



House of Commons
Justice Committee

The role of adult custodial remand in the criminal justice system: Government Response to the Committee's Seventh Report

Tenth Special Report of Session
2022–23

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Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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Publication

Committee reports are published on the Committee's website at www.parliament.uk/justicecttee and in print by Order of the House.

Committee staff

The current staff of the Committee are Robert Cope (Clerk), Mark Doyle (Senior Media and Communications Officer), Philip Jones (Second Clerk), Tanya Lightfoot-Taylor (Committee Specialist), Su Panchanathan (Committee Operations Officer), Jack Simson Caird (Deputy Counsel), Carly Unwin (Committee Specialist), and Melissa Walker (Committee Operations Manager).

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Tenth Special Report

The Justice Committee published its Seventh Report of Session 2022–23, [*The role of adult custodial remand in the criminal justice system*](#) (HC 264), on 17 January 2023. The Government's Response and a covering letter were received on 27 March 2023, and are appended below.

Appendix 1: Letter from the Rt Hon Damian Hinds MP, Minister of State, Ministry of Justice to Sir Bob Neill MP

The Government welcomes the Justice Select Committee's report on the role of adult custodial remand in the criminal justice system. We are grateful to those who contributed to the inquiry by sharing their experiences, insights and views, as well as to the Committee for your ongoing engagement with us and continued interest in the issue of adult custodial remand.

We acknowledge the report's focus on the broad range of issues which impact remand prisoners and I am pleased that the Committee recognises the importance of the prison remand population and the issues that they face. Many of these issues are interrelated and complex as the Committee recognises, and present various challenges. I am therefore grateful for the pragmatic recommendations that the Committee has made and I am pleased to inform you that the Government is already undertaking work on the majority of them. Some recommendations require further work and have therefore been accepted partially or in principle, and others such as those relating to judicial functions, are not within the Government's gift to accept, but we hope the Committee is encouraged by the work already being carried out in those areas.

Our full response is attached.

The Ministry of Justice and its agencies, including His Majesty's Prison and Probation Service and His Majesty's Courts and Tribunals Service, will continue to work collaboratively to effectively manage the prison remand population and to ensure that adult custodial remand remains an effective tool to help ensure public protection and the administration of justice.

Rt Hon Damian Hinds

Appendix 2: Government Response

The growing remand population

Recommendation 1: In view of the risk of case levels increasing, the Government should conduct 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)

Responsible organisations: Ministry of Justice (MoJ), His Majesty's Prison and Probation Service (HMPPS), His Majesty's Courts and Tribunals Service (HMCTS)

We reject this recommendation.

The Department (MoJ) agrees on the importance of understanding the risk of the volume of cases entering the Crown Court increasing. However, work is already undertaken to consider the evidence and risks, and the potential impact on the remand population has been modelled within our published prison population projections. We therefore do not believe a rapid evidence review is necessary.

Predicting future crime trends and the projected behaviour of the justice system will always involve uncertainty. The MoJ regularly works with our Criminal Justice System partners to gather the latest insights surrounding future police and prosecutorial activity to better understand the possible future level and composition of demand entering the court system, including the potential remand population, and to support wider departmental planning.

The MoJ's prison population projections publication, published at the end of February 2023, utilises this insight to consider and demonstrate the impact on the remand population of three different demand scenarios (in terms of level and composition) hitting the court system.

The MoJ will continue to review the latest data and insights and consider the implications of these for the remand population.

Legislative framework and the courts

Recommendation 2: The Government should commission an independent review into whether the application of the Bail Act 1976 is still operating as intended. (Paragraph 37)

Responsible organisations: MoJ, Judicial Office (JO)

We partially accept this recommendation.

As part of the Government's ongoing work to effectively manage the prison remand population, we are already working with the judiciary in considering the operation of the Bail Act 1976 and how it is applied in practice. We also note that the Committee did not identify any significant problems with the remand legal framework in the Bail Act 1976. The Government therefore does not consider it necessary for there to be a further additional review of the application of the Bail Act at this time.

Recommendation 3: The application of the remand principles and the latest available alternatives to remand should be a focus in magisterial training. (Paragraph 43)

Responsible organisations: MoJ, JO

We reject this recommendation.

As the judiciary of England and Wales is independent of Government, it is not appropriate for the Government to mandate or direct what training should be provided to magistrates. The Government is therefore unable to accept any decisions on recommendations reserved for the judiciary.

The Lord Chief Justice, the Senior President of Tribunals, and the Chief Coroner have statutory responsibility for training of the judiciary, under the Constitutional Reform Act 2005, Courts and Enforcement Act 2007, and Coroners and Justice Act 2009 respectively.

Training responsibilities are exercised through the Judicial College. The College regularly reviews its training and considers what new areas should be included.

Magistrates, and the legal advisers who support them, must complete induction training before they can sit. Current induction training for magistrates and legal advisers covers remand provisions; including decision-making, application of knowledge and identification of sentencing options available based upon specific facts. Advice on the law, practice and procedure is available for all magistrates from their legal adviser. This is supported by a mix of resources and continuation training which also covers remand.

Magistrates have access in training and in court to the Adult Court Bench Book which contains detailed information on the powers and procedures relating to remand in custody and on bail.

All judicial office holders, including magistrates, have access to the Equal Treatment Bench Book which is a source of guidance on the wide range of practical matters that may arise in remand considerations and other hearings.

Alongside formal training provided through the Judicial College, the MoJ engages the judiciary in an effort to raise awareness amongst judges and magistrates on the capabilities and usefulness of electronically monitored bail as part of our court outreach programme of work (see the response to recommendation 18 and 20).

Recommendation 4: 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)

Responsible organisations: MoJ, JO

We reject this recommendation.

The judiciary of England and Wales is independent of Government. It is not appropriate for the Government to review training materials that are provided to magistrates, which therefore means the Government is unable to accept any decisions on recommendations reserved for the judiciary.

It is essential that defendants understand the explanation of why they are being remanded into custody or what sentence they have been given. Pronouncement cards, which are designed to provide guidance for magistrates, and training on pronouncements for magistrates, are reviewed regularly to reflect changes to powers and to reflect feedback. These cards are easily accessible to magistrates from the devices that they use in court. As of early 2022, magistrates can also use the Sentencing Council website to access the cards and electronically build individual pronouncements before delivering them.

Recommendation 5: 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)

Responsible organisations: MoJ

We reject this recommendation.

Pre-trial detention is never considered lightly, and numerous safeguards exist to ensure that custody is used appropriately in these cases. These include the use of Custody Time Limits (CTLs) which are the maximum amount of time that a defendant can be held in custody pre-trial (currently 56 days for a Magistrates' Court trial or 182 days for a Crown Court trial). The CTLs are set out in The Prosecution of Offences (Custody Time Limits) Regulations 1987. Decisions to remand a defendant in custody ahead of their trial are taken by the judiciary.

The legal framework for custody time limits is clear and effective. The Bail Act 1976 provides a presumption in favour of bail, which recognises that a person should not be deprived of their liberty unless necessary for the protection of the public or the delivery of justice. It is for the courts to decide, on a case-by-case basis, whether a defendant presents such a bail risk as to warrant custody before they have been convicted. Even if a defendant is remanded into custody pre-trial, they are still able to apply for release on bail.

CTLs are not a target, nor do they indicate a mandatory amount of time that a defendant must be in custody before trial. Judges and magistrates already take into account the likely length of the custodial sentence that a defendant faces when deciding whether to grant bail when the defendant is first charged, or at subsequent CTL extension hearings. There is no intention to review the legal framework for custody time limits at this time.

Recommendation 6: The Government should ensure that resources are available for the timely delivery of pre-sentence reports and that there is 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)

Responsible organisations: MoJ, HMPPS, HMCTS

We accept this recommendation.

We have restructured probation into a single unified service across England and Wales, responsible for managing offenders at every level of risk. The £155m of additional funding per year we secured at the most recent spending review is already playing a critical role in increasing staff numbers and reducing caseloads. The target operating model for the unified service sets out our aim to deliver delivering more pre-sentence reports (PSR), that are of a better quality, improving outcomes and reducing failure demand, through an uplift in staffing and investment in digital solutions and an improved training offer.

The Probation Service is aiming to recruit 1,500 trainee Probation Officers in 2022/23 and we exceeded our recruitment targets for 2020/21 and 2021/22. We are exploring new models for service delivery that can provide the judiciary with better quality reports within a dedicated timeframe, thereby reducing the overall lead times for report production.

We have been running a PSR pilot scheme across fifteen courts which is due to conclude in March 2023. A process evaluation will be published in Spring 2023, but analysis of monitoring data has found the pilot sites to have delivered a higher percentage of court disposals receiving PSRs overall when compared to the non-pilot magistrate sites.

We are encouraging and monitoring processes which seek to identify defendants earlier in the criminal justice process. We have been piloting the provision of PSRs on committal to Crown Courts in Bristol, which will be rolled out nationally in due course. Decision-making on timings for rollout will be down to the judiciary in the local area, but six initial sites have been identified to be progressed during Spring 2023. We are also utilising a PSR before plea process, which enables PSRs to be prepared on cases ahead of the first hearing if an indication of an intended guilty plea is given.

Opportunities which support case progression with PSRs prepared in advance of first hearing at both Crown and Magistrates' Courts, will be optimised through lessons learnt from the PSR pilot. A commitment has been made by the Senior Presiding Judge that he will support Judicial ownership to progress these initiatives.

We have also begun modelling the optimal operating environment for PSR delivery to support better sentencing outcomes and reduce the overall time defendants spend within the court system.

Any examination of the reasons for the increase in the number of convicted defendants awaiting sentence must be done in conjunction with the judiciary. The Government will work with the judiciary and operational partners to examine whether there are any procedural or technological reforms that could reduce delays.

Recommendation 7: The Government should 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)

Responsible organisations: MoJ

We partially accept this recommendation.

The Government believes that there are times when it will be appropriate for the courts to have the ability to remand someone in custody for their own protection, for example, in

cases where the defendant is a member of a gang and could be subject to repercussions if they were not protected. For this small cohort of cases, it is important that we can retain the ability to remand someone to prison for their own protection.

Although the Government rejects the recommendation to remove the power to remand defendants to custody for their own protection in all situations, the draft Mental Health Bill sets out reforms to the Bail Act 1976 which will prevent courts from remanding defendants for their own protection where the sole concern is the defendant's mental health, there are no further plans to remove it in wider situations. To ensure that we can safely enact this reform, it is vital that clear, appropriate pathways are in place from first contact with the criminal justice system into the right care and support, whether by accessing community mental health services, or receiving treatment in hospital under the Mental Health Act, where appropriate. We will continue to work with partners to strengthen pathways from police custody and court into treatment through NHS Liaison and Diversion services and health services commissioned and funded by regional Police and Crime Commissioners.

The Government is committed to strengthening crisis support by investing £150 million of capital in NHS mental health crisis response and urgent and emergency care services up to April 2025. This includes £7 million for specialised mental health ambulances, with the remaining £143 million being used to provide new and improve existing mental health urgent and emergency care infrastructure. As part of this, the funding will support schemes such as crisis cafes, crisis houses and crisis hubs.

Step-down services, mental health urgent assessment and care centres, crisis line upgrades and improvements to health-based places of safety and emergency department spaces are also being funded. Taken together, these projects will ensure that people experiencing—or at risk of experiencing—mental health crisis will be supported in an appropriate, safe environment, including people who have come into contact with the police. By strengthening crisis care services in the community, we can also prevent people who are at risk of crisis from coming into contact with the criminal justice system in the first place.

Recommendation 8: 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)

Responsible organisations: MoJ

We accept this recommendation in principle.

The Ministry of Justice currently publishes court remand data within the Criminal Justice Statistics, however, source information on reasons for remand is not readily available in a way that would enable this recommendation to be acted upon immediately.

The Common Platform is a digital case management system designed to manage and share criminal case information more effectively. Its users include the judiciary, HMCTS staff and professional court users such as defence lawyers and the Crown Prosecution Service. The roll out of the Common Platform provides the potential opportunity to explore a wider range of data being captured in the courts and this may include greater

detail on remand decisions. We will continue to monitor and assess the quality of the data in Common Platform on remand reasons, particularly when a greater volume of case data becomes available.

Prisons

Recommendation 9: The Ministry of Justice should set out whether it is its policy intention that some prisons become dedicated remand prisons by default; and if it is not, then HMPPS needs to take steps to reduce the remand population in some of its prisons.

Responsible organisations: MoJ, HMPPS

We accept this recommendation.

There is no policy intention to redesignate any prisons into a remand-only function. In November 2022 the remand population reached approximately 14,700. The significant increase in this population represents the lasting impact of the court backlog, resulting from the Covid-19 pandemic and last year's industrial action by the Criminal Bar Association.

Men on remand are held in reception prisons. A reception cohort is made up of people on remand (including those who are convicted and awaiting a sentence), people recalled to custody, newly sentenced prisoners awaiting transfer to their next prison and those on the shortest sentences. All reception prisons also provide a resettlement function, which focuses on preparing men for release into the local community.

Due to the national increase in the remand population, the majority of reception prisons have seen an increase in the number of people on remand they are holding. However, we continue to monitor the level of the remanded population across the reception estate and are taking steps to ensure that reception prisons can continue to serve the courts and to make the best possible use of the available capacity. We anticipate the remand population will reduce as the courts continue to address the backlog of cases.

Recommendation 10: The Government should invest in its prison-building programme, and funding must also be allocated to deliver an improvement in conditions in the Category B estate. (Paragraph 69)

Responsible organisations: HMPPS

We accept this recommendation.

We are currently delivering 20,000 additional, modern prison places, which is the largest prison build programme in a century. This programme ensures the right conditions are in place to rehabilitate prisoners, helping to cut crime and protect the public. These places are being delivered through the construction of six new prisons, as well as the expansion and refurbishment of the existing estate and temporary accommodation. We are undertaking major refurbishments at sites including HMP Birmingham, HMP Liverpool and HMP Norwich, delivering 800 cells between them. The wing-by-wing refurbishment at HMP Liverpool will see every cell renovated.

We are continuing to invest in prison maintenance so that existing places are safe for prisoners and staff. We are also undertaking an estate-wide condition survey which will help inform future funding decisions and support the development of future facilities management services for prisons.

Recommendation 11: 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)

Responsible organisations: HMPPS

We accept this recommendation.

A lack of release date should not mean that remanded individuals are deprioritised for services such as mental health assessments, drug treatment, training and employment opportunities.

In relation to mental health, the draft Mental Health Bill, published in June 2022, includes several vital reforms to support people with serious mental health needs in the criminal justice system, including those held on remand. These reforms will speed up access to specialist in-patient care and treatment by ending the use of prison as a 'place of safety' and establishing a new statutory time limit of 28-days for transfers from prison to hospital. The Bill also sets out reforms to the Bail Act 1976 which will prevent courts from remanding defendants for their own protection solely on mental health grounds.

Healthcare, including mental health services, in prisons in England and Wales is the responsibility of NHS England and NHS Wales. HMPPS is responsible for enabling prisoner access to healthcare services. For people who are admitted to prison the care they receive is commissioned on the basis of equivalence with services in the community and people will be referred by healthcare teams for the health interventions they need whilst in prison, regardless of status. On release, whether this is to court or to the community, medicines or a prescription are provided in line with NHS community commissioned services and standards.

In relation to drug treatment, we work closely with the NHS, Department for Health and Social Care and the Welsh Government to ensure all prisoners, including those on remand, have access to a full range of high-quality treatment. All prisoners receive a health screening on arrival in custody, including remand prisoners. This enables us to identify substance misuse needs quickly and refer into appropriate treatment.

As part of the landmark Drugs Strategy, MoJ is investing up to £120m to support more offenders into treatment. This includes recruiting up to 50 drug strategy leads in all male category C and women's prisons, who will coordinate a whole system approach to drugs which will benefit all prisoners. We are also supplying life-saving naloxone medication to staff in prisons, which can reverse the effects of an opioid overdose.

Alongside this, we are investing in prison security to ensure all prisons have a zero-tolerance approach to drugs. The Government's £100m Security Investment Programme, completed in March 2022, introduced measures such as X-ray body scanners and airport-style gate security, to prevent drugs entering prisons in the first place.

Remand prisoners are eligible to access education and training if they wish. The curriculum is based on the needs of learners and is flexible according to any changes in population profile. Education providers are managed through key performance indicators and service levels which do not disincentivise remand prisoners.

On employment, prisoners on remand are also able to access advice and support on employment and claiming benefits from the Department for Work and Pension's network of Prison Work Coaches.

In addition, in 2022 HMPPS has been testing new initiatives designed to meet the specific needs of remand prisoners in HMP Wandsworth. This includes a short life-skills course to help people on remand develop communication and decision making skills, and dedicated staff to obtain ID for prisoners, build their employability skills and link them with employers. There is also a new team of remand peer mentors to support wellbeing and encourage engagement with the regime. We will review the findings from this project to consider future support for the remand cohort.

Recommendation 12: The Ministry of Justice should ensure that shorter courses for those not anticipated to be in prison for long periods of time are in place in all Category B prisons by the end of 2023. (Paragraph 87)

Responsible organisations: MoJ, HMPPS

We accept this recommendation.

All Category B prisons undertake a needs analysis when designing their curriculum offer and an annual delivery plan is agreed each year between the establishment and the education provider. Governors work with their regional Heads of Learning and Skills to ensure they are designing the right provision for their population.

Curriculum guidance and support is available to all establishments and that support and guidance reflects the need for short courses to be in place, according to the needs of the prison population. Ongoing assurance activity by HMPPS contract management team will check that Category B establishments are complying by June 2023.

Recommendation 13: HMPPS should ensure that the number of visits a remand prisoner is entitled to 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)

Responsible organisations: HMPPS

We accept this recommendation.

We recognise the importance of maintaining a prisoner's relationship with family and friends. Strengthening family ties is an integral aspect of the work of MoJ and HMPPS.

Governors are accountable for ensuring that the offer of social visits meets the minimum entitlement and seeks to meet as much demand as possible from families and prisoners within the capacity of their regimes.

We moved swiftly in 2020 to offer secure social video calling in all prisons as an additional option for families to stay in touch during the pandemic. In line with our commitment in the Prisons Strategy White Paper, secure social video calls are now embedded across the whole prison estate, and they provide another contact option for families, including those with children of all ages, to stay in touch. Prisoners will not be asked to accept a video call in place of a face-to-face visit unless this is their preference.

There will be provision in every closed prison for a Pin phone service, delivered over phones in cells by the end of the 2023/24 financial year.

Provisions such as the Prison Voicemail and Email a Prisoner services, provided by third party organisations, are available in all prisons, and are another option for families and significant others to stay in touch with people in prison alongside phone and video calls.

Recommendation 14: The Ministry of Justice needs to take more action 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)

Responsible organisations: MoJ, HMPPS

We accept this recommendation.

The Bail Act 1976 sets out that a court should only consider remand in custody if there is a real prospect that the defendant if convicted would face a custodial sentence.

We currently offer a Bail Information Service (BIS) in every woman's public sector prison with prisoners on remand from England and Wales. The BIS provides courts with factual and verified information about a woman's individual circumstances which enables courts to make fully informed decisions about bail or custodial remand. The Female Offender Strategy Delivery Plan, published on 31 January 2023, committed to commencing first hearing bail report pilots in Cardiff and Ipswich Magistrates' Courts to ensure those courts receive advice from BIS on all women defendants. These pilots began in December 2022.

In the draft Mental Health Bill, published on 27 June 2022, we set out reforms which will prevent courts from remanding a defendant for their own protection solely on mental health grounds, including where their concern relates to a risk of self-harm.

Following the unification of the Probation Service in June 2021, the new resettlement approach provided an embedded pre-release provision, delivered by the Probation Service, in women's resettlement prisons. Pre-Release Teams help to address immediate resettlement needs for all women in the prison, including the unsentenced. This includes sustaining accommodation on reception where possible, making referrals for accommodation and signposting women towards specialist advice for finance and debt support.

Currently Commissioned Rehabilitative Services (CRS) Women's Services are only available for sentenced women in prison and women on probation in the community. We will update the Committee on plans to extend CRS Women's Services to unsentenced women in due course.

Recommendation 15: 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)

Responsible organisations: HMPPS

We accept this recommendation in principle.

We will provide specialised training regarding remand prisons to prison officers who will be working with this cohort of prisoners.

Current Prison Officer Foundation training includes training on a variety of cohorts, including remand prisoners, so learners are prepared for working in all establishments across the estate on their completion of the course. We will now move towards a modular foundation learning approach with a requirement for all to complete appropriate modules, dependant on the specific prison they will first work in. This approach will build knowledge and skills accordingly and will include specialist training in working with remand prisoners. There will be a particular focus on building relationships to engage prisoners and keeping people safe during the early days in custody period.

Resettlement following time spent in custodial remand

Recommendation 16: 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)

Responsible organisations: MoJ, HMPPS

We partially accept this recommendation.

HMPPS has a range of interventions available to support those on remand when they are released to ensure that they are not homeless. In accordance with housing legislation in England and Wales, the Prison and Probation Services have a duty to refer anyone at risk of becoming homeless on release from prison to a local authority for housing assistance. Those who have been on remand, subsequently convicted and released as time served, are eligible for Community Accommodation Service Tier 3 (CAS-3) temporary housing providing that they are subject to probation supervision.

Additionally, HMPPS has introduced Strategic Housing Specialists across all prison groups, including one in each female prison, to support prisons and probation in helping tackle homelessness. Strategic Housing Specialists are responsible for improving and strengthening partnership working with key partners – including resettlement teams, local authorities and housing providers – to improve housing processes and better coordinate support for prisoners and those on remand to reduce the number of individuals released into homelessness.

Under the new resettlement approach, all resettlement prisons, including local prisons, have an embedded resettlement provision overseen by the Probation Service or alternative arrangements in place as agreed between prison and probation. These pre-release teams identify and address immediate resettlement needs and provide pre-release support for all people in prison, including the unsentenced. Using the Basic Custody Screening Tool they are able to signpost to specialist services within the prison – such as healthcare – and provide pre-release services where they are currently unavailable from Commissioned Rehabilitative Services (CRS) suppliers, including accommodation (e.g. closing down and maintaining tenancies) and finance, benefit and debt, (e.g. signposting and providing low complexity support).

As well as preparing people for release, CRS accommodation support includes completing accommodation applications and applications for housing benefit/related benefits; support and guidance to ensure continuation of an existing tenancy and compliance with any tenancy obligations to avoid or manage accommodation arrears; assistance to access rent deposit and rent advance schemes; and advocacy and liaison with accommodation providers to maintain accommodation.

We are currently working on extending all CRS contracts for accommodation (men) and Women's Services to unsentenced people in prison. Changes to two regional accommodation (men) contract extensions have been signed and services have commenced in North East (HMP Durham) and South Central (HMP Bullingdon and HMP Winchester) for people on remand. We will update the Committee on future roll-out plans in due course.

Recommendation 17: The Government must 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)

Responsible organisations: HMPPS

We partially accept this recommendation.

There is a range of support provided to those acquitted who are returning to the community. Those held on remand in custody will receive immediate needs and pre-release support from the pre-release teams (PRT) in prison to assist them in returning to the community. PRTs embedded in reception prisons screen and identify immediate resettlement needs and provide pre-release support for all people in prison, including those who are unsentenced. This includes signposting to specialist services, support sustaining tenancies and providing low complexity support for finance, benefit and debt.

The legal obligation to support people into accommodation comes under the statutory requirements of local authorities. Pre-release teams will therefore submit referrals on the day of acquittal to the appropriate local authority for statutory housing support for those at risk of becoming homeless on release.

Resettlement information and guidance is also available on discharge from custody, which includes advice and contact details for national support services once they have returned to the community.

However, given the issues raised by the JSC, we recognise that we need to explore the challenges faced by this cohort in greater depth. To do this, we will consider the eligibility of those on remand for the subsistence payment as part of the wider review of the discharge policy, as well as consider the potential applicability of the resettlement passports currently in development. We will also investigate options to provide short-term temporary accommodation support for those acquitted, distinct from the provision provided to sentenced individuals. We will review the findings from the short trial that was recently launched at HMP Wandsworth to test improved peer and employment support for those on remand whilst in prison, and capture more accurate data on needs and support, in order to inform considerations of what future support could look like.

The findings from these reviews will be used to inform future decisions on possible further investment around resettlement support for those acquitted.

Alternatives to custodial remand

Recommendation 18: 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)

Responsible organisations: MoJ, JO

We partially accept this recommendation.

Decisions on whether to bail or remand a defendant are independent judicial decisions and so we can only partially accept this recommendation.

The Government and the judiciary regularly discuss a wide range of topics. Recently, that has included engagement on electronic monitoring (EM), which can only be imposed on an individual as a condition of bail if they would otherwise be remanded in custody. EM is only used to monitor compliance with other relevant conditions of court bail, principally curfews and/or exclusion zones.

As part of our court outreach programme of work (see the response to recommendation 20) we have started to highlight in particular the availability, flexibility, and usefulness of EM to monitor compliance with relevant conditions of bail. We are working with the Senior Presiding Judge to explore ways in which we can further engage with the judiciary.

Recommendation 19: 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)

Responsible organisations: MoJ, JO

We reject this recommendation.

There is already comprehensive guidance in the Adult Court Bench Book on bail conditions and the circumstances in which those conditions may be imposed. For example, a residence condition or reporting to a police station may be given if there is a risk of absconding; electronically monitored exclusion zones or curfews or non-contact with a witness condition if there is a risk of further offences or interference with witnesses; surety or security to ensure attendance at court.

Any other condition may be imposed provided it addresses one of the risks under the Bail Act, is in proportion to the risk and can realistically be enforced. Given the wide range of potential conditions and how case specific they will be it is difficult to imagine a framework that would provide information not available in the Adult Court Bench Book that would not risk complicating the process for all parties.

Monitoring compliance with bail conditions is not a matter for the judiciary, but rests with whoever has responsibility for the conditions that have been imposed. For example, where an electronically monitored curfew has been imposed, the electronic monitoring provider would monitor compliance with the curfew.

Recommendation 20: The Ministry of Justice should ensure that 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)

Responsible organisations: MoJ, JO

We accept this recommendation.

HMPPS' electronic monitoring (EM) Business Change and Stakeholder Engagement team regularly engages with judges, magistrates and other criminal justice stakeholders to raise awareness of the full range of EM capabilities and to increase understanding of how they can be used effectively.

During April 2022 to December 2022, this has included engagement with the judiciary in numerous courts across England and Wales, undertaking what is described as 'court outreach'. This initially focused on 44 courts where the data suggested a lower-than-average take-up of EM. A series of awareness-raising briefings were delivered to over 1,200 people in total, including the judiciary within those courts, as well as HMCTS staff, e.g., legal advisers, and probation staff based in courts. We followed this up with further briefings to judiciary and staff within other courts, reaching a further 800 people.

Feedback from magistrates and other attendees was very positive and preliminary data indicates a small increase in the use of EM in these courts, compared to those that were not part of the court outreach.

In order to inform the judiciary on the availability and usefulness of EM as a bail condition, we have worked with the Senior Presiding Judge's Office to produce a 15 minute 'bitesize' video and will continue to expand engagement by delivering further court outreach.

We will continue to work with the Senior Presiding Judge to explore ways in which the judiciary can be updated, in both Crown and Magistrates' Courts, with accurate information about the availability and effectiveness of EM as a means of monitoring bail conditions as an alternative to remand.

Recommendation 21: The outcomes of the current pilot relating to the Bail Information Service should be published, and 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)

Responsible organisations: HMPPS

We partially accept this recommendation.

The Bail Information Service (BIS) pilot is informing the development of plans to potentially implement a permanent future and proactive BIS in all courts and prisons in England and Wales. Qualitative research and an internal review by the Ministry of Justice in March 2022 of the findings of the proactive BIS pilot highlighted several benefits of the service including the provision of relevant, objective and verified information to the courts to enable them to make informed decisions relating to bail and custodial remand. The review also supported the continuation of the project which has enabled more quantitative data to be gathered, and our aim is to publish robust data in early 2024. Based on the current findings of the pilot, we are confident of the efficacy of the BIS in enabling the courts to make better informed and effective decisions relating to bail. We anticipate that a dedicated and proactive BIS could be rolled out to all courts and prisons from Summer 2023, subject to funding.

Recommendation 22: The Ministry of Justice should conduct an assessment of whether the 550 beds currently contracted through the Community Accommodation Service Tier 2 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)

Responsible organisations: HMPPS

We accept this recommendation.

The demand for Community Accommodation Service Tier-2 (CAS-2) accommodation is reviewed monthly to monitor occupancy levels and formally twice a year as part of a review of the property portfolio to assess capacity in relation to demand. The review is conducted jointly between HMPPS and Nacro, who provide the service.

To meet projected demand and help mitigate the potential for people to be remanded to custody because of a lack of bed spaces, the contract with Nacro has already been expanded by 100 bed spaces and resources are in place to further expand, targeting a further 200 spaces by April 2024. This would bring the contract to a total of 850 beds, which is subject to the availability of suitable properties.

Part of our outreach work on electronic monitoring (see recommendation 18 and 20) includes identifying any barriers to remanding an individual on bail. We are continuing to explore to what extent the lack of accommodation is raised in feedback as a barrier to remand.

Recommendation 23: 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.

Responsible organisations: MoJ, HMPPS

We accept this recommendation.

The contractual requirement in the Community Accommodation Service Tier 2 (CAS- 2) for 10% of bed spaces to be reserved for women continues to apply to total bed spaces after the 300 bed expansion. A minimum of 85 beds of the 850 total beds after expansion will therefore always be provided for women, however the service currently provides above this number. As at December 2022, 597 CAS-2 beds were in service, of which 101 were designated for female use only (17%). We review the demand for female beds monthly and have flexibility in the contract to vary the number of female beds according to demand. CAS-2 continues to work with the female prison estate and the Bail Information Service to generate referrals to CAS-2.

Additionally, whilst Approved Premises are largely used for supporting individuals on release from prison, they can also be used to supervise those on bail who meet the referral criteria. For high risk bailees and/or those who require a greater level of supervision, Approved Premises can provide a secure temporary accommodation placement. Approved Premises can provide a particularly beneficial bail option for women as the criteria for female Approved Premises includes medium risk with complex needs (as opposed to male Approved Premises of high risk). Across the estate there is a total of nine female Approved Premises, providing 165 beds.

Approved Premises are staffed 24 hours per day and provide enhanced supervision and rehabilitative support.

As set out in our response to recommendation 20, His Majesty's Prison and Probation Service electronic monitoring (EM) Business Change and Stakeholder Engagement team engages with stakeholders, the judiciary and wider court teams to raise awareness of the full range of EM capabilities and to increase understanding of how they can be used effectively. Although a suitable address is required when imposing EM (for equipment purposes), the flexibility of the technology to support alternative accommodation options when CAS-2 or Approved Premises are not available is being addressed through this engagement.

Data and technology

Recommendation 24: 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)

Responsible organisations: MoJ, HMCTS

We accept this recommendation in principle.

The use of video technology to conduct remand hearings remains challenging. However, to the extent that remote technologies are used, we agree we should ensure that the use of these technologies do not result in disparity of outcomes. The MoJ will therefore consider what research might be undertaken to provide assurance that the use of remote technologies such as video links does not have any undue adverse impacts on remand hearings and on the rate of custodial remand.

Recommendation 25: The Ministry of Justice should begin 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)

Responsible organisation: MoJ

We partially accept this recommendation.

The Ministry of Justice currently publishes prison remand data on a quarterly basis within Offender Management Statistics and court remand data within Criminal Justice Statistics and Criminal Court Statistics, with more detailed breakdowns provided in supplementary annual tables and in other publications specialising in equalities data. Isolating remand data in a new publication, separate from the context of other prison and court data, would make it harder for users to interpret or to explore trends across the justice system and could undermine the integrity of Official and National Statistics.

Although we do not intend to introduce a new publication, we keep all our publications under review in line with the Code of Practice for Statistics and will look to improve what we are able to publish on remand in line with the code, and the clarity of the remand narrative, remaining mindful of the three key pillars of the Code of Practice: trustworthiness, quality and value. We will also include an additional table of the remand prison population by prisoner ethnicity as part of the next Offender Management Statistics, due for publication at the end of April 2023. We will continue to monitor and assess the quality, range and potential of the data in Common Platform, alongside other priorities for that data, particularly when a greater volume of case data becomes available. We await the views of the Centre for Public Data on areas for further consideration.