



Ministry
of Justice

Alex Davies-Jones MP
Parliamentary Under-
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Gweinyddiaeth
Cyfiawnder

Professor Cheryl Thomas KC, Director
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8 April 2025

Dear Cheryl,

SECTION 28 IMPACT EVALUATION

Thank you for your letter of 17 March concerning my correspondence of 7 March with the Justice Select Committee (JSC) on the publication of the Ministry of Justice's (MoJ) pre-recorded cross-examination (s28) impact evaluation.

I have read your correspondence with care and noted the feedback and concerns you raised about the accuracy of certain points in my letter to the Committee. I share your view that ensuring the accuracy and clarity of information on special measures, including s28, is essential to enable victims and witnesses to make informed decisions about their use.

After careful consideration with my officials, I have determined that two statements in my original correspondence would benefit from further clarification. One is the statement that the MoJ was "unable to determine the measure's effect on conviction rates in sexual offences cases specifically". While the report did assess the impact of s28 on conviction rates in sexual offence cases, the evaluation could not specifically analyse conviction rates in adult rape cases, as the number of completed adult rape cases in our sample was too small to reliably isolate impact for cases of this type. Thus, references to "sexual offences cases" should more specifically refer to "adult rape". I am therefore issuing an amended version of the letter to the Committee incorporating this change.

Our statement that our evaluation found s28 allows for earlier cross examination "without reducing the chance of a conviction" is factually correct within the context it was made, as this was one of the key findings drawn from our robust peer-reviewed analysis. However, we believe it would benefit from greater specificity. To address this, the amended letter now explicitly states the time period in which the evaluation was conducted and clarifies that the evaluation was conducted at a case level.

I am grateful to you for highlighting that further clarification was needed on these two points, and I am pleased to be able to draw this to the attention of the JSC. However, with regard to the other points you raised about the assertions in my letter, after careful consideration I do not feel these require clarification or correction. For completeness, I will address each in turn.

The MoJ report is “the most robust evaluation of section 28 to date”

You suggested this statement is not factually correct, as the evaluation excluded 81% of all jury verdicts in s28 cases in its evaluation period 2019-2022.

Currently, the MoJ impact evaluation remains the only peer-reviewed analysis available on the impact of s28. Our research applied a pseudo-experimental approach which is a Level 3 for robustness on the Maryland Scientific Methods Scale (SMS). It aimed to account for differences between s28 and non-s28 cases, as far as possible, enabling analysts to estimate the impact of s28 while correcting for external factors such as the background conviction rates of individual Crown Courts, the rate of sexual offences within the cohorts analysed, and the month of case receipt.

Rather than analysing a single charge per case, our methodology involved consideration of all charges in a case. If any of these charges resulted in a guilty verdict, then the case was considered a conviction. This is consistent with well-established practice in relevant MoJ statistical releases. Since the HMCTS source dataset only captures the use of s28 at a case level, we were unable to link s28 use to individual charges within a case in a way that we were satisfied was analytically robust. Given this limitation, the risk of bias outweighed the potential insights gained.

The MoJ report “controlled, as far as the data allows, for other factors that could impact conviction rates”

You highlighted that the MoJ evaluation did not control for other factors which were available in the source data highlighting that this was because of our approach to classifying cases as convictions rather than at charge level and that we had not considered offence.

The logic for our methodology is explained on page 15 of the evaluation, where we outline the applied controls. This approach was peer reviewed and agreed as a reasonable approach. As stated on page 15 of the evaluation, it specifically controlled for sexual offence cases.

That “guilty pleas could not be examined” by MOJ

You suggested that our analysis should have included guilty plea data.

We stated in the report that we could not control for decisions prior to trial including plea behaviour. This is because the data did not tell us whether the case would have been eligible for s28 if a guilty plea had not occurred. Therefore, our analysis is based on conviction at the case level following a jury hearing rather than plea behaviour. Plea behaviour as explicitly excluded in our report.

The UCL analysis of s28 covers a period “much of which pre-dates the rollout”

You noted in your correspondence that claiming “much of [your evaluation period] pre-dates the rollout” is factually incorrect.

Our evaluation outlines the rollout timetable – defining the overall period as beginning on 3 June 2019. Pilots for the vulnerable witness cohort ran from 2013 to 2019, with full Crown Court rollout completed in November 2020. For complainants of sexual and modern slavery offences, pilots began in 2019, with full rollout completed in September 2022.

Approximately three out of seven years of data used in your evaluation (June 2016-April 2019) pre-dates the rollout. Based on this, we maintain that the description “much of which pre-dates the rollout” is factually accurate. However, given your objection to the wording in the letter, I have removed it from the amended version I am sending to the JSC.

Thank you once again for reaching out. I hope this goes some way in addressing your concerns and clarifies our methodology.

I am copying the Chair of the Justice Select Committee into this response.

Yours Sincerely



ALEX DAVIES-JONES MP
Minister for Victims and Violence Against Women and Girls