated by the evidence processing system and so may not be complete.

- 1 Anonymised ([REM0017](#))
- 2 Birth Companions ([REM0009](#))
- 3 Centre for Public Data ([REM0027](#))
- 4 Clinks ([REM0024](#))
- 5 Criminal Justice Alliance ([REM0020](#))
- 6 Crown Prosecution Service ([REM0025](#))
- 7 Dhami, Professor Mandeep K (Professor of Decision Psychology, Middlesex University) ([REM0011](#))
- 8 Epstein, Dr Rona (Honorary Research Fellow, Coventry Law School, Coventry University) ([REM0004](#))
- 9 Fair Trials ([REM0015](#))
- 10 Gelsthorpe, Professor Loraine (Director, Institute of Criminology, and Professor of Criminology and Criminal Justice, Institute of Criminology, University of Cambridge); and Padfield, Professor Nicola (Director, Cambridge Centre for Criminal Justice and Professor of Criminal and Penal Justice, Faculty of Law, University of Cambridge) ([REM0006](#))
- 11 Hucklesby, Professor Anthea (Professor of Criminal Justice, University of Birmingham) ([REM0003](#))
- 12 Inquest ([REM0007](#))
- 13 Independent Advisory Panel on Deaths in Custody ([REM0016](#))
- 14 JUSTICE ([REM0019](#))
- 15 Lowenstein, Dr Max (Principal Academic in Law, Bournemouth University) ([REM0002](#))
- 16 Ministry of Justice ([REM0026](#))
- 17 Ministry of Justice ([REM0012](#))
- 18 NACRO ([REM0014](#))
- 19 One Small Thing ([REM0013](#))
- 20 Prison Reform Trust ([REM0021](#))
- 21 Rethink Mental Illness ([REM0022](#))
- 22 Smith, Dr Tom (Associate Professor in Law, University of the West of England (UWE), Bristol) ([REM0010](#))
- 23 The Howard League for Penal Reform ([REM0008](#))
- 24 Transform Justice ([REM0005](#))
- 25 Transition to Adulthood Alliance ([REM0023](#))
- 26 Women in Prison ([REM0018](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

Session 2022–23

Number	Title	Reference
1st	Women in Prison	HC 265
2nd	Pre-legislative scrutiny of the draft Victims Bill	HC 304
3rd	IPP sentences	HC 266
4th	Fraud and the Justice System	HC 12
5th	Open justice: court reporting in the digital age	HC 339
6th	Appointment of the Chair of the Judicial Appointments Commission	HC 925
1st Special	Court capacity: Government Response to the Committee's Sixth Report of Session 2021–22	HC 548
2nd Special	Covid-19 and the criminal law: Government Response to the Committee's Fourth Report of Session 2021–22	HC 644
3rd Special	The Future of Legal Aid: Updated Government Response to the Committee's Third Report of Session 2021–22	HC 698
4th Special	Women in Prison: Government Response to the Committee's First Report	HC 802
5th Special	Bailiffs: Enforcement of debt: Government Response to the Committee's Seventeenth Report of Session 2017–2019	HC 979
6th Special	Fraud and the Justice System: Government Response to the Committee's Fourth Report of Session 2022–23	HC 1020
7th Special	Open justice: court reporting in the digital age: Government Response to the Committee's Fifth Report of Session 2022–23	HC 1040

Session 2021–22

Number	Title	Reference
1st	The Coroner Service	HC 68
2nd	Rainsbrook Secure Training Centre	HC 247
3rd	The Future of Legal Aid	HC 70
4th	Covid-19 and the criminal law	HC 71
5th	Mental health in prison	HC 72
6th	Court capacity	HC 69
1st Special	The future of the Probation Service: Government Response to the Committee's 18th Report of 2019–21	HC 475

Number	Title	Reference
2nd Special	Rainsbrook Secure Training Centre: Government Response to the Committee's Second Report of 2021–22	HC 565
3rd Special	The Coroner Service: Government Response to the Committee's First Report	HC 675
4th Special	The Future of Legal Aid: Government Response to the Committee's Third Report	HC 843
5th Special	Mental health in prison: Government Response to the Committee's Fifth Report	HC 1117

Session 2019–21

Number	Title	Reference
1st	Appointment of Chair of the Office for Legal Complaints	HC 224
2nd	Sentencing Council consultation on changes to magistrates' court sentencing guidelines	HC 460
3rd	Coronavirus (COVID-19): The impact on probation services	HC 461
4th	Coronavirus (Covid-19): The impact on prisons	HC 299
5th	Ageing prison population	HC 304
6th	Coronavirus (COVID-19): The impact on courts	HC 519
7th	Coronavirus (COVID-19): the impact on the legal professions in England and Wales	HC 520
8th	Appointment of HM Chief Inspector of Prisons	HC 750
9th	Private prosecutions: safeguards	HC 497
10th	Sentencing Council consultation on sentencing guidelines for firearms offences	HC 827
11th	Sentencing Council consultation on the assault offences guideline	HC 921
12th	Children and Young People in Custody (Part 1): Entry into the youth justice system	HC 306
13th	Sentencing Council: Changes to the drugs offences definitive guideline	HC 751
14th	Appointment of the Chair of the Independent Monitoring Authority	HC 954
15th	Appointment of the Chief Inspector of the Crown Prosecution Service	HC 955
16th	Children and young people in custody	HC 922
17th	Rainsbrook Secure Training Centre	HC 1266
18th	The future of the Probation Service	HC 285
1st Special	Prison Governance: Government Response to the Committee's First Report of Session 2019	HC 150
2nd Special	Court and Tribunal Reforms: Government Response to the Committee's Second Report of Session 2019	HC 151

Number	Title	Reference
3rd Special	Transforming Rehabilitation: Followup: Government Response to the Committee's Nineteenth Report of Session 2017–19	HC 152
4th Special	Coronavirus (COVID-19): The impact on probation systems: Government Response to the Committee's Third Report	HC 826
5th Special	Coronavirus (Covid 19): The impact on the legal professions in England and Wales: Government Response to the Committee's Seventh Report	HC 898
6th Special	Ageing prison population: Government Response to the Committee's Fifth Report	HC 976
7th Special	Court and Tribunal reforms: Further Government response to the Committee's Second Report of Session 2019 and Coronavirus (Covid-19): The impact on courts: Government response to the Committee's Sixth Report of Session 2019–21	HC 1008
8th Special	Coronavirus (Covid-19): The impact on prisons: Government Response to the Committee's Fourth Report of Session 2019–21	HC 1065
9th Special	Children and Young People in Custody (Part 1): Entry into the youth justice system: Government Response to Committee's Twelfth Report of Session 2019–21	HC 1185
10th Special	Private prosecutions: safeguards: Government Response to the Committee's Ninth Report	HC 1238
11th Special	Children and Young People in Custody (Part 2): The Youth Secure Estate and Resettlement: Government Response to the Committee's Sixteenth Report of Session 2019–21	HC 1357